
Appeal Decision

Site visit made on 27 June 2017

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 31 July 2017

Appeal Ref: APP/R3515/W/17/3170404
93 Heath Lane, Ipswich IP4 5RX

- 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 Mr Daniel Fermor, Universal Property Services Ltd against the decision of Ipswich Borough Council.
 - The application Ref IP/16/01009/FUL, dated 25 October 2016, was refused by notice dated 15 December 2016.
 - The development proposed is the severance of rear garden and erection of 2 bedroom bungalow with access from Lyndhurst Avenue.
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Decision

1. The appeal is allowed and permission is granted for the severance of rear garden and erection of 2 bedroom bungalow with access from Lyndhurst Avenue at 93 Heath Lane, Ipswich IP4 5RX, in accordance with the terms of the application, Ref IP/16/01009/FUL, dated 25 October 2016, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr Daniel Fermor, Universal Property Services Ltd against Ipswich Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on the living conditions of the occupiers of No 2 Lyndhurst Avenue in relation to noise and disturbance.

Reasons

Character and appearance

4. The proposal is for a two bedroom bungalow on a rectangular site to the rear of No 93 Heath Lane; the site originally formed part of the rear garden of No 93 but has since been severed. Access to the site would be from Lyndhurst Avenue, which joins Heath Lane to one side, along a lengthy unmade track. The track runs behind the rear gardens of Nos 77-91 Heath Lane, providing them rear access, and on the other side runs alongside the house and long rear garden of No 2 Lyndhurst Avenue.

5. Whilst the prevailing character of the residential area surrounding the appeal site comprises frontage housing with long rear gardens behind, there are two examples of bungalows set to the rear of frontage housing on the opposite side of Lyndhurst Avenue, behind Nos 1 and 3. These two bungalows, Nos 1a and 1b, are accessed via a driveway about 45 m long directly opposite the access proposed in this case.
6. Although located on garden land instead of the site of former garages, the proposal would take a very similar form to these existing bungalows which were granted planning permission in 2006. The driveway to the new bungalow would be somewhat longer, about 55 m, and would be narrower, about 3 m wide compared to about 4 m in the case of Nos 1a and 1b, but the layout of the development would be similar, and only one bungalow would be involved instead of two. The bungalow would lie within a well-established residential area and would therefore not be isolated.
7. Paragraph 4.22 of the Council's Space & Design Guidelines SPD 2015 (SDG) advises that the development of backland or rear garden sites will only be acceptable where the area has a recent precedent for such development and where no future precedent for schemes of an ad-hoc unplanned character would result. In this case, contrary to the Council's view, there is a recent precedent for very similar development nearby and given the unique circumstances of the appeal site at the end of the track no precedent would be set for further development.
8. The footprint of the bungalow, together with the adjacent hardstanding for car parking/turning, shed, paths etc would involve much of the site, leaving little space for landscaping to screen or soften the development. However, the bungalow would be relatively low profile with no accommodation in the roof space and would be discreetly located within an area of rear gardens where it would be barely perceptible from surrounding public view points. The Council's conservation and urban design officer noted that the modest bungalow design would not be too intrusive in its setting. Nos 1a and 1b again set a precedent, filling much of their respective sites with built development.
9. It would appear that refuse bins are already placed at the Lyndhurst Avenue end of the track on collection day so the addition of further bins from the new bungalow would not cause significant additional visual harm.
10. For these reasons the proposal would not significantly harm the character and appearance of the area, would comply with the SDG as explained above and would not materially conflict with Policies DM5 and DM13 of the Ipswich Core Strategy and Policies DPD Review 2017 (ICSPR). These require new development to be well designed and sustainable and allow small scale infill, backland and severance plots provided the character and appearance of the area is protected.

Living conditions

11. The access track runs next to No 2 Lyndhurst Avenue and its long rear garden. The track is little more than 3 m wide in places, but is screened from No 2 by a tall close boarded fence for most of its length. The flank wall of No 2 contains a landing window at first floor level and a kitchen window on the ground floor just behind the fence, but neither are habitable rooms. The nearest windows to the access track on the rear elevation also serve non-habitable rooms, a

bathroom upstairs and toilet downstairs. Whilst the nearest front facing window serves a bedroom, the side gap between the house and the track is somewhat wider at this point.

12. The proposed bungalow would result in additional vehicle movements along the access track which would inevitably cause some noise and disturbance to the occupiers of No 2 when in the house or garden. However, crucially, the track already serves as a rear access to Nos 77-91 Heath Lane, and it was clear from the site inspection that a number of these properties actively use the track to access parking spaces at the end of their rear gardens. The track is therefore already the cause of noise and disturbance to the occupiers of No 2 and in this context the small number of additional movements arising from a modest two bedroom bungalow would not be significant. The additional conflict between vehicles using the track would also be limited.
13. For these reasons the proposal would not cause significant harm to the living conditions of the occupiers of No 2 Lyndhurst Avenue in relation to noise and disturbance. This would comply with Policy DM13 of the ICSPP which allows small scale infill, backland and severance plots provided the amenity of neighbouring residents is protected.

