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## Appeal Decision

Site visit made on 19 July 2017

**by J Gilbert MA (Hons) MTP MRTPI**

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

**Decision date: 11 August 2017**

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**Appeal Ref: APP/R3515/W/17/3171978**

**131 Freehold Road, Ipswich IP4 5JP**

- 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 Shaun McGovern of IPM Land Acquisitions Ltd against the decision of Ipswich Borough Council.
  - The application Ref IP/16/01012/FUL, dated 21 October 2016, was refused by notice dated 17 January 2017.
  - The development proposed is erection of a 3-bedroom bungalow and car parking spaces within land to the side/rear of 131 Freehold Road.
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### Decision

1. The appeal is allowed and planning permission is granted for erection of a 3-bedroom bungalow and car parking spaces within land to the side/rear of 131 Freehold Road at 131 Freehold Road, Ipswich IP4 5JP in accordance with the terms of the application, Ref IP/16/01012/FUL, dated 21 October 2016, subject to the 9 conditions listed in the attached schedule.

### Procedural Matter

2. The Council's decision notice refers to policies DM5 and DM13 of the Ipswich Proposed Submission Core Strategy and Policies Development Plan Document Review 2014 (CSP). The CSP was adopted on 22 February 2017 and supersedes policies DM5 and DM13 of the Core Strategy and Policies Development Plan Document 2011. The appellant has referred to the newly adopted CSP in their submissions. The aims of the policies are similar and neither party has been prejudiced by this change in policy circumstances.

### Main Issues

3. The main issues are the effect of the proposed development on:
  - the character and appearance of the area; and
  - the living conditions of neighbouring occupiers at Nos 129, 131 and 133 Freehold Road, with particular regard to noise and disturbance from the vehicular access to the proposed bungalow.

### Reasons

#### *Character and Appearance*

4. The appeal site forms part of the garden area at the rear of No 131 Freehold Road, a semi-detached house with vehicular access at the side of the property.

It is located in a 19<sup>th</sup> century residential area of predominantly terraced and semi-detached houses, with some interspersed detached properties. Nos 131 and 133 are set further back from the road than the neighbouring terraces, with a wide gap between Nos 129 and 131. In many cases, gaps between buildings provide only pedestrian access to rear gardens, but there are examples where gaps are wider, as in this case.

5. The development pattern of Freehold Road has historically comprised frontage housing with reasonably deep rear gardens, backing onto the gardens of other residential streets to the rear. However, the appeal site's particularly long garden backs onto the shorter gardens of newer two-storey properties on Risby Close and three-storey sheltered housing at Fornham House and a relatively recent one and a half-storey chalet bungalow at No 132E Stephen's Court off Britannia Road.
6. The proposed development would comprise a three-bedroom bungalow with access and parking/turning area. It would be situated within the northern half of No 131's existing rear garden, with a garden area separating it from the properties on Risby Close and Stephen's Court. The parking would be located south of the proposed bungalow and an area of rear garden would be retained by No 131. The access drive to the proposed bungalow would run between Nos 129 and 131.
7. The National Planning Policy Framework (the Framework) confirms at Annex 2 that land in built-up areas such as residential gardens is not defined as previously developed land. However, the Framework does not, in itself, resist development of residential gardens. Instead, it states at paragraph 53 that local planning authorities should consider setting out policies to resist inappropriate development. Policy DM13 of the Council's CSP addresses backland sites. The supporting text of the policy confirms that small sites, such as backland plots behind existing dwellings, have historically been an important source of additional dwellings for a tightly constrained urban area.
8. Although the character of this part of Freehold Road is of generally linear development fronting onto the highway with long gardens, the appeal site is surrounded at the rear by a range of residential buildings of different heights and styles arranged in a non-linear pattern, including No 132E Stephen's Court. While No 132E has a relationship with the facing block of flats, it is similar to the proposed development in that it does not form part of the linear development of Freehold Road, Britannia Road and Bloomfield Street. The pattern of development to the rear of these streets has already been eroded by the insertion of Risby Close and Stephen's Court close to the rear of Freehold Road.
9. The proposed development would be glimpsed from Freehold Road via the access drive, but would appear as a subservient building that would relate well to the local townscape character. The proposed area of hardstanding would be large, but not excessive for the size and type of development and similar to residential parking areas nearby on Stephen's Court. It would be softened by landscaping areas along part of the boundary, and its effect on the street scene would be limited in terms of visibility. This incidence of backland housing would not therefore disrupt the general pattern of development within this highly urbanised area.

10. The Council's Space and Design Guidelines Supplementary Planning Document 2015 (SDGSPD) states that tandem development of backland, or rear garden sites, which rely on access beside existing properties, will only be considered acceptable where the area has a recent precedent of backland sites being developed within the site locality, and they meet the necessary spacing standards in the SDGSPD.
11. In addition to the pattern of development at Risby Close and Stephen's Court, I have noted the numerous 'precedent' developments in the area drawn to my attention by the appellant. There are other examples of such backland plots with narrow driveways and turning areas to existing developments in Freehold Road, and Crabbe, Bloomfield and Kemball Streets, with some having less landscaping than is proposed in this instance. Although I acknowledge that some of the developments predate the existing CSP and the SDGSPD, there are recent examples on Spring Road (IP/14/00633/FUL) and Kemball Street. Currently under construction, 22a Kemball Street is a slightly larger site and is not as directly comparable to the appeal site as Spring Road.
12. The Council has confirmed that 22a Spring Road was previously a commercial development to the rear of No 22, with a narrow access between Nos 22 and 24. Although I understand that the commercial use of the site ceased some years ago and that residential development was considered more compatible with the surrounding area than the commercial use, it is clear from the site plan provided by the Council that the site is considerably tighter than the appeal site. It also lies within the same suburban area of Ipswich as the appeal site and is closer in both nature and geographic location than the appeal decisions<sup>1</sup> provided by the Council. In this instance, I give the Spring Road planning permission considerable weight.
13. With regard to the aforementioned appeal decisions provided by the Council, the dwellings proposed within the rear gardens of properties on Playford Road and Belstead Road have different site specific circumstances. On the basis of the evidence provided, I am not convinced that their circumstances are compellingly similar to the appeal before me. I therefore accord those appeals limited weight.
14. I conclude that the proposed development would not cause harm to the character and appearance of the area. The proposed development would therefore accord with policies DM5 and DM13 of the CSP, the SDGSPD, and the aims and objectives of the Framework. Policy DM5 of the CSP requires all development to be well designed and sustainable, and this includes protecting and enhancing the special character and distinctiveness of Ipswich. Policy DM13 addresses proposals for infill and backland residential developments and requires the character and appearance of the area to be protected. The SDGSPD sets out guidelines for residential developments to ensure that new developments address their context. The proposal would also be compliant with a core planning principle of the Framework, which seeks to secure high quality design.

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<sup>1</sup> APP/R3515/W/16/3161513, decision issued 31 March 2017, and APP/R3515/W/17/3168379, decision issued 5 June 2017.

### *Living Conditions*

15. At the time of my appeal site visit, Freehold Road was busy with school children travelling to local schools and refuse lorries emptying bins. There was evidence of on-street parking along both sides of the street. Some of the terraced properties in the vicinity do not benefit from any on-site parking, although most use their front gardens for parking. There is no controlled parking within the area.
16. The proposed development includes three parking spaces and an access drive within the appeal site, which meet the requirements of the Suffolk Guidance for Parking 2015. The access would run alongside the house and rear garden of No 129. There are no windows along the side elevation of the dwelling at No 129 facing the shared boundary. The access would end in a parking and turning area which would abut the boundaries of Nos 129, 131 and 133.
17. Traffic movements will vary throughout the day and night, and it would not be unreasonable to expect an existing level of noise and disturbance arising from vehicle movements and parking along Freehold Road. The proposed development would result in some noise, vibration and disturbance for Nos 129, 131, and 133 as a result of vehicles entering and leaving the site. This would be noticeable from the rear gardens of the properties, but also within the buildings, given the number of habitable room windows on the rear elevations of the houses.
18. The likely timing of vehicle movements will generally be between 7am and 10pm common to most people's lifestyles. Individual noise events, including the closing of car doors, would be obvious to occupiers of the adjoining properties. However, given that the proposed development is for one house, such events would be infrequent and occur at lower traffic speeds, and would largely avoid the more sensitive night-time hours. As such, it would not prevent the ability of neighbouring residents to use their rear gardens or internal spaces such as bedrooms. Furthermore, noise levels could be partly mitigated through the use of appropriate surface materials and boundary treatments secured by condition.
19. Concluding on the main issue, I find that the proposed development would have an acceptable effect on the living conditions of the occupiers of Nos 129, 131 and 133. The proposed development therefore complies with policy DM13 of the CSP and the SDGSPD. Policy DM13 requires development to protect the amenity of neighbouring residents, while the SDGSPD requires new developments to consider their relationship with neighbouring properties. Furthermore, I can find no conflict with the Framework which requires a good standard of amenity for all existing and future occupants of land and buildings as a part of its core planning principles.

### *Other Matters*

20. The vehicular access for the proposed development would emerge opposite a bus stop and a corner shop. The appellant has confirmed that the bus stop is no longer in use. I observed during my site visit that the corner shop is well-used by both pedestrians and those parking nearby. Despite the presence of the corner shop, I do not consider that the proposed development would cause harm to the free flow of traffic and highway safety.

21. The Local Highway Authority is concerned that parking for the existing property at No 131 would be displaced with consequent effects on on-street parking. However, the effect that the Local Highway Authority is seeking to avert by the refusal of the planning application can already happen due to the split in the ownership of No 131 from part of its gardens. The appeal scheme would have no effect on this other than to permanently remove any opportunity to restore the previous situation.
22. The proposed site plan PW755-P002 Revision J shows that the two parking spaces proposed for No 131 lie outside the red line boundary of the appeal. These two proposed spaces would require the widening of the existing vehicle crossover or provision of a separate crossover for No 131. Although the Local Highways Authority recommended refusal of the application on the basis of the disproportionate loss of kerbside spaces, the Council did not support this reasoning. I do not consider that the loss of part of the front garden area of No 131 to form the access drive would prevent any on-street parking from taking place, due to the existing vehicle crossover. Furthermore, the displacement of parking from No 131 would not give rise to significant pressure on on-street parking given the size of the existing house at No 131 and the likely number of cars associated with it.
23. In addition to other issues addressed above, the neighbouring occupier at No 129 has raised concerns regarding access to their garage on the site boundary. I do not consider that the proposed development would affect access to the side elevation of the garage for maintenance. Any boundary treatments abutting the garage will need to be addressed by condition.

#### *Planning Balance*

24. The Council has provided a recent appeal decision at land to the rear of 255-257 Belstead Road which confirms that it cannot demonstrate a five year supply of deliverable housing sites. Considering paragraph 14 of the Framework as a consequence, there are no adverse impacts arising from the proposed development that significantly and demonstrably outweigh the benefits of providing a net gain of one dwelling, or any policies in the Framework that indicate development should be restricted. Thus, the presumption in favour of sustainable development applies to the granting of planning permission.

#### **Conclusion**

25. For the reasons set out above, and taking into account all other relevant matters raised, I conclude the appeal should be allowed.

#### **Conditions**

26. In order to safeguard the living conditions of neighbouring occupiers during construction and noting the busy nature of the surrounding area, I consider it necessary to require a construction method statement prior to the commencement of development. Conditions are also necessary to ensure that the landscaping, access and parking area is available for use prior to occupation of the proposed bungalow, thereby avoiding a detrimental effect on on-street parking and the living conditions of neighbouring occupiers.
27. The Council has submitted a surface water drainage condition. Given the increase in hard surfacing on the site and the site's urban location, I consider

this condition necessary and relevant. This would need to be established prior to commencement of development as it could affect the implementation of the proposed development. I have also restricted permitted development rights in order to ensure that the living conditions of neighbouring occupiers are maintained. There are also a number of retained trees (T7, T10, T11, T12 and G1 on plan PW755-P002 Revision J) which all play an important role in screening the garden. I therefore consider it necessary to safeguard these trees during construction and have included a condition to this effect.

28. In addition to these conditions, I consider it necessary to specify conditions limiting the lifespan of the planning permission, confirming the approved plans and the materials for the proposed development. All of these conditions are required to ensure certainty, with the conditions on materials and landscaping also ensuring that the appearance of the development is satisfactory.
29. The Council's Environmental Health Officer recommended a condition on contaminated land. However, the Council has not put forward a reason for refusal or condition relating to contaminated land. As the present and proposed uses of the site would both be residential in nature, I do not consider it appropriate to require a condition on contaminated land in this instance.
30. Given the limited amount of site frontage within the red line, I do not consider it appropriate to require a separate condition on intervisibility. This matter can be dealt with by means of the conditions on parking and landscaping. The Council has also provided little evidence in respect of minimum energy/CO<sup>2</sup> and water standards. Both matters can be addressed by Building Regulations and I have therefore not applied a condition in this regard.

*J Gilbert*

INSPECTOR

### **Schedule of 9 Conditions:**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans PW755-P001 Revision B; PW755-P002 Revision J; IPM-TS2016-01.
- 3) No development shall commence, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) No development shall commence until details of a surface water drainage scheme have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the first occupation of the building and thereafter retained.
- 5) All the trees shown on the plan PW755-P002 Revision J as "to be retained" shall be protected by strong fencing, the location and type to be approved in writing by the local planning authority. The fencing shall be erected in accordance with

the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until 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.

- 6) Prior to the construction of the dwelling, details of the materials to be used in the construction of the external surfaces of the dwelling shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) Prior to the occupation of the dwelling, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
  - i) boundary treatments;
  - ii) ecological habitat features;
  - iii) secure cycle storage;
  - iv) secure refuse/recycling storage and presentation areas;
  - v) hard surfacing materials; and
  - vi) external lighting.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.

- 8) Prior to the occupation of the dwelling, details of the proposed vehicular access, car parking and turning area shall be submitted to, and approved in writing by the local planning authority. The approved details shall be implemented before any part of the development is first occupied. The vehicular access thus provided shall thereafter be kept free of obstruction and the parking and turning area shall thereafter be retained for that purpose.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no alterations to the roof or extensions shall be carried out to the approved dwelling other than those expressly authorised by this permission.