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## Appeal Decision

Site visit made on 23 May 2019

**by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 June 2019**

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### **Appeal Ref: APP/D3505/W/18/3213481**

### **Plough and Fleece Inn, Great Green, Cockfield, Bury St Edmunds, IP30 0HJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr and Mrs R East & J Sadler against the decision of Babergh District Council.
  - The application Ref DC/18/03048 dated 4 July 2018, was refused by notice dated 30 August 2018.
  - The development proposed is described on the application form as "Erection of up to 5 dwellings (resubmission)"
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### **Decision**

1. The appeal is allowed and outline planning permission is granted for the erection of up to 5 dwellings at the Plough and Fleece Inn, Great Green, Cockfield, Bury St Edmunds, IP30 0HJ, in accordance with the terms of the application, Ref DC/18/03048 dated 4 July 2018, subject to the conditions set out in the attached schedule.

### **Procedural matters**

2. Since the appeal was submitted, a revised version of the Framework has been published<sup>1</sup>. I have determined the appeal in light of this, which is a material consideration that should be taken into account.
3. The proposal seeks outline planning permission, with all matters other than the points of access reserved for future consideration. Accordingly, I have treated the proposed site layout plan as illustrative only.
4. My determination of the appeal is against the policies of the development plan and any other material considerations. Although the appellant has referred to the emerging Joint Babergh & Mid Suffolk Local Plan, I have given it limited weight as it is still at an early stage of the development plan process.

### **Main issues**

5. Within the context of the Council's reasons for refusal and the evidence in this case, the main issues are the effect of the development on:
  - the character and appearance of the area, with particular regard to the scheme's density and location of the dwelling on Plot 1;
  - highway and pedestrian safety, with particular regard to whether the access

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<sup>1</sup> National Planning Policy Framework, Ministry for Housing, Communities and Local Government, February 2019.

point has adequate visibility for vehicles exiting the site and whether the proposal makes adequate parking provision for the existing Public House.

## **Reasons**

### *Appeal site context*

6. The appeal site forms part of the land associated with the Plough and Fleece, an attractive 2-storey detached Public House ('the Pub'). It contains the Pub car-park and a number of small ponds, with the remaining area consisting of wild grass, hedgerows and trees.
7. Opposite the appeal site at the centre of Great Green lies a large triangular greenspace with small pavilion used for recreational and sporting activities ('the Green'). The area is predominantly residential in character with a diverse range of properties fronting onto the Green that vary in design, scale, plot size, separation gaps and maturity. Other notable features include an abundance of front garden boundary hedges and mature trees adjacent to the highway, which when combined with the Green give the locale a verdant character and strong natural landscaped setting to its built form.
8. Two listed buildings lie in the vicinity of the site, Old House Farm and Green Farm. In view of the Pub's local historical and architectural value, this constitutes a non-designated heritage asset.

### *Character and appearance*

9. The proposed scheme would surround the Pub and infill a gap between Cockfield House and the residential development approved to the west of the appeal site<sup>2</sup>. I am as a consequence satisfied that it would relate well to the general settlement pattern of the village.
10. The indicative plan demonstrates that 5 large detached properties could be constructed with significant intervening open gaps whilst maintaining an adequate level of private garden provision and setback from the private access road. To my mind, the development would have a spacious appearance and low density character, and thereby relate well to other parts of the village that front onto the Green.
11. There is no established building line in the vicinity of the appeal site as the Pub is set well-forward of the neighbouring residential dwellings at Cockfield House and Old Farm House. I also noted examples of older dwellings in the village with detached buildings to their rear, some of which were of a significant size. As a consequence, I am satisfied that the irregular layout shown on the indicative plan, with dwellings behind the Pub and Plot 1, would not be out of keeping with the prevailing village grain. Furthermore, it is my view that the dwelling on plot 1, with its side gable fronting onto the road, would add visual interest to the streetscene and roofscape, and not be unduly prominent.
12. The appellant has confirmed that the dwellings would be constructed using traditional materials and reflect the Suffolk vernacular. I recognise the concerns of the Council's Heritage and Design Officer about the potential for low level harm and agree there is a need to avoid a suburban type development. Whilst I am therefore satisfied that the architectural approach

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<sup>2</sup> Council Ref: DC/18/00306

proposed would be appropriate and make a positive contribution to the character of the village, this is on the strict provision that it retains a faithful adherence to this traditional form of development and does not result in an unconvincing pastiche. In this respect, I consider it essential that high-quality sympathetic materials are used and that the scheme is well-articulated, composed and proportioned using; (a) local architectural cues, detailing and references; (b) traditional rural boundary treatments; and (c) extensive soft landscaping in the form of trees and boundary hedges. In so doing, this design approach would also help reinforce the area's sense of place.

