

**Parish:** CAPEL ST MARY

**Location:** Land west of 1 Dawes Close

**Proposal:** Erection of 1 no. two-storey dwelling and detached single garage.

**Applicant:** Andrew Goodwin Homes

**Case Officer:** Stuart McAdam

**Date for Determination:** 09/06/2010

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**A Panel of Members inspected the site on 19 May 2010 to assess the potential impact of the development upon adjoining properties and trees.**

### THE SITE

1. The site comprises 0.045 Hectares of land (15.5 metres wide and up to 25 metres deep) that fronts onto Dawes Close, a small cul-de-sac of five 1½ storey dwellings. It is situated to the rear (north east) of Yew Tree Cottage, Days Road, with the gardens of Rose House and 1 Dawes Close abutting the south east and north east boundaries respectively.
2. This area of Capel St Mary within which the application site is situated is predominantly residential, characterised by a variety of 1 ½ storey and 2 storey dwellings, of varying ages, most of which are detached.
3. Situated within the rear of the site, close to the south east boundary is a large Cedar tree that is protected by a Tree Preservation Order (BT 209 T1 refers).

### THE PROPOSAL

4. Planning permission is sought for the erection of a 1 ½ storey dwelling with a gross internal floor area of 137m<sup>2</sup>. The site layout plan shows a rear garden of 195 m<sup>2</sup>.
5. The dwelling would comprise a pair of gable fronted elements with an interconnecting perpendicular ridge. Each front gable would comprise a bay window at ground floor level, with the westernmost one including a first floor window to serve accommodation in the roof space.
6. The overall width of the dwelling would be 11.36m, with a maximum depth of 11.68m. The ground to ridge height of the westernmost (1 ½ storey) gable would be 6.3m, this steps down to 5.1m for the rest of the building.
7. A detached single garage is also proposed, this would be situated to the south west of the dwelling, close to its respective boundary. The dimensions of the garage would be 3.09m wide, 5.84m long. Its double pitched roof would be 3.6m high.
8. The roof of the dwelling would be constructed in clay pantiles with clay stock facing bricks for the walls. Plinth brickwork and traditional window casements would also be incorporated to reinforce local detailing and complement the adjacent properties.
9. It is proposed to fell the Cedar tree that is protected by Tree Preservation Order BT 209 T1. The Applicant's Arboricultural Consultant recommends removal of the tree based upon anticipated limb failures of increasing frequency and categorises it as being of low amenity value.

## RELEVANT HISTORY

10. B/04/00641/OUT Outline - Erection of 1 dwelling, as amplified by illustrative drawing no. AGH/04/01 received on 24th May 2004. Refused. \*
11. B/05/00412/FUL Erection of 1 No. dwelling with single garage. Refused. \*
12. B/07/01298/TPO Felling of 1 no. Blue Atlas Cedar tree covered by Tree Preservation Order No. BT 209. Refused.
13. B/07/01556/TPO Remove 3 lowest limbs overhanging garden from 1 no. Cedar tree (T1) covered by Tree Preservation Order No. BT 209. Granted.

\* The detailed reasons for refusal are provided as an Appendix to this report.

## NATIONAL GUIDANCE

14. **PPS1** (Planning and Sustainable Development)
15. **PPS3** (Housing)

## PLANNING POLICIES

16. The Development Plan comprises the East of England Plan, adopted 2008, saved policies in the Suffolk Structure Plan, adopted 2001, and the Babergh Local Plan (Alteration No. 2) adopted 2006. The following policies are relevant to this proposal:

### East of England Plan (EEP) 2008

- **SS1** (Achieving Sustainable Development)
- **ENV7** (Quality in the built environment)

### Babergh Local Plan (Alteration No.2) 2006

- **HS02** (Villages)
- **HS03** (Non sustainable and sustainable villages)
- **HS27** (Density and Hhuse type)
- **HS28** (Infilling)
- **HS32** (Public open space)
- **CN01** (Design Standards)
- **EN04** (Semi Natural Habitats)

The relevant documents can be viewed via the internet. Please see page 3 for details.

## CONSULTATIONS

17. **PC** – Recommend refusal on the grounds that the Cedar tree is protected by a Tree Preservation Order.
18. **LHA** – No objection, subject to the imposition of a standard planning condition requiring the parking area as shown on the block plan being constructed prior to first occupation.
19. **SCC Archaeological Service** – No objection subject to a standard planning condition being imposed.
20. **SWT** – No objection, but passes comments on good practice with respect to protected species should any be found during the course of works.

21. **AWS** – No comments received at the time of writing the report, but any received will be report at the meeting.
22. **BDC Arboricultural Officer** – Recommends refusal on the grounds of loss of the TPO tree.
23. **EH - Land Contamination Issues** - satisfied that the evidence provided is sufficient to assess the risk of contamination at the site.

