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## Appeal Decision

Site visit made on 28 March 2017

**by Amanda Blicq BSc (Hons) MA CMLI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 28<sup>th</sup> April 2017**

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**Appeal Ref: APP/J3530/W/16/3163347**

**Part rear garden Setterfield, Main Road, Martlesham IP12 4SW**

- 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 Mrs J Abbott against the decision of Suffolk Coastal District Council.
  - The application Ref DC/16/3751/FUL, dated 8 September 2016, was refused by notice dated 24 October 2016.
  - The development proposed is severance of garden, demolition of conservatory and existing carport and the erection of a single-storey dwelling (revised submission alternative access).
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

### Reasons

3. The appeal site comprises the rear portion of the amenity space behind Setterfield which is a bungalow in a line of single and two-storey dwellings fronting Main Road. The rear boundaries of these plots directly abut Angela Close which runs parallel to Main Road and has a line of single storey dwellings on its other side. The development would comprise a single storey dwelling located between Setterfield and the plot boundary with Angela Close.
4. Policies DM7 and DM21 of the Local Plan<sup>1</sup> (LP), taken together, state that the sub-division of plots to provide additional dwellings will be permitted provided that they would not result in a cramped form of development out of character with the area or street scene. These policies also expect development to be well-related to the scale and character of their surroundings.
5. I noted on my visit that although there is variety in the style of dwellings fronting Main Road, there is some consistency in the underlying building pattern. Dwellings are forward of generous plots and most are positioned more or less along a common building line. Furthermore, between Pleasant View, to the immediate west of Setterfield, and The Coppice, some twelve plots to the

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<sup>1</sup> Suffolk Coastal District Council, Adopted Core Strategy and Development Management Policies, July 2013

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east, contiguous garden areas provide distinct visual separation between the linear development fronting Main Road and the tighter development pattern fronting Angela Close.

6. The bungalow, which would have a pitched roof some 5 metres high, would intrude into the openness between the frontages of Main Road and Angela Close. Although it would not be readily seen from Main Road, it would be significantly higher and bulkier than the existing range of garden buildings evident behind the Main Road frontage, and would be prominent when viewed from Angela Close.
7. The appellant has drawn my attention to other development along Angela Close. I noted that a dwelling has been recently constructed as backland development at 6 Black Tiles Lane (No 6). However, this shares a building line (relative to Angela Close) with No 6. In addition it occupies a plot which is forward of the appeal site's rear boundary.
8. The appellant has also drawn my attention to 1A (No 1A) and 41 Angela Close (No 41). These also appear to be backland development. Number 1A's frontage is more or less in line with the dwellings on each side, and No 41 is an extension of the linear development to its immediate east.
9. These three examples of backland development are dwellings that relate directly to an established building pattern. Although they are on plots of limited size, they are not directly comparable to the appeal before me which would deviate from the established building pattern. The appeal bungalow would relate only to Setterfield, and would be adjacent to the rear gardens of neighbouring dwellings on both of the side boundaries. Consequently, I give little weight to the argument that these examples represent a precedent.
10. I acknowledge that the delegated report for the backland development at No 6 noted that this was not a particularly sensitive area. Nonetheless, as I have noted above, that dwelling is clearly related to the established building pattern and does not intrude into the visual separation between Angela Close and Main Road.
11. The appellant argues that the appeal site lies adjacent to two distinct character areas, but I disagree. As noted above, the site lies within a distinct area of openness related to the generous plots of dwellings fronting Main Road. The planning statement notes that the appeal site abuts the development behind No 6, but the drawings indicate that although the plot corners meet, there is no shared boundary<sup>2</sup>. Furthermore, although I concur with the appellant that there is a distinct difference between the building pattern of Angela Close and Main Road, I disagree that the area's character has been extensively diluted. My observations led me to conclude that notwithstanding the extensions and alterations to dwellings on Main Road, the underlying building pattern and greater spaciousness of plots on Main Road, is very evident.
12. Furthermore, the evidence before me indicates that Nos 1A and 41 predate current planning policy and as such I give these previous approvals little weight. The appellant argues that the lack of similar development since the approval of No 41 indicates that this appeal would not set a precedent, but I disagree. It appears equally likely that planning decisions in the intervening

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<sup>2</sup> Dwg. 3494-01G

years have recognised that the openness behind Main Road is worthy of protection in order to maintain local distinctiveness.

13. The appellant notes that since the 1960s, development to the rear of Angela Close, for example at Chandos Drive and Chandos Court, has been built to a denser building pattern. However, this does not justify development that would intrude into the distinct stretch of openness behind the Main Road frontage. Although the dwelling would not be particularly visible from Main Road, it would be visible from Angela Close.
14. I appreciate that the plot ratio of the bungalow would not be dissimilar to that of the dwelling built behind No 6, and there would be limited separation to nearby dwellings, particularly the host dwelling. However, in the absence of other concerns I would not consider this to be sufficiently harmful to warrant dismissal of the appeal. Nonetheless, the development would be incongruous with the existing linear patterns of development along this section of Main Road and Angela Close, would intrude into an area of visual separation and would appear cramped in relation to the adjacent plot sizes.
15. In the light of the above, I conclude that the development would have an adverse effect on the character and appearance of the area and would be contrary to LP Policies DM7 and DM21, as outlined above.

