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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: 11 June 2019**

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**Appeal Ref: APP/D3505/W/18/3212782**

**Shotley Pier, Queen Victoria Drive, Shotley, Suffolk, IP9 1PY**

- 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 Shotley Heritage Charitable Community Benefit Society Ltd against the decision of Babergh District Council.
  - The application Ref DC/18/01384 dated 29 March 2018, was refused by notice dated 23 August 2018.
  - The development proposed is described on the application form as "Alterations to the Pier including provision of two buildings for Community/Volunteer facility".
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### Decision

1. The appeal is dismissed.

### Procedural matter

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 Council has referred to the boundary of the AONB being under review by Natural England, which could result in it being extended to include Shotley Pier. However, I am not aware of this change having yet been confirmed by the Secretary of State and have therefore given it limited weight in my assessment.

### Main issue

4. The Council has raised no concerns regarding: (a) the principle of the proposed use and development; (b) its architectural style; (c) its impact upon the local highway network; (d) whether there is sufficient parking; (e) its impact upon the living conditions of neighbouring occupiers; (f) its impact on the Shotley Gate Conservation Area; (g) its impact on the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB); and (h) its impact on the Stour and Orwell Estuaries Special Protection Area (SPA), the Stour and Orwell Estuaries Ramsar site and the Stour and Orwell Estuary Site of Special Scientific Interest (SSSI).
5. Accordingly, within the context of the Council's reason for refusal and the evidence in this case, the main issue is the effect of the development on the

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

character and appearance of the area, with particular regard to its siting and scale.

### **Reasons**

6. The appeal site primarily consists of a narrow pier that extends approximately 180 metres out into the Stour estuary. It is accessed via Queen Victoria Drive, which is characterised by its wide and expansive open views towards the estuary.
7. Based on the evidence before me, and my observations on-site, I consider the pier to be of significant local historical value, with its isolated position, lack of buildings, and attractive timber piles, beams and deck construction making a significant contribution towards the character and appearance of the area. As a consequence, I am satisfied that it has a significant degree of local heritage interest and constitutes a non-designated heritage asset.
8. The evidence before me indicates that the site falls within the countryside for development plan purposes and adjacent to the Stour and Orwell Estuaries Special Protection Area, the Stour and Orwell Estuaries Ramsar designation and the Stour and Orwell Estuary Site of Special Scientific Interest ('the SPA/Ramsar/SSSI site'). This evidence also shows that the appeal site does not fall within: - (a) the Suffolk Coast and Heaths Area of Outstanding Natural Beauty ('the AONB'); (b) a Special Landscape Area; and (c) the Shotley Gate Conservation Area ('the conservation area').

### *Character and appearance*

9. The proposed development has been designed in a contemporary style that would reflect the architectural approach adopted on nearby residential developments to the east of the site on Queen Victoria Drive/King Edward VII Drive. I am as a consequence satisfied that the detailed architectural design of the scheme is acceptable.
10. However, the proposed buildings, by reason of their prominent siting and significant scale, would considerably erode the open outlook currently enjoyed from Queen Victoria Drive and the public visibility of the scheme would intensify this harmful impact. Furthermore, the buildings would also irrevocably change the isolated setting of the pier and conceal views of its attractive timber piles, beams and deck construction.
11. The appellant states that the development would not be out of character with the area as a substantial new residential apartment building is under construction further to the east of the appeal site on land to the south of Queen Victoria Drive/King Edward VII Drive. However, this building is positioned in a less prominent position within the private Shotley Marina on a substantial piece of land formerly used as a boatyard. I do not therefore consider this development to be comparable to the appeal scheme and neither am I of the view that it has significantly changed the open character and appearance of Queen Victoria Drive, as the appeal scheme would do.
12. The appellant also states that the Stour and Orwell Estuaries are dominated by cranes and other structures associated with the ports of Harwich and Felixstowe. However, be that as it may, this is not the case with the area surrounding the appeal site on Queen Victoria Drive.