## **REPRESENTATIONS**

24. Two letters of objection have been received from local residents, their concerns that are material to the determination of the application are summarised as follows:
  - Concern raised over the damage that would occur to the surfacing of Dawes Close from additional traffic generated by the development
  - The TPO tree should be protected
  - Construction traffic would cause obstructions to residents
  - The site is too small to accommodate a dwelling
  - The development would be out of character with its surroundings

## **PLANNING CONSIDERATIONS**

25. The site is situated within the built-up area for Capel St Mary as defined by the Babergh Local Plan. In line with Local Plan Policies HS02 and HS03, planning permission may be granted for additional dwellings providing the proposal respects the scale and character of the village, it does not have an adverse impact upon existing residential amenities, existing site features or give rise to highway safety concerns. Local Plan Policy HS28 goes on to provide criteria for the assessment of infill proposals.
26. As already noted elsewhere within this report, planning permission has been refused on two previous occasions for the erection of a dwelling on the site. The detailed reasons for refusal are provided within the Appendix to this report.
27. The issue to be determined by Members is whether the current proposal addresses sufficiently the previous reasons for refusal.
28. Officers are of the view that the proposed dwelling in terms of its design and layout, including its relationship to neighbouring properties would constitute an acceptable form of development on what can be considered to be a brownfield site as defined by PPS3.
29. The resultant development would be at a density of 22 dwellings to the Hectare. As such the development would not give rise to an overdevelopment of the site, according with the prevailing character of its surroundings. It would, therefore, overcome the previous objections as set out within reason 1 of B/04/00641/OUT and the second paragraph of reason 1 of B/05/00412/FUL. However, the proposed removal of the Cedar tree that is subject to Tree Preservation Order BT 209 T1 is of considerable concern.

### **Arboricultural Implications**

30. The Council's Arboricultural Officer states that with regard to the application he can confirm that the Cedar tree in question can be categorised as B1 in accordance with *BS 5837 Trees in relation to construction*.

31. That is to say that although it is of impaired condition, it is still of moderate quality and value as opposed to low value (category C) as advocated by the Applicant's Arboricultural Consultant.
32. The Arboricultural Officer also considers that with appropriate management the tree could safely provide a minimum useful life expectancy of 20 years. These comments were based upon a close and unobstructed inspection that he was able to undertake of the tree.
33. Furthermore he considers that whilst it is clear that failures to the tree have occurred previously, there is no evidence to support the statement at para 3.2 of the Arboricultural report that these have increased in the period between a survey undertaken in May 2009 and the current report. This is significant when considered against the recent winter of heavy and extended snowfall - weather conditions that are conducive to limb failure in a tree of this type.
34. Therefore Officers are of the view that there is no reason to doubt the Council's own expert's advice on this matter and it is on this basis alone that planning permission is recommended for refusal.

#### **Other Issues**

35. Local residents have raised additional concerns over the damage that would occur to the surfacing of Dawes Close from additional traffic generated by the development and over the potential for construction traffic to cause obstructions to residents.
36. It is acknowledged that Dawes Close is maintained by the existing residents, however it is very unlikely that the additional traffic generated by one additional household would materially accelerate the degradation of the road surface. Furthermore it is a civil matter, that the Council as local planning authority should not concern itself with and therefore could not be substantiated as a reason to refuse planning permission.
37. Furthermore whilst construction traffic may cause general disruption to existing residents, such disruption is likely to be short lived and in itself again would not be a reasonable reason to refuse the application.

#### **Public Open Space**

38. Pursuant to Policy HS32 of the Local Plan, it is appropriate to seek a planning obligation for a financial contribution towards public open space, the applicant has agreed to Heads of Terms, but at the time of writing a report no planning obligation had been sealed.
39. If no planning obligation has been sealed by the time of the committee meeting, it would be appropriate to add a further reason for refusal for inadequate provision of public open space being contrary to Policy HS32.

#### **RECOMMENDATION**

That planning permission be refused for the following reason:-

- Removal of TPO protected Cedar tree, contrary to Policies EN04 and CN01 of the Babergh Local Plan Alteration No 2 (2006)
- Insufficient open space provision contrary to Policy HS32.

B/04/00641/OUT

1. *The proposed development, including the erection of a dwelling, would be contrary to policy ENV3 of the Suffolk Structure Plan 2001, policies LP4, LP17 and LP18 of the Babergh Local Plan (Alteration No. 1) and policies HS02, HS12 and HS14 of the Babergh Local Plan (Alteration No. 2 - Second Deposit Draft), all of which seek, inter alia, to ensure that development respects the characteristics of the site and its surroundings and does not significantly impact upon the environment, residential amenity nor highway safety.*

*The development, if approved, would result in an unsatisfactory form of development, by reason of the need to set the dwelling so far forward on the site (as shown on the submitted illustrative drawing) in order to achieve a degree of separation from the existing Cedar of Lebanon tree on the site, which is protected by Tree Preservation Order BT 209. As a result the application proposal would, if approved, amount to a cramped form of development, contrary to the existing pattern and spacing of dwellings in the locality, thereby detrimental to the visual amenity and character of the area.*

2. *The existence of the protected Cedar of Lebanon tree restricts the area of the site available for the construction of a dwelling. The Local Planning Authority considers that any dwelling erected on this site, will be located in such close proximity to the protected tree, that it is likely to receive requests from future occupiers of the dwelling to lop, top or even fell the tree on the grounds that it obstructs light, reduces usable garden area, or would represent a potential danger. The Local Planning Authority must therefore consider this tree to be at risk if the proposed development were to proceed.*

B/05/00412/FUL

1. *The proposed development, including the erection of a dwelling with single garage, would be contrary to policy ENV3 of the Suffolk Structure Plan 2001, policies LP4, LP17 and LP18 of the Babergh Local Plan (Alteration No. 1) and policies HS02, HS12 and HS14 of the Babergh Local Plan (Alteration No. 2 - Second Deposit Draft), all of which seek, inter alia, to ensure that development respects the characteristics of the site and its surroundings and does not significantly impact upon the environment, residential amenity nor highway safety.*

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