



Appeal Decision

Site visit made on 5 February 2024

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 6 March 2023

Appeal Ref: APP/W3520/W/23/3326049

Land at Church Street, Occold, Eye IP23 7PS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr A Hart of Hart Build Ltd against the decision of Mid Suffolk District Council.
 - The application Ref DC/23/00240, dated 17 January 2023, was refused by notice dated 10 March 2023.
 - The development proposed is erection of single storey dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the application was determined, the Council has adopted the Babergh and Mid Suffolk Joint Local Plan Part 1 November 2023 (JLP). Therefore, the policies within the Mid Suffolk Local Plan (1998), Core Strategy (2008) and Core Strategy Focused Review (2012) cited in the Council's decision have been superseded by policies within the JLP. The Council has noted the most relevant policies in the JLP in respect of this appeal are Policies SP03, SP09 and LP24. The appellant has raised Policy LP01 of the JLP as being important with regard to this appeal proposal. As these policies now form part of the adopted development plan and the appellant has had opportunity to consider them, I have had regard to them in reaching my decision.
3. During the appeal, the Government published an updated version of the National Planning Policy Framework (the Framework). However, as the Framework's policy content insofar as it relates to the main issues has not been significantly changed, albeit that the numbering of paragraphs has changed, there is no requirement for me to seek further submissions on this latest version. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issues

4. The main issues are:
 - whether the site would be a suitable location for this proposal, having regard to the development plan, the accessibility of services and facilities and the character and appearance of the area; and
 - the effect of the proposal on the living conditions of the occupiers of the adjacent dwelling, Cedar Cottage, in terms of noise and disturbance.

Reasons

Location, accessibility of services and facilities and character and appearance

5. There is no dispute between the parties that the appeal site is located outside of the settlement boundary for Occold, albeit the site abuts a recent development of 8 new dwellings which is situated adjacent to the settlement boundary. The appeal site is therefore within countryside, for the purposes of the development plan.
6. Policy SP03 of the JLP states that outside of the settlement boundaries, development will normally only be permitted where the site is allocated or in accordance with a made Neighbourhood Plan, or it would comply with one of the policies listed in Table 5 set out under the policy, or it would accord with paragraph 80 of the Framework (now paragraph 84). The Council assert that the proposal does not comply with any of the criteria set out under Policy SP03 of the JLP.
7. However, the appellant contends that the proposal complies with Policy LP01 which is listed in Table 5 set out under Policy SP03 of the JLP. Policy LP01 states that proposals for windfall infill development outside settlement boundaries where there is a cluster of at least 10 well related dwellings will be acceptable subject to certain criteria. Infill is defined at footnote 18 of the JLP as the filling of a small undeveloped plot in an otherwise built-up highway frontage.
8. The proposal would be located within a cluster of at least 10 well related dwellings and would not be isolated. However, a significant amount of the width of the proposed plot would be in a backland position to the rear of the garden and outbuilding that serve Cedar Cottage. The proposed plot would therefore not have frontage along the whole width of the plot onto Church Street. Rather than fill a small undeveloped plot in an otherwise built-up highway frontage, it would overlap and extend beyond the gap in the frontage, to the rear of an existing plot.
9. I acknowledge that the proposal is limited to one dwelling and would not result in the coalescence of settlements or the consolidation of sporadic or ribbon development. Whilst therefore the proposal would meet some of the criteria of Policy LP01 it would not represent the filling of a small undeveloped plot in an otherwise built-up highway frontage.
10. The appeal site is located within approximately 460m of the primary school, village hall and public house in Occold. There is no separate pavement along Church Street, however, I recognise that the road is subject to a 30mph limit and there are verges along some sections of the road where it would be possible to stand clear of the road. Given the nature of the road and the limited distance, the limited services and facilities provided within Occold would be accessible to future occupants.
11. I have been provided with a bus timetable which demonstrates that Occold is served by a public bus service Monday to Saturday. Whilst it is more limited in terms of frequency than what you would find in more urban areas, it does provide access to the nearby settlements of Eye, Ipswich and Diss which provide a wide range of services and facilities. The bus stops are located on Church Street in close proximity to the services and facilities within Occold.

12. The appeal site is an area of agricultural land that sits higher than the adjacent Cedar Cottage and the road level of Church Street. The appeal site is not subject to any landscape or heritage designations. The proposal would sit alongside the recent development which is varied in character, design and materials and is set back from the road. Cedar Cottage is an older property of more traditional character that sits to the north of the appeal site, which the Council consider to be a non-designated heritage asset. Cedar Cottage has a very limited set back from the road and the garden area, parking and outbuilding associated with it extends in front of part of the appeal site.
13. The appellant asserts that the proposal would provide continuation to the recent adjacent development and create a stop end to block any further development to the northwest. However, the proposed dwelling would be located partly in a backland situation to the rear of the garden area and outbuilding that serves Cedar Cottage. This partial backland situation would be uncharacteristic of the existing development pattern located along this part of the southern side of Church Street, where the prevailing character is formed of dwellings with clear frontage onto the road across the full width of plots. The proposal would therefore be at odds with the pattern of development along this part of Church Street.
14. When approaching Occold from the southwest before turning down Church Street into the village, the recent development, located adjacent to the appeal site is highly prominent in the view. The proposed siting of the dwelling in close proximity to this existing development along with the step down to single storey scale and the provision of hedgerow planting along the boundary, mean that it would not appear significantly prominent from this direction. The change of use of the remainder of the site to garden land would alter the appearance of the agricultural land which I note currently appears overgrown. Whilst it would align with the rear boundary of the adjacent development and would remain open and undeveloped as part of the proposed scheme, it would, given the overall size and positioning reinforce the backland characteristics of the proposal.
15. When approaching the appeal site along Church Street, the proposal, despite its single storey design, would be visible, given it would sit in an elevated position compared with the level of the road and Cedar Cottage. The incongruity of the backland position would therefore be visible from public vantage points.
16. As stated above, the Council consider Cedar Cottage to be a non-designated heritage asset. The external walls of the building are rendered, and the pitched roof is covered with traditional clay pantiles. It makes a positive contribution to the character and appearance of Church Street, due to its traditional character and design. Given the single storey scale of the proposal and the proposed wildflower margin that would provide for additional separation, the proposal would not result in harm to the significance of Cedar Cottage as a non-designated heritage asset.
17. Therefore, whilst the proposal would complement the design, detailing and materials of the recent development adjacent and would not be harmful to the significance of the adjacent non-designated heritage asset, this would not negate the harm that I have found above in relation to the established pattern of development.