13. There is sufficient intervening distance between the proposed scheme and the listed buildings at Old House Farm and Green Farm to ensure the preservation of their setting. I am also satisfied that the scheme would not harm the setting of the Pub as a non-designated heritage asset subject to it addressing the detailed design issues previously referred to at the reserved matters stage.
14. In view of the above, I conclude that the development would not be harmful to the settlement pattern and spacious character of the area and that it would preserve the setting of neighbouring listed buildings in accordance with S66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The proposal would therefore accord with Policies CS11 and CS15 of the Core Strategy<sup>3</sup> which collectively seek, amongst other things, to ensure that new development respects the local context and character of an area.
15. I also find that the scheme accords with Paragraph 127 of the Framework which seeks, amongst other things; (a) development that is sympathetic to local character, including the surrounding built environment and landscape setting; and (b) schemes that establish or maintain a strong sense of place using the established pattern of buildings, streets and spaces.

#### *Highway and pedestrian safety*

16. In the absence of any development plan policies referred to by the Council in reason for refusal No 2, my determination of the appeal on this matter has been against the Framework and any other material considerations.
17. Although the Local Highway Authority (LHA) has referred to the Design Manual for Roads and Bridges, a copy of this document was not supplied in the evidence and I am not aware of it forming part of adopted development plan policy or a supplementary planning document. I have as a consequence given it limited weight in my assessment. In any event, even if the use of this guidance had been adopted by the Council, it is important to recognise that policies should not be applied rigidly or exclusively when material considerations indicate an exception may be necessary. It is for the decision taker to weigh any conflict between relevant policies in the light of material considerations, including local circumstances.
18. In the current case, my observations on-site revealed good visibility in both directions when exiting the site owing to the straight alignment of the road and the absence of any significant intervening structures in the public highway. Furthermore, there is no evidence before me that vehicles would be travelling at high speeds well in excess of 30mph to warrant larger visibility splays. As a consequence, I am satisfied that the access points to the residential

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<sup>3</sup> Babergh Local Plan 2011-2031, Core Strategy & Policies, February 2014.

development and replacement car-park would have sufficient visibility in both directions so as not to endanger other road users and pedestrians. In reaching this conclusion, I have also given modest weight to the current use of part of the appeal site as a car-park, and there being no evidence before me of accidents or near-misses relating to its operation.

19. The development would provide 13 spaces in the proposed replacement car-park for the Pub which would comply with the standards referred to in the Suffolk Guidance for Parking (2015) and I am satisfied that the matter of cycle parking could be dealt with by way of planning condition. As a consequence, I consider the amount of parking proposed to be adequate and commensurate with the Pub's location in a built-up part of the village within easy walking distance of local residents.
20. In view of the above, I conclude that the development would neither result in highway and pedestrian danger nor insufficient car-parking for the Pub. The proposal would therefore accord with Paragraphs 108, 109, 110 and 127 of the Framework which collectively seek, amongst other things, to ensure that development: (a) creates safe places and access to sites; (b) minimises the scope for conflict between pedestrians, cyclists and vehicles; and (c) does not have an unacceptable impact on highway safety.

#### *Other matters*

21. Although representations were made by interested parties in respect of a number of other matters, I did not consider these to be of such significance to alter my conclusions in respect of the main issues. The most significant of these other matters, if not already addressed above, are dealt with below and in the section relating to conditions.
22. I recognise that the Parish Council conducted a Housing Survey in 2014 which may indicate different housing needs in the village, but this document does not form part of the development plan and a significant period of time has elapsed since it was carried out. As a consequence, there is insufficient policy justification and up-to-date evidence to support dismissal on these grounds.
23. An affordable housing contribution is not required as the Framework and National Planning Practice Guidance state that these should not be sought from small-scale developments of 9 units or less.
24. There is no substantive evidence to support the concerns raised in respect of local sewers, flooding and surface drainage of the site, and there are no objections from the relevant professional consultees on these matters.
25. The Council is satisfied that the principle of residential development on the appeal site is acceptable and accords with Policy CS11 of the Core Strategy given its position adjacent to the built-up boundary of the village. I see no reason to disagree with this assessment and am satisfied that the appeal site has a close functional relationship with the existing settlement.
26. Given its rural location, I agree with the LHA that future occupiers are likely to be car dependant, as is the case with many residents in countryside villages. However, there would nonetheless be opportunities for future occupiers to access a modest range of local services and facilities by walking and cycling, namely the Pub, the Green, the local store/post office, a village hall and a primary school. There also appears to be access to public transport via a bus

stop opposite the appeal site, although I am unaware of the extent of services available or their destination. I also noted the presence of a continuous footway on Chapel Road and Howe Lane which would help facilitate safe pedestrian access to these facilities.

