



Appeal Decision

Site visit made on 26 June 2019

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

an Inspector appointed by the Secretary of State

Decision date: 5 September 2019

Appeal Ref: APP/J3530/W/19/3226122

Woodlands, Woodbridge Road, Debach IP13 6BY

- 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 & Mrs A Wiles against the decision of Suffolk Coastal District Council.
- The application Ref DC/18/4380/FUL, dated 23 October 2018, was refused by notice dated 19 December 2018.
- The development proposed is described as, 'change of use from cartlodge and residential annex to separate and self-contained dwelling.'

This decision is issued in accordance with Section 56(2)(a) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 16th August 2019.

Decision

1. The appeal is allowed and planning permission is granted for change of use from cartlodge to separate and self-contained dwelling at Woodlands, Woodbridge Road, Debach IP13 6BY in accordance with the terms of the application, Ref DC/18/4380/FUL, dated 23 October 2018, subject to the attached schedule of conditions.

Procedural Matter

2. I note that Suffolk Coastal District Council (SCDC) and Waveney District Council have been superseded by East Suffolk Council since the application was determined. However, since the application was determined by SCDC, I have not amended the council name in the header above. I am satisfied that the main parties and third parties have not been prejudiced and my assessment has not been affected by the change.
3. Part of the existing building appears to have been converted to a residential annex. The legality of this use is an area of dispute between the main parties. I note that condition 5 of the planning permission for the outbuilding¹ states that the cartlodge/workshop shall not be used other than for purposes ancillary and incidental to the existing dwelling. From the evidence before me an enforcement case is open regarding this issue. However, a section 78 planning appeal is not the mechanism for determining the lawful use of an existing building: this can only be lawfully determined by means of the submission of a certificate of lawful development application. In this case, I do not consider that the previous use of the building is determinative in terms of assessing the appeal proposal. I am

¹ Council ref: C/06/1179

satisfied that I can determine this appeal proposal on its individual planning merits and the historic use of the building need not affect such an assessment.

4. Given the dispute between the main parties as to the existing use of the building, the reference to residential annex has been omitted in the decision above.

Application for costs

5. An application for costs was made by Mr & Mrs Austen Wiles against East Suffolk Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues are:

- whether the proposed development would accord with the Council's strategy for the location of rural housing; and
- the effect of the proposed development on the character and appearance of the area.

Reasons

Location

7. The site consists of a large plot of land with a detached dwelling near the centre and an outbuilding to one side. The proposal seeks subdivision of the land and the use of the outbuilding as a separate residential dwelling.
8. The site is located outside of a physical limits boundary and is therefore in the countryside in the terms of Policy SP19 of the Suffolk Coastal District Local Plan Core Strategy & Development Management Policies Development Plan Document July 2013 (CS). CS Policy SP29 states that new development in the countryside will be limited to that which of necessity requires to be located there and accords with other relevant policies within the Core Strategy; or would otherwise accord with the special circumstances outlined in paragraph 55 of the National Planning Policy Framework (Framework). CS Policy DM3 which relates to housing in the countryside, sets out a number of circumstances where housing in these locations would be acceptable in principle and includes the subdivision of an existing larger dwelling where this would meet a local need and development which would otherwise accord with the special circumstances outlined in paragraph 55 of the Framework.
9. The Framework was revised in February 2019 and on my reading the closest equivalent of paragraph 55 are paragraphs 78 and 79 in the revised version. Paragraph 79 of the revised Framework includes the subdivision of an existing residential dwelling as a circumstance where development can be justified in countryside locations.
10. There is no definition of dwelling in the Framework or CS to suggest that it only relates to the primary building and does not include any ancillary outbuildings. Therefore an 'existing residential dwelling' can reasonably be defined as a primary building and any ancillary outbuildings. From the evidence before me the outbuilding was constructed as a cartlodge to support the main house known as Woodlands. It is in close proximity to the host dwelling and is ancillary to it. I

acknowledge the comments of the Inspector for the case at Bluntswood Cottage² and having considered the specific circumstances of this case I have come to a similar finding in this particular regard. Therefore, the proposed development would accord with part (d) of paragraph 79 of the Framework as well as part (f) of CS Policy DM3.

11. While I note the comments of the Inspector for the case in Devon³, since that case was in a different district and the annex was attached to the host building, it is not directly comparable to this appeal. In any event, each case must be determined on its individual merits.
12. There is an inconsistency within CS Policy DM3, where part (b) requires a local need to be demonstrated but part (f) does not since there is no such requirement in the Framework. Since the Framework is more up to date, I have deferred to this and the proposal would not conflict with part (f) of CS Policy DM3.
13. Consequently, the proposed development would, exceptionally, accord with the Council's strategy for the location of rural housing. Therefore, it would accord with the Council's policies relating to rural housing, these being CS Policies SP1, SP1A, SP19, SP29, DM3 and DM4 and Policy SSP2 of the Site Allocations and Site Specific Policies Development Plan Document January 2017.