Other matters

14. Policy DM13 of the ICSPP also requires small scale infill, backland and severance plots to have safe and convenient access. It is appreciated that the access track would be less than ideal, being both relatively lengthy and narrow. However, the highway authority raise no objections to the proposal subject to conditions and there is no suggestion that the width of the driveway would be inadequate for day-to-day access purposes as it already serves to provide access to parking for a number of existing properties on Heath Lane. Special arrangements may have to be made for bulky deliveries but this would not be an unprecedented situation and importantly no objections have been raised by the emergency services.
15. The Council claim that a short section of the track immediately in front of the proposed plot belongs to No 91 Heath Lane. This is a private legal matter and does not preclude planning permission being granted. Similarly, arrangements for the maintenance of the track are a private matter.
16. All the other objections to the scheme have been carefully considered. The bungalow would provide a good standard of accommodation for its occupiers. As the proposal is for a low profile single storey bungalow set well away from the nearest dwellings, the impact on the outlook and privacy of adjacent residents would be minimal. Two car parking spaces and cycle storage would be provided which would meet the Council's standards. The disruption during construction would no doubt be inconvenient but would only be temporary. Finally, potential conflict with refuse bins is a matter that can be resolved between neighbours and is not sufficient reason to withhold permission.
17. The Council has suggested a number of conditions should the appeal be allowed and these have been assessed against the relevant tests. Various amendments have been made for clarification. In addition to the standard implementation time limit it is necessary to define the plans which have been approved in the interests of certainty. Conditions to control the materials to be used, the form of boundary screening, any external lighting, to remove certain

permitted development rights and to require suitable refuse/recycling storage are necessary to ensure the development has a satisfactory appearance and to protect the amenities of nearby residents.

18. Further conditions are required to ensure the vehicular access is improved and vehicle parking/manoeuvring space is provided on site in the interests of highway safety and to ensure cycle parking facilities are provided in the interests of sustainable transport. A construction management plan is necessary to minimise inconvenience to nearby occupiers during construction and in the interests of highway safety. A condition to require high standards of energy efficiency and water use is necessary in the interests of sustainability but evidence of this can be satisfactorily provided through the building control process. Finally, as requested by the conservation and urban design officer, conditions requiring details of a landscaping scheme and its maintenance are necessary in the interests of visual amenity and to avoid a stark development.

Conclusion

19. The proposal would provide an additional dwelling which would make a small but useful contribution to housing needs given the shortage of housing land in the borough. It would have important social and economic benefits for the area and as explained above would also meet the environmental dimension of sustainable development. The appeal should therefore be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: A.02.02A, A.02.03A, A.02.04, A.02.05
- 3) No development above slab level shall take place until full details (and samples if necessary) of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.
- 4) No external lighting shall be installed within the development hereby permitted without the prior approval in writing of the local planning authority.
- 5) The dwelling hereby permitted shall not be first occupied until refuse and recycling storage facilities have been provided in accordance with details to be submitted to and approved in writing by the local planning authority. The facilities shall thereafter be retained for that purpose at all times.
- 6) The dwelling hereby permitted shall not be first occupied until secure cycle parking facilities have been provided in accordance with details to be submitted to and approved in writing by the local planning authority. The facilities shall thereafter be retained for that purpose at all times.
- 7) No development shall take place until a construction management plan has been submitted to and approved in writing by the local planning authority. Construction of the development shall not be carried out other than in accordance with the approved construction management plan. The construction management plan shall include details relating to the following matters:
 - a) parking and turning provision for vehicles of site personnel, operatives and visitors
 - b) loading and unloading of plant and materials
 - c) storage of plant and materials
 - d) programme of works (including measures for traffic management and operating hours)
 - e) provision of boundary hoarding and lighting
 - f) details of proposed means of dust suppression and noise mitigation
 - g) details of measures to prevent mud from vehicles leaving the site during construction
 - h) monitoring and review mechanisms
 - i) mobile phone contact number for Site Manager and
 - j) distribution to local residents and Ward Councillors.No works in respect of the construction of the development hereby permitted and no deliveries to the site during construction shall be undertaken at the following times:
Outside the hours of 0800 - 1800 on Mondays to Fridays (inclusive)
Outside the hours of 0800 - 1300 on Saturdays
At any time on Sundays and Public Holidays

- 8) The dwelling hereby permitted shall not be first occupied until the area within the site shown on layout plan A02.02.A has been laid out and made available for the purposes of manoeuvring and parking of vehicles and shall thereafter be retained and used for that purpose at all times.
- 9) No other development shall take place until the existing vehicular access has been improved, laid out and completed in all respects in accordance with layout plan A02.02.A and shall thereafter be retained in the specified form at all times.
- 10) The dwelling hereby permitted shall be constructed so that a minimum energy/CO2 standard of 19% over Target Emission Rate (TER), as determined by the 2006 Building Regulation Standards, and a maximum water standard of 110 litres per person per day (or in the case that the achievement of these standards are demonstrated not to be feasible or viable a lesser standard level as may be agreed in writing with the local planning authority) are met. Evidence of compliance shall be notified to the local planning authority prior to first occupation of the dwelling hereby permitted.
- 11) Notwithstanding the provisions of Classes A, B and C of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting or modifying that Order) no extension or alteration to the dwelling hereby permitted shall be made except with the prior written consent of the local planning authority.
- 12) No development above slab level shall take place until full details of proposed boundary screen walls/fences/hedges have been submitted to and approved in writing by the local planning authority and the dwelling hereby permitted shall not be first occupied until the boundary screen walls/fences/hedges have been erected or planted. The boundary treatments as approved shall remain in place thereafter unless otherwise agreed in writing by the local planning authority.
- 13) No development above slab level shall take place until a scheme including full details of both hard and soft landscaping works has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all existing trees and hedgerows on the land, together with those to be retained and measures for their protection in the course of development, and details of all new planting including species and numbers of trees/plants. The scheme shall then be carried out as approved.
- 14) The hard and soft landscape works shall be carried out in accordance with the approved details prior to the first occupation of the dwelling hereby permitted or in accordance with a timetable agreed with the local planning authority. Any trees 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 unless the local planning authority gives written consent to any variation.