



Appeal Decision

Site visit made on 8 April 2025

by A Phillips MPlan BA CertHE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2025

Appeal Ref: APP/D3505/W/25/3359382

The Old Rectory, Mill Hill, Capel St Mary, Ipswich, Suffolk IP9 2LA

- 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 and Mrs M Bate against the decision of Babergh District Council.
 - The application Ref is DC/24/04569.
 - The development proposed is described as: Erection of self-build detached single-storey dwelling and associated garage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. It is noted that the proposed development was not described as a self-build plot on the application form. However, a self-build CIL exemption form was submitted with the application and the application also sought exemption from biodiversity net gain requirements on the basis that the proposal would be a self-build dwelling. In keeping with the Council, I have dealt with the proposal on the basis that it would be a self-build dwelling.

Main Issues

3. The main issues are:
 - Whether the site is a suitable location for housing development with respect to local and national policies.
 - The effect on the character and appearance of the local area.
 - The personal circumstances of a family member and the need for the proposed development.

Reasons

Suitable location for housing development

4. The appeal site is located outside of the settlement boundary and is located within the garden of The Old Rectory. During my site visit I noted that a new residential estate had been built to the east of the site, that the rear gardens of Windmill Hill on the opposite side of Mill Hill faced towards the appeal site and that there were dwellings further to the west.
5. The site might in the future be brought into the settlement boundary for the village either through the review (Part 2 of the Local Plan) or via the Neighbourhood Plan.

However, as both plans are at relatively early stages in the plan process they may be subject to change. As a result, I attach limited weight to the changes to the settlement boundary that could occur.

6. It is the role of the decision maker to ensure decisions are taken in accordance with the development plan unless there are material considerations that indicate otherwise. Policy SP03 of the Babergh and Mid Suffolk Joint Local Plan Part 1 2023 (the Local Plan) defines how new residential development will come forward in the district. The Council is relying on settlement boundaries defined in older Local Plans and Core Strategies, for this site specifically the Babergh Local Plan 2006. As I have noted above, the Council is looking to review settlement boundaries in Part 2 of the Local Plan. However, given the recent adoption of Part 1 of the Local Plan and that no party is stating that the Council is not meeting its 5-year land supply of housing, paragraph 11d of the National Planning Policy Framework (the framework) is not engaged.
7. Policy SP03 refers to Policy LP01 (Windfall infill housing development outside settlement boundaries) of the Local Plan which, subject to compliance with its criteria, allows development outside of a settlement boundary. However, the proposal is not within a cluster of dwellings. This is because while there are dwellings further to the west these are significantly separated from the appeal site, the Windmill Hill dwellings face away from the site with only the rear gardens being in proximity and the new build site to the east forming its only cluster. On this basis Policy LP01 does not apply to this proposal.
8. Policy LP08 (Self-Build and Custom-Build) of the Local Plan requires that a new self-build plot complies with all other policies. Policy LP08 is not a policy listed in SP03 that allows development outside settlement boundaries in principle. In addition, no evidence has been put forward that there is a shortfall in self-build plots within the district. On this basis whether the proposal is a self-build plot or not, is a neutral factor in the determination of this appeal.
9. Policy LP06 (Supported and Special Needs Housing) of the Local Plan has been cited by the appellant in support of the appeal. This policy only supports housing within the settlement boundary. Moreover, the site has no public footpath access to get to the services and facilities within the village and on this basis the site is not sustainable in regard to transport movements. The proposal, therefore, conflicts with Policy LP06 even if the wording 'Are located within a settlement boundary' was excluded.
10. Taking all these matters into account, I conclude that the appeal site is not supported for a new dwelling under the Development Plan, as it conflicts with Policy SP03 that provides the criteria of sustainable locations within the district. As a result, it therefore does not comply with Council's strategy for the location of development. The proposal, therefore, is not a sustainable development as required in paragraph 8 of the Framework.

Character and appearance

11. The proposal for a single storey dwelling is on lower ground and sits slightly further forward in the garden of the host dwelling. The new dwelling would be visible from the public realm both from the line of the existing (though no longer well defined) public footpath that runs along the western boundary and the public highway of Mill Hill. The area between Windmill Hill and the driveway directly in front of The Old

Rectory on the bend of Mill Hill has the appearance of the transformation between the built up character of the village and the rural character of the countryside beyond. The rural character of this area is further defined by generous garden spaces of the dwellings Windmill Hill that back onto Mill Hill and the large garden of The Old Rectory. The site therefore is an important area of transition between the village and the countryside beyond.

12. The proposal would cause harm to the landscape, as it would further extend built form into the countryside that in this locality is defined by garden space that helps the transition between urban character of the village and the rural landscape of the countryside beyond. I therefore conclude that the proposal would harm the character and appearance of the area in conflict with Policy LP17 of the Local Plan, which seeks to conserve or enhance landscape character.

Personal circumstances

13. Decision makers are required by the Public Sector Equality Duty (PSED) set out in section 149 of the Equality Act 2010 to have due regard to advancing equality of opportunity and to eliminate unlawful discrimination in relation to, amongst others, people with disabilities.
14. The proposal is to provide independent residential accommodation for a family member with a disability in a location close to other family members. I accept that an annexe while providing for some independence, would not provide long term independence for a person with that disability in the same way as a separate dwelling.

Planning Balance and Conclusion

15. I have found that the location of the proposed development would be contrary to the development plan's strategy for the location of development. This would be a fundamental conflict and contrary to policy SP03 of the Local Plan. I have also found that it would harm the character and appearance of the area, contrary to policy LP17 of the Local Plan. I attach significant weight to the harm that would be caused.
16. In favour of the appeal, the proposal would provide independent residential accommodation for a family member with a disability. I attach notable weight to this consideration.
17. On balance, I find that the need for the proposed dwelling for the family member with a disability does not outweigh the harm that would be caused. Material considerations therefore do not indicate that permission should be granted for development that is not in accordance with the development plan. Therefore, it is necessary and proportionate to dismiss the appeal.
18. For the reasons given above and having regard to all other material raised, I therefore conclude that the appeal should be dismissed.

A Phillips

INSPECTOR