#### *Housing supply*

16. There is a dispute between the main parties in respect of housing supply and the appellant has drawn my attention to previous appeal decisions where Inspectors have concluded that the Council does not have a five year housing land supply. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. In this context, I concur with the appellant that LP Policy DM7, which relates to backland and tandem development, is a restrictive policy in relation to housing supply.
17. However, I am mindful that case law<sup>3</sup> has indicated that even where housing supply policies are not up to date, development plan policies cannot be judged to carry no weight, or be disregarded. The weight to be given to those policies remains a matter of planning judgement and is dependent upon the degree of shortfall and the prospect of development coming forward to meet that shortfall. Furthermore, in other case law<sup>4</sup>, the courts considered that the particular purpose of the policies could influence the weight to be accorded to them.
18. I acknowledge the appellant's argument that the Council's HLS figures<sup>5</sup> are based upon an objectively assessed need that is not reflective of the needs outlined in the regional spatial strategy. However, the most recent appeal decision brought to my attention<sup>6</sup> concluded that the Council has approximately 4.5 years HLS with a 5% buffer.

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<sup>3</sup> Crane v Secretary of State DCLG (2015) EWHC 425 (Admin)

<sup>4</sup> Suffolk Coastal District Council v Hopkins Homes Ltd (2016) EWCA Civ168

<sup>5</sup> Suffolk Coastal District Council, Housing Land Supply Assessment, June 2016

<sup>6</sup> APP/J3530/W/16/3159464

19. The appellant argues that a 20% buffer should be used as there has been persistent undersupply. Nonetheless, although the Council's figures indicate that there has been undersupply in the last six years, they also indicate that the rate of dwelling completions has significantly accelerated over the last few years and that in the last year of monitoring there was over-delivery<sup>7</sup>.
20. In the light of the above, although I recognise that the Council's policies for housing supply are out of date, the shortfall is limited. Consequently I give LP Policy DM7 moderate weight.

*Other matters*

21. I appreciate that the appellant would be able to build ancillary buildings on the appeal site under permitted development rights but such structures would not form a separate dwelling. In any case, the height of such a structure would be 4 metres<sup>8</sup>, whereas the development's roof would be some 5 metres high and likely to be significantly more extensive than what might be built as an ancillary building. Furthermore, I noted other ancillary buildings in the area had very little visual impact when viewed from Angela Close as their height and bulk was limited. Consequently I give the arguments in respect of the fall-back position, little weight.
22. I also appreciate that the appellant could create a vehicular access on the Angela Close boundary, but this would not have an adverse effect on the visual separation of the building lines. I concur with the appellant that pedestrian access from the appeal site to Angela Close would not be particularly disadvantaged by the lack of a footway on the southern side of the road. However, as the Council's comments in this regard appear to be related to the underlying building pattern, rather than pedestrian safety, this observation neither weighs for nor against the appeal.
23. The appellant has also noted that dwellings fronting Main Road are opening up access points on their rear boundaries to gain access to Angela Close but although I noted one dropped kerb and two vehicular access points, as well as a few pedestrian gates, the overall impression is of a continuous road verge backed by fencing. Although I note the Council's comments with regard to additional access points, I am not satisfied that this is a determinative factor for this appeal as although other dwellings have created a rear access, it has not affected the underlying character of Angela Close.
24. I concur with the appellant that developments with small gardens are suitable for some future occupiers. However, I agree with the Council that this development would be inconsistent with the generous dimensions of neighbouring plots. In any case, their concern in this regard is related to the amenity of occupiers of neighbouring dwellings rather than future occupiers. Although I acknowledge the Council's argument that the proposed driveway would run against the boundary with Brecklands, there is an existing garage and hardstanding in that location. Consequently, I am not satisfied that the development's driveway would adversely affect the amenities of the occupiers of Brecklands.
25. The appellant has also suggested that the provision of bat and bird boxes could contribute to biodiversity enhancement but given the suburban location and the

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<sup>7</sup> APP/J3530/W/16/3159464

<sup>8</sup> Ancillary building with a dual pitched roof

limited size of the proposed garden, I give this benefit limited weight. I also appreciate that the development would be in a sustainable location, but this limited benefit does not outweigh the harm identified above.

26. The appellant has drawn my attention to a previous appeal decision on a different site<sup>9</sup>. Although I have limited information before me, the Inspector for that appeal notes that the development would be barely seen from the public domain and that the site already has a large pitched roof garage. That Inspector concludes that the overall effect would not be dissimilar. In this instance, the development would be visible and intrusive from the public domain and therefore I conclude that the appeals are not comparable.
27. I noted on my visit that new housing with a distinct character is under construction on the opposite side of Main Road but this does not alter my reasoning. Although there is variation in the building pattern of Main Road, there is conformity to the underlying linear pattern.

### **Conclusion**

28. The development would make a very small contribution to housing supply in the area, and I acknowledge it would be in a highly sustainable location. However, I am mindful that the housing land supply shortfall is limited and I have afforded moderate weight to LP Policy DM7. Consequently, I conclude that the adverse effects of the development would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole, as set out by Paragraph 14 of the Framework where housing supply policies are out of date.
29. For the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's Local Plan and that therefore the appeal should be dismissed.

*Amanda Blicq*

INSPECTOR

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<sup>9</sup> APP/J3530/A/13/2209527