18. I therefore find that whilst future occupants of the proposal would have access to some limited services and facilities within Occold and the local bus service, it would not be a suitable location for the proposal having regard to the development plan. It would also be harmful to the character and appearance of the area. It would be contrary to policies SP03, SP09, LP01 and LP24 of the JLP. These policies seek, amongst other things, to support small scale windfall infill development where it would enhance or maintain the vitality of rural communities and to ensure development is not detrimental to the character and appearance of the settlement, that it reinforces local distinctiveness and enhances the local environment.

Living conditions

19. The arrangement of the garden area of one property directly neighbouring the garden area of another property is not an unusual relationship. Whilst the depth of rear garden directly behind Cedar Cottage is limited, it would lie adjacent to a proposed wildflower margin which would be located between the rear boundary of Cedar Cottage and the boundary treatment delineating the garden area for the proposed dwelling.
20. Therefore, given the single storey scale of the proposal, the set back of the built form from the rear boundary of Cedar Cottage and the proposed provision of boundary treatments and a wildflower landscaping margin in the locations identified, the proposal would not cause any significant impacts by way of noise and disturbance.
21. I therefore find that the proposal would not be harmful to the living conditions of the occupiers of Cedar Cottage with regards to noise and disturbance. The proposal would therefore comply with Policy LP24 in this regard which seeks, amongst other things, to protect the amenity of occupiers and surrounding uses.

Other Matters

22. The appellant asserts that the proposal would not be harmful to highway safety and would not be at significant risk of flooding. It is stated that the proposal would be of high quality, that appropriate soft landscaping would be provided and that the site is not in close proximity to any designated heritage assets. The appellant confirms that the development would be built to current building regulation requirements, that future occupants would have a high standard of amenity and that the site is in easy reach of utility connections. Nevertheless, a lack of harm in these respects is a neutral consideration that weighs neither for nor against the proposal.
23. I note that there have been previous planning applications and an appeal on the site which have been refused and dismissed and that the appellant sought pre-application advice from the Council. Whilst I understand that the Council's reasons for refusal on the previous scheme for a two storey dwelling that went to appeal did not relate to the location of the appeal site, this proposal was determined under the previous policy position of the Council and not the policies set out in the recently adopted JLP. The adjacent recent development was also assessed against the previous policy context.
24. An extract from another appeal decision is also put to me at Moat Farm Barns where a residential development was allowed outside of a settlement boundary.

Whilst I do not have the full details before me, it is clear from the information provided that this scheme was determined under the previous policy position at a time when the Council could not demonstrate a five year housing land supply. It was therefore different to the policy context in which I must determine the current appeal.

25. Policy LP01 of the JLP does allow for development outside of settlement boundaries where a proposal meets certain criteria, in order to support the vitality of rural communities. The JLP does not therefore take a blanket approach to development that is located outside of a defined settlement boundary.
26. I note the wording of Policy SP03 stating 'outside the settlement boundaries, development will normally only be permitted where...'. The use of 'normally', may allow for other developments not covered specifically by the criteria set out under the policy to be assessed as appropriate. However, in this case there have been no significant material considerations put before me, that would lead me to override the requirements of the policy as set out.
27. I understand the wider site was included in the Council's 2017 Strategic Housing & Economic Land Availability Assessment (SHELAA) concluding that it had the potential to provide 10 dwellings. Whilst the SHELAA forms part of the evidence base, it does not form part of the development plan, which I must consider the appeal against. I also note that the previous outline planning permission on the wider site included part of the appeal site, but that this was limited only to the part that has full frontage onto Church Street. This therefore does not set a principle that development in a backland position, extending behind Cedar Cottage is acceptable.
28. The proposal is a small site that would contribute to the housing supply. There is no dispute between the parties that the Council can demonstrate a five year housing land supply, however, I accept that this is not a ceiling figure. Economic benefits during the construction phase and after with future occupants supporting local services and facilities would also occur. It is also stated that renewable energy sources would be incorporated into the scheme. However, given the scale of the proposal these benefits would be limited.

Conclusion

29. The proposal conflicts with the development plan as a whole, and there are no material considerations that indicate that I should take a decision other than in accordance with it. The appeal is therefore dismissed.

G Dring

INSPECTOR