### *Conditions*

27. The Council has suggested conditions which I have considered in the light of the National Planning Practice Guidance. I have made some amendments to clarify certain details or where the submitted information is unclear. Conditions requiring the development and ecological mitigation measures to be in accordance with the approved plans/details and the submission of the relevant reserved matters are needed in the interests of proper planning.
28. The appellant has confirmed that the existing trees are to be retained and incorporated into the scheme. In view of this and because I consider it necessary to protect the character and appearance of the area, a condition has been imposed to protect existing trees on the site, provide appropriate ecological mitigation measures and clarify the information necessary for the landscaping reserved matters submission. This condition also requires the provision of details relating to the replacement car-park and newly exposed boundary between the pub and residential scheme.
29. The materials condition requested by the Council is unnecessary as this forms part of the reserved matters relating to appearance. Similarly, in view of the scheme's small scale and because I consider it unlikely that future occupiers would wish to install any significant external lighting, I do not consider it necessary to impose a condition withdrawing permitted development rights relating to this. However, in the event that external lighting is proposed at the outset, a condition has been imposed requiring details of this to be submitted with the landscaping reserved matters to ensure that it is kept to a minimum to reduce the risk of harm or impact to roosting, foraging or commuting bats.
30. Great Crested Newts were found to be present on and adjacent to the site and the submitted ecological report concluded that the risk of impact and harm to this European Protected Species from the proposed development without mitigation is high. As a consequence, a licence may be needed from Natural England and I have accordingly imposed a condition preventing commencement of development until this has been obtained or it has determined that one is not necessary.
31. Because the development would potentially result in a breach of protection to European Protected Species, I have in accordance with the Regulations<sup>4</sup> assessed the proposal against the 3 derogation tests to ascertain the likelihood of Natural England granting a licence to carry out the works. In this respect, I consider there to be a reasonable prospect of this as; (a) the development is in the public interest as it would provide 5 new dwellings; (b) there is no satisfactory alternative to this site given that the proposal is site specific; and (c) that the works authorised would not be detrimental to maintenance of the population of the Great Crested Newt species, subject to mitigation.
32. In view of the scheme's small scale nature, I do not consider it necessary to impose a condition for a biodiversity enhancement strategy. However, to

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<sup>4</sup> The Conservation of Habitats and Species Regulations 2017.

mitigate the scheme's ecological impact, the landscaping reserved matters condition clarifies that details of bird and bat boxes will be required.

33. Given the site's location within an area of archaeological potential, I have imposed a condition to address the matters referred to by the County Archaeological Officer.
34. Although the Council has requested a condition for details of the vehicular access, this has not been imposed as it is a matter for consideration in the current scheme (access was not reserved for subsequent consideration). However, conditions requiring details of all hard landscape works relating to the private access road and the provision of appropriate visibility splays have been imposed.
35. In view of the close presence of Great Crested Newts and total number of dwellings proposed in a low-density character area, I am satisfied that there exist exceptional circumstances to justify the withdrawal of permitted development rights for any extensions, outbuildings and new boundary treatments to the proposed dwellings.

### **Conclusion**

36. In view of the above, having had regard to all other matters raised, I conclude that the appeal should be allowed.

*Robert Fallon*

INSPECTOR

### **Schedule of conditions**

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby permitted, and all ecological mitigation measures, shall be carried out in accordance with the following approved plans and details:- Location Plan and Drawing No 1171-01 (Rev C) (insofar as material to the point of access), the design and access statement Ref 1055/2 dated July 2018, the Preliminary Ecological Appraisal including a Protected Species Scoping Assessment & Full Great Crested Newt Survey by Skilled Ecology dated June 2018, and/or such drawings/documents as may subsequently be approved in writing by the Local Planning Authority as a non-material amendment following an application in that regard.
- 4) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall thereafter be carried out in accordance with the approved details.



