



Appeal Decision

Site visit made on 22 October 2024

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th October 2024

Appeal Ref: APP/D3505/W/24/3337535

71 The Street, Capel St Mary, Suffolk IP9 2EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Simon Earl against the decision of Babergh District Council.
 - The application Ref is DC/23/03472.
 - The development proposed is described as the "erection of 1 No. dwelling (bungalow)".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended.
3. In addition, on 30 July 2024 the Government published a consultation on proposed reforms to the Framework and a written ministerial statement titled "Building the homes we need." Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published. Notwithstanding this, the Council have not raised concerns with the principle of the appeal scheme and, as such, it does not form a reason for refusal within the decision notice.
4. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party's interests would be prejudiced by my taking this approach.
5. Since the determination of this application, the Babergh and Mid Suffolk Joint Local Plan – Part 1 (JLP) was adopted by Babergh District Council in November 2023. This replaces the Babergh Local Plan 2006 and the Babergh Core Strategy and Policies 2014. I am required to determine the appeal against the current development plan for the area at the time of my decision. The Council have identified the policies within the JLP most relevant to this appeal and provided copies of them. The appellant had opportunity during the appeal process to comment on the JLP.
6. The Capel St Mary Neighbourhood Plan is currently at Regulation 14 Stage and has not been through independent examination. Consequently, in accordance with paragraph 48 of the Framework, I give it limited weight.

7. I have removed reference to the site address from the description of development in the banner heading above, as this is not an act of development.

Main Issues

8. The main issues are:
- the effect of the proposed development on the character and appearance of the area, and
 - the effect of the proposal on the living conditions of future occupiers of the appeal scheme and existing occupiers of 71 The Street, with particular regard to garden size.

Reasons

Character and appearance

9. The appeal site lies within a predominately residential area. It is currently vacant but previously formed part of the rear garden serving 71 The Street. Properties are sited in relatively deep plots, set back from the highway. Corner plots and wide grassed verges and pavements further add to the spaciousness of the area. It is the layout and plot sizes of the built development that contribute to the character and appearance of the area.
10. The appeal property would be sited with its frontage facing onto Rembrow Road, comprising a form of infill development between the rear of No 71 and Bluebells. There would be limited views of the appeal scheme from the public realm, due to the proposed boundary treatments, which seek to reflect the enclosed nature of surrounding properties. However, although the property would not breach the established building line, due to the depth of the appeal site, the rear garden of the appeal scheme would be conspicuously shallow.
11. The location and size of the appeal site would significantly reduce the depth of the rear garden serving No 71. Moreover, the proposed property would substantially infill the gap that currently exists between the dwellings either side of the appeal site. Consequently, the appeal scheme would erode the spaciousness of this corner plot and result in an incongruous and cramped form of development, at odds with the prevailing character and appearance of the area.
12. For the above reasons, the proposed development would result in unacceptable harm to the character and appearance of the area, contrary to JLP Policy LP24, which seeks, among other things, to ensure development proposals respond to and safeguard the existing character and context. It is also contrary to the Framework which seeks, among other things, to ensure development is sympathetic to local character and reflects local design policies.

Living conditions

13. As a result of the appeal layout, the depth of the rear gardens serving No 71 and the appeal property would be shallow. However, the generous width and usable shape of the rear gardens would allow existing occupiers of No 71 and future occupiers of the appeal scheme to accommodate a range of garden

activities, including leisure activities, drying of laundry, outdoor storage or planting areas, without appearing overly cramped.

14. Notwithstanding the conclusions in respect of the character and appearance of the area, the layout of the proposed development would provide gardens of sufficient size and usable shape to serve the occupiers of No 71 and the appeal property.
15. For these reasons, the proposed development would not harm the living conditions of future occupiers of the appeal scheme or the existing occupiers of 71 The Street, with particular regard to garden size. This accords with JLP Policy LP24, which seeks, among other things, to ensure the amenity of occupiers is protected. It would also accord with the Framework which seeks to ensure a high standard of amenity for existing and future users.

Planning Balance

16. Paragraph 11 of the Framework states that decisions should apply a presumption in favour of sustainable development. In this regard, paragraph 11 c) of the Framework advises that development proposals that accord with an up-to-date development plan should be approved without delay. However, I have concluded that the proposal does not accord with a development plan policy and, therefore, paragraph 11 c) does not apply.
17. Paragraph 11 d) of the Framework states that, where the policies which are most important for determining an application are out-of-date, which includes situations where the local planning authority cannot demonstrate a Framework compliant supply of deliverable housing sites, permission should be granted unless any adverse impacts of doing so significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
18. The appellant indicates that the proposal would make a contribution to the housing shortfall in the plan area. No further evidence, from either party, has been presented in respect of this matter. However, even if I were to conclude there was a shortfall in respect of housing land supply, the policy which is most important in determining the appeal relates to character and appearance. Given the harm identified in respect of the main issue, the proposed development would not accord with the development plan as a whole. The weight to be given to this conflict is significant, as the policies in respect of this matter broadly reflect the provisions of the Framework.
19. The proposal would make a modest contribution towards housing supply within the area. The Government's objective is to significantly boost the supply of homes. The appellant asserts that there is a presumption in favour of infill development, which they state is an effective way of delivering housing.
20. The Framework supports the development of windfall sites and great weight should be given to the benefits of using suitable sites within existing settlements for homes. The Framework recognises that small sites can make an important contribution to meeting the housing requirement. The proposal would lead to some social and economic benefits through the construction of the residential unit, the activities of the future residents of the scheme and Council Tax generation.

21. The appellant highlights that the proposal would meet the Nationally Described Space Standards, provide adequate space for the parking and turning of vehicles and EV charging, deliver a high performing highways arrangement and provide ecology and biodiversity net gains.
22. The appeal site would be developed on a highly efficient and sustainable basis, with high standards of design and construction, resulting in a highly sustainable and efficient dwelling. It would also achieve carbon reduction measures in excess of Part L of the Building Regulations, which the appellant asserts could be secured by a planning condition.
23. Moreover, the building has been designed to ensure a good amount of natural sunlight and daylight would enter the property and it would share same materials palette and architectural language as the host property. Cumulatively, these benefits weigh in favour of the appeal scheme.
24. The appellant refers to a previous outline planning approval granted in 2017 under reference DC/17/05537. However, this was granted under a previous Local Plan. Moreover, the evidence indicates that the scheme was never implemented, and the permission has since expired. As such, this carries limited weight.
25. An absence of harm in respect of overlooking, the design of the proposed property, together with no technical objections from Environmental Health or Highways, are neutral matters that neither weigh for or against the proposal.
26. While there is support for new housing, the benefits in respect of the appeal scheme would be limited, given the scale of development proposed. Therefore, the harm identified in respect of the main issue would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

27. While I have concluded no harm in respect of the living conditions of existing and future occupiers, with particular regard to garden sizes, the harm identified in respect of the character and appearance of the area is determinative. Therefore, the appeal scheme would conflict with the development plan as a whole. There are no material considerations, including the Framework, that indicate I should conclude other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR