The Planning Inspectorate

Appeal Decision

Site visit made on 6 June 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 11 July 2019

Appeal Ref: APP/J3530/W/18/3215981
Land North of Saxtead Road, Dennington IP13 8AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Maverick Property against the decision of Suffolk Coastal District Council.
- The application Ref DC/18/3566/FUL, dated 28 August 2018, was approved on 31 October 2018 and planning permission was granted subject to conditions.
- The development permitted is retention of landscape features and equipment sheds forming part of the previously approved wildlife pond (DC/16/3554/FUL).
- The condition in dispute is No 4 which states that: The hereby permitted landscape features; buildings and pond shall only be used as a wildlife habitat, and for no other uses, including any recreational leisure activity uses, such as swimming; watersports; fishing or (including any other order specified in the Use Classes Order and/or any other use which maybe permitted through The Town and Country Planning (General Permitted Development) (England) Order 2015, or any orders revoking or redacting those Orders). The land enclosed within the red line shown on the site location plan does not form part of the residential curtilage associated with Wynneys Hall.
- The reason given for the condition is: In order that the local planning authority may retain control over this development/site in the interests of amenity and the protection of the local environment.

Decision

1. The appeal is allowed and the planning permission Ref DC/18/3566/FUL for the retention of landscape features and equipment sheds forming part of the previously approved wildlife pond (DC/16/3554/FUL) at Land North of Saxtead Road, Dennington IP13 8AP granted on 31 October 2018 by Suffolk Coastal District Council, is varied by deleting condition 4.

Procedural Matters

2. While I note that Suffolk Coastal District Council (SCDC) and Waveney District Council have been superseded by East Suffolk Council since the application was determined, for ease of reference, as the application was determined by SCDC, I have not amended the council name in the header above.

3. I also note that the name on the appeal form states Maverick Property Maverick Property, however since it is stated as Maverick Property on the application form, the appeal proceeds on this basis.

Background and Main Issue

4. In 2017 planning permission was granted for the construction of a wildlife pond with associated earthworks and planting. When the pond was constructed, a jetty

and some steps were also installed. The appellant then submitted an application seeking planning permission for these features as well as an equipment shed. While planning permission was granted, a condition was attached to the permission restricting use of the pond as a wildlife pond and not for other uses.

5. The appellant considers that the condition does not meet five of the six tests set out in the National Planning Policy Framework (Framework). Therefore, the main issue is whether condition 4 of planning permission ref: DC/18/3566/FUL is necessary, relevant to the development to be permitted, enforceable, precise or reasonable in all other respects.

Reasons

6. The planning permission subject to this appeal (the planning permission) relates to landscape features and equipment shed and not to the pond itself which was permitted under a previous application. There is no dispute between the main parties that the pond is a wildlife pond and is not being used for recreational purposes, although I note that neighbours have commented otherwise. From the evidence before me, I consider that the pond is not being used for recreational purposes.

7. The planning permission is not for the change of use of the pond or extension of the property. I acknowledge that the Council is concerned about wider impact on the landscape given that this part of the wider property lies outside settlement boundaries. I also note the reference to Policies SP15 and DM27 of the Suffolk Coastal District Local Plan Core Strategy & Development Management Policies Development Plan Document July 2013 (CS), which relate to protecting landscape character areas and the biodiversity and geodiversity value of land.

8. However, there is no evidence before me to suggest that the landscape features and equipment shed would result in adverse effects on biodiversity, geodiversity and landscape character areas without the continued imposition of condition 4. Consequently, the condition is not necessary in this regard to make the development acceptable in planning terms. Moreover, given that the planning permission in question is not for the pond itself there appears to be no justification for controlling its use nor the curtilage of other property via that planning permission.

9. Consequently, Condition 4 of planning permission ref: DC/18/3566/FUL is not necessary or relevant to the development to be permitted. It would therefore be contrary to paragraph 55 of the Framework.

Other Matters

10. While I note concerns regarding potential future development at the property, each case must be determined on its individual planning merits. I acknowledge local concerns including, noise and disturbance, light and the effect of the development on wildlife, however there is little evidence before me to suggest any harm in these respects that might arise if the appeal were to be allowed and have not altered my overall decision.

11. I note the previous applications on the site, however, limited details are before me and in any event, each case must be determined on its individual merits.

12. I note that the Council has suggested a similar re-worded condition, however, for the reasons given above that condition would also not be necessary or relevant to the development to be permitted. It therefore has not altered my decision.

Conclusion

13. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed condition.

R Sabu

INSPECTOR