Character and appearance

14. The site is bordered by tall trees and vegetation on two sides and lies in a rural area with open countryside beyond such that the area has a pleasant rural feel. The proposal would change the use of the outbuilding to a separate dwelling. However, there would be no physical alterations to the existing building.
15. Since the site currently lies within the existing residential property of Woodlands and given that the proposal would result in two bedrooms, any additional domestic paraphernalia would be unlikely to be to an extent that would adversely affect the character and appearance of the area. Furthermore, given the tall trees along the boundary of the site with the road, views of the development from the public realm would be limited.
16. While the proposal would result in a comparatively smaller dwelling on a smaller site when viewed against the nearby properties, since there would be no change in the physical appearance of the building and given the limited views from beyond the site, there would be no adverse effects on the character and appearance of the area in this regard. Since there is no change to the physical appearance of the building and the site is located near the road and adjacent to other properties, the proposal would not result in encroachment into the open countryside.
17. Consequently, the proposed development would not harm the character and appearance of the area and would not conflict with CS Policies DM21 and SP15 which among other things seek developments that relate well to the scale and character of their surroundings and protect and enhance the various landscape character areas within the district.

Other Matters

18. I acknowledge local concerns including the services and facilities at Debach. While I acknowledge that it is likely that the proposed development would result in some

² Appeal Ref: APP/J3530/W/18/3197489

³ Appeal Ref: APP/U1105/W/17/3191044

reliance on the private vehicle for daily requirements, since the proposal is for a single dwelling with two bedrooms, and the nearest Key Service Centres are a short distance away such that any adverse environmental effects would be limited, refusal of planning permission on this ground alone would not be justified.

19. I acknowledge local concerns including that the proposed development would set a precedent for future development. However, each case must be determined on its individual merits.
20. I note that The Moat House, a Grade II listed building, is located near the site. Although the Council has not referred to the effect of the proposal on the setting of the nearby listed buildings in their reasons for refusal, I am required, as a statutory consideration, to have regard to these matters when determining the appeal. The significance of the listed building lies in the evidence of historic architecture and it contributes to the pleasant rural character of the area.
21. Views of The Moat House from the site are largely screened by tall trees and vegetation as well as a tall boundary wall. Since no physical changes are proposed to the existing outbuilding, and changes to the site due to additional domestic paraphernalia would be likely to be limited, the proposed development would preserve the significance of the listed building.

Conditions

22. I have considered the conditions suggested by the Council. I have made some minor changes to these having regard to the tests set out in paragraph 56 of the Framework and the guidance contained in the Planning Practice Guidance.
23. In addition to the standard time limit condition, I have included a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty. I have not included the condition relating to external materials as no physical changes are proposed to the existing building.
24. Conditions relating to the access and discharge of surface water are necessary in the interests of highway safety. Since the condition relating to the discharge of surface water would be likely to affect the early stages of construction of the access, it needs to be pre-commencement. Since details of the existing or proposed ground levels are not before me, a condition relating to the gradient of the vehicular access is necessary in the interests of highway safety. The condition relating to visibility splays is necessary, however, the part of the suggested condition referring to the General Permitted Development Order has not been attached as it is not necessary to make the proposal acceptable in planning terms.
25. A condition relating to refuse and recycling is necessary in the interests of highway safety and to safeguard the living conditions of neighbouring occupiers. Given the proposed change of use from a cartlodge to self-contained dwelling, a condition relating to unexpected contamination is necessary.

Conclusion

26. For the reasons given above the appeal should be allowed.

R Sabu

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 421.102, 421.103 and 421.104.
- 3) The development hereby permitted shall not be commenced until the existing vehicular access has been improved, laid out and completed in all respects in accordance with SCC Drawing No. DM01; and with an entrance width of 4.5m. Thereafter the access shall be retained in its approved form.
- 4) Before the development is commenced details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.
- 5) The use shall not commence until the area within the site on Drawing No. 421.102 for the purposes of loading, unloading, manoeuvring and parking of vehicles has been provided and thereafter that area shall be retained and used for no other purposes.
- 6) Prior to the dwelling hereby permitted being first occupied, details of the areas to be provided for storage of refuse/recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.
- 7) Prior to the dwelling hereby permitted being first occupied, the vehicular access onto the property shall be properly surfaced with a bound material for a minimum distance of 5 metres from the edge of the metalled carriageway, in accordance with details previously submitted to and approved in writing by the local planning authority.
- 8) The gradient of the vehicular access shall not be steeper than 1 in 20 for the first five metres measured from the nearside edge of the adjacent metalled carriageway.
- 9) Before the access is first used clear visibility at a height of 0.6 metres above the carriageway level shall be provided and thereafter permanently maintained in that area between the nearside edge of the metalled carriageway and a line 2.4 metres from the nearside edge of the metalled carriageway at the centre line of the access point (X dimension) and a distance of 90 metres in each direction along the edge of the metalled carriageway from the centre of the access (Y dimension). Gates shall be set back a minimum distance of 5 metres from the edge.
- 10) In the event that contamination which has not already been identified to the local planning authority is found or suspected on the site it must be reported in writing immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

END OF SCHEDULE