13. I recognise that the application was recommended for approval by the case officer and that no objections were raised by the Council's Conservation Officer and Natural England, but this in itself does not demonstrate a lack of harm or lead me to a different conclusion. I also note the appellant's reference to a previous scheme granted planning permission, but because this was not implemented and has now lapsed, I have given it limited weight in my assessment. In any event, there would be a considerable difference in impact upon character between this previous scheme, which was much smaller, and the current proposal. I also acknowledge that the appeal site is not listed or in a conservation area and that the existing fencing at the front of the site is unsightly, but this does not justify the harm identified.
14. In view of the above, I conclude that the prominent siting and significant scale of the development would be harmful to the character and appearance of the area. The proposal would therefore conflict with Policies CN01, RE06 and RE14 of the Local Plan<sup>2</sup> and Policy CS15 of the Core Strategy<sup>3</sup>, which collectively seek, amongst other things, to ensure that new development: - (a) is of an appropriate scale that is compatible with the prevailing landscape and does not detract from the character of the area; (b) respects heritage assets, important spaces and historic views; and (c) makes a positive contribution to local character.
15. I also find that it conflicts with Paragraphs 124, 127 and 130 of the Framework which collectively seek, amongst other things; (a) development that is sympathetic to local character and history; (b) the maintenance of a strong sense of place using the local arrangement of streets and spaces; and (c) the refusal of planning permission for development of a poor design that fails to take the opportunities available to improve the character and quality of an area.

#### *Other matters*

16. Given my conclusion on the main issues that the development is unacceptable, the other matters raised by interested parties have not been central to my decision. Accordingly, there is no need for me to consider them further as it would not alter the outcome of the appeal. For the same reason, it has not been necessary for me to carry out an 'appropriate assessment' of the scheme and consider whether the integrity of the SPA/Ramsar/SSSI site would be adversely affected.

#### *Planning balance*

17. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that the determination of applications should be made in accordance with the development plan unless material considerations indicate otherwise.
18. On the basis of the evidence before me, it is not clear to me whether the quantum of development proposed is necessary to enable the restoration of the historic pier and I also have concerns that the new buildings could be constructed without the restoration works being carried out. In particular, there is no information; - (a) setting out the scale of restoration work required and explaining why this is needed; (b) the likely costs and timeframe for this; (c) how the proposed development would fund this restoration given the

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<sup>2</sup> Babergh Local Plan Alteration No. 2, Adopted June 2006.

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

- substantial costs necessary to construct the two new buildings; (d) how much income the café unit would generate and to what extent it would deliver the restoration of the pier and within what timeframe. Furthermore, there is also no mechanism before me in the form of a unilateral undertaking or planning obligation by agreement that would; - (1) require the income derived from the new development to be reinvested solely into the historic pier; and (2) prevent the new buildings being sold separately from the pier before its restoration had been paid for and completed.
19. As a consequence, there is insufficient evidence for me to conclude that the alleged benefits of the historic pier restoration would outweigh the harm I have identified to the character and appearance of the area and setting of the non-designated heritage asset.
20. Despite the Local Plan being over 10 years old, Paragraph 213 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework. Although the appellant asserts that Policy RE14 of the Local Plan and Policy CS15 of the Core Strategy do not accord with Paragraph 16 of the Framework, I am satisfied that they are clear and unambiguous in their wording and not therefore in conflict with this national policy.
21. I have concluded that the proposal does not accord with the development plan and that the relevant policies referred to are not out of date or inconsistent with the Framework. In view of this, the presumption in favour of sustainable development as outlined in Paragraph 11 of the Framework is not engaged.
22. I have noted the appellant's assertion that the scheme complies with a number of policies and objectives of the development plan and Framework relating to matters such as the sustainable growth of business in rural areas and public access to recreation facilities. However, even if that were the case, it is not unusual for different development plan and Framework policies to pull in different directions. In the current case, it is my view that the most significant policies in this appeal are those that I have referred to and that the proposal does not accord with the development plan and Framework as a whole.
23. In view of the above, whilst I recognise that the scheme would; - (a) support rural tourism and leisure; (b) make a positive contribution to the economic vitality of the area; (c) provide local employment during construction; and (d) provide education on the historic development and cultural importance of the pier, I conclude that it has not been demonstrated that the benefits of the scheme outweigh the harm to the character and appearance of the area and setting of a non-designated heritage asset.

### **Conclusion**

24. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

*Robert Fallon*

INSPECTOR