- 5) The appearance reserved matters details to be submitted in accordance with condition 4 shall also include elevation drawings of the bridge.
- 6) The layout reserved matters details to be submitted in accordance with condition 4 shall also include plans relating to the proposed replacement car-park to the Public House and cross-sectional drawings of the bridge revealing its gradient and method of construction.
- 7) The landscaping reserved matters details to be submitted in accordance with condition 4 shall include:
  - a) a plan showing the position of every tree and hedge on the site and on land adjacent to the site that could influence or be affected by the development (applicable to the residential scheme and the proposed replacement car-park to the Public House), indicating which are to be retained and those that are to be removed;
  - b) a schedule in relation to every tree and hedge identified listing:
    - i. information as specified in paragraph 4.4.2.5 of British Standard BS 5837:2012 Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced); and
    - ii. any proposed pruning, felling or other work;
  - c) in relation to every existing tree and hedge identified to be retained on the plan referred to in a) above, details of:
    - i. any proposed alterations to existing ground levels and the position/type of any proposed excavations that might affect the root protection area; and
    - ii. all appropriate tree and hedge protection measures required before and during the course of development (in accordance with paragraph 5.5 of British Standard BS 5837:2012 ) (or in an equivalent British Standard if replaced);
  - d) soft landscaping to include: planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of new trees, hedgerows and plants noting species, plant supply sizes and proposed numbers/densities. For the avoidance of doubt, this should also include details of soft landscaping in connection with the proposed replacement car-park to the Public House;
  - e) hard landscaping to include surfacing materials for the site access road, kerbs, driveways, parking areas (including the proposed replacement car-park to the Public House), pedestrian footways, patios and any other hardstandings;
  - f) a refuse collection point;

- g) details of cycle stands for the Public House, to include design, materials, colours and finishes;
  - h) boundary treatments, to include materials, colours and finishes (including to the Public House);
  - i) details of the location, design and specification of any external lighting (including the proposed replacement car-park to the Public House);
  - j) details of any sheds/garden buildings to the new dwellings, to include position, size, materials, colours and finishes;
  - k) details of bat and bird boxes;
  - l) details of visibility splays on both sides of the site access points to the residential development and proposed replacement Public House car-park. For the avoidance of doubt, the said visibility splays should only relate to land within the red and blue lines shown on the submitted location plan and/or land within the public highway;
  - m) a plan showing the boundaries of the public open greenspace required in connection with the ecological mitigation measures, together with a scheme for its management and maintenance;
  - n) an implementation programme for all soft and hard landscaping works, the refuse collection point, cycle stands, boundary treatment, external lighting, sheds/garden buildings, bat and bird boxes, and visibility splays. For the avoidance of doubt, the implementation programme shall make provision for the construction of the proposed replacement Public House car-park to be completed and available for use prior to the commencement of any development within the red-line on the submitted location plan.
- 8) No site clearance, preparatory work or development shall take place until the approved tree and hedge protection measures have been installed and these shall remain in place until completion of the development and all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.
- 9) Any trees, hedges or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. No new tree or hedgerow planted in accordance with the approved landscaping reserved matters shall be pruned or cut in any manner within 5 years of the completion of the development, other than in accordance with the approved plans and details, without the prior written approval of the local planning authority.
- 10) The visibility splays provided in accordance with the approved reserved matters landscaping details shall be maintained free from any obstruction above 0.6 metres when measured from the adjacent carriageway level.



- 11) No development works shall take place within the site until a Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:
- a) the programme and methodology of site investigation and recording;
  - b) the programme for post investigation assessment;
  - c) the provision to be made for analysis of the site investigation and recording;
  - d) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - e) the provision to be made for archive deposition of the analysis and records of the site investigation;
  - f) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

All works shall be carried out and completed in accordance with the approved WSI prior to the occupation of any dwelling, unless otherwise agreed in writing by the Local Planning Authority.

- 12) No development shall take place until the appellant has obtained either:
- a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the specific activity/development to go ahead; or
  - b) a statement in writing from Natural England to the effect that it does not consider that the specified activity/development requires a licence.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification):
- a) no extensions, porches and roof enlargements (to include dormer windows) shall be carried out to any dwelling hereby approved without the specific grant of planning permission from the local planning authority;
  - b) no garages, buildings, or other structures shall be erected within the curtilage of any dwelling hereby approved without the specific grant of planning permission from the local planning authority (other than those approved in connection with the relevant reserved matters);
  - c) no fences, gates or walls to the residential scheme or Public House (other than those approved in connection with the relevant reserved matters) shall be erected or constructed without the specific grant of planning permission from the local planning authority.

### **End of Schedule**