
Appeal Decision

Site visit made on 7 August 2019

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 1 October 2019

Appeal Ref: APP/J3530/W/19/3227204
Riverside, The Street, Hacheston IP13 0DR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs A Mutimer against the decision of Suffolk Coastal District Council.
 - The application Ref DC/18/4180/OUT, dated 2 October 2018, was refused by notice dated 5 February 2019.
 - The development proposed is the demolition of existing bungalow and construction of 2 No two storey dwellings, detached garage, private drive and bungalow with garage and first floor studio to rear.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs A Mutimer against East Suffolk Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application is for outline permission with all matters except access and layout being reserved for future consideration. A proposed site layout plan (Drawing No 1 Revision A) was submitted with the application. I have taken the details shown on this plan other than those relating to access and layout as being indicative only.
4. Since this application was determined the appellant has provided a financial contribution towards mitigating the effects of the proposal on European Protected Sites. An agreement under Section 111 of the Local Government Act 1972 has been provided to secure the contribution and as a consequence the Council consider that the second reason for refusal has been overcome. Although this issue is no longer in dispute between the parties, it is a matter that I will return to later in my decision.
5. Since the Council's determination of the application Suffolk Coastal District Council have merged with Waveney District Council to form East Suffolk Council.
6. Since the appeal was lodged the publication version of the Suffolk Coastal Local Plan 2019 (the emerging Local Plan) has been submitted for examination.

However, the emerging Local Plan has yet to be examined and found sound and so attracts limited weight as a material consideration.

7. Following the Council's determination of the application, a revised version of the National Planning Policy Framework (the Framework) was published in February 2019. The parties have had the opportunity to make comments on the revisions to the Framework as part of the appeal process.

Main Issues

8. The main issues are: -

- The effect of the proposed development on the character and appearance of the site and the surrounding area, and: -
- The effect of the proposal on Sandlings Special Protection Area and the Alde-Ore Estuary Special Protection Area.

Reasons

Character and appearance

9. The appeal site lies within the physical limits boundary of the village of Hacheston, as defined in the development plan, on the eastern side of The Street (B1116). The site is occupied by a bungalow. To the rear of the site runs the River Ore and the development would lie between The Street and the river, forming an L shape extending behind two existing dwellings, Phoenix House and Fieldgate House. Beyond the site to the south and east lie open fields.
10. The Street is a single carriageway county road with footways on the opposite side of the road to the site. In the vicinity of the appeal site it is unlit and subject to a 30 MPH mandatory speed limit. The area in the vicinity of the site is characterised by linear residential development spread along The Street. The dwellings fronting The Street are generally set back off the road in their own grounds with individual accesses.
11. Planning permission was granted in February 2019 for the demolition of the existing bungalow and construction of two detached dwellings and a garage. The two new dwellings would front The Street and would occupy approximately the same footprint as the two dwellings fronting the street shown on the application plans in the appeal scheme before me.
12. The southern boundary of the site to the open countryside takes the form of mature hedges which currently provides substantial screening. Therefore views into the rear of the site from the wider area are generally quite limited. However, the hedge is quite tall, and it could be that in the fullness of time the occupiers of the easternmost of the proposed dwellings would seek to lower the height of this hedge or remove it, exposing the development more readily to public view.
13. The proposed plot sizes are similar to those in the surrounding area. However, the proposal would introduce a substantial dwelling within the backland area behind Phoenix House and Fieldgate House with no frontage to The Street. Whilst not encroaching into open countryside, then, and although the rear dwelling would replace an existing building and to a certain extent be screened from the road, the more intense residential occupation of the site would, to a

- degree, be capable of being appreciated from the road, increasing the sense of urbanisation within the immediate vicinity.
14. Given the importance that I have placed on the linear, street facing layout of development to the character and appearance of the area, the depth and lack of street frontage to the proposed development would be out of character and incongruous with the form of existing development when viewed from The Street. Furthermore, the presence of the dwelling in the rear garden would noticeably alter the character of the area to the rear of the dwellings when viewed from nearby properties. I consider that the intensity of this development would therefore be unacceptably harmful to the character and appearance of the area.
 15. The appearance of the dwellings is not a matter for me to consider. However, it would not address my concerns about the development's intensity. Whilst density and character of development varies throughout the village as a whole, I have considered the effect of the development on the particular character of the immediate vicinity of the development.
 16. Landscaping is a matter reserved for later determination. Whilst such planting could be provided by planning condition and may provide additional screening of the rear plot, I am not satisfied that such measures would, of themselves, be adequate to mitigate the harm identified. The planting would not address the harm identified on the views from The Street within the village and new planting would take time to establish itself. Further, there is no substantive evidence before me that sufficient screening would be achieved to address the matter successfully.
 17. I therefore conclude that the development would result in unacceptable harm to the character and appearance of the area and that there would be conflict with Policies SP15, DM7 and DM21 of the Suffolk Coastal District Local Plan Core Strategy & Development Management Policies Development Plan Document -2013- (the Local Plan). These policies, amongst other things, seek to ensure that development does not erode the particular character of the surroundings. Similarly, the proposal would be contrary to the aims of the Framework requiring developments to be sympathetic to local character, including the surrounding built environment and landscape setting and conserve and enhance the natural environment.

Effect on European Protected Sites

18. The site is located within the zone of influence of the Sandlings Special Protection Area (SPA) and the Alde-Ore Estuary SPA which are European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Policy DM27 of the Local Plan seeks to protect such sites from harm and, where necessary, seek mitigation against any adverse effect of development. Within the Local Plan the Suffolk Recreational Disturbance Avoidance and Mitigation Strategy (Suffolk RAMS) incorporates strategic mitigation measures to be delivered to avoid adverse impacts. The appellants have provided a financial contribution towards mitigating the effects of the proposal on the SPAs. This has been secured by an agreement under Section 111 of the Local Government Act 1972.

19. However, the Court of Justice of the European Union recently ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment (AA). This responsibility now falls to me within this appeal.
20. Had I been minded to allow the appeal, it would have been necessary for me to seek additional information from the parties and consult Natural England in order to undertake an AA. The AA is required on a case-by-case basis to determine whether or not the project would adversely affect the integrity of the European Site. It would also have required a consideration of whether or not any proposed mitigation would be adequate, effective, could be appropriately secured and delivered in a timely manner. However, as I am dismissing the appeal for other reasons, I do not need to consider the matter further as it would not change the outcome of this appeal.

Other Matters

21. The Council's Head of Environmental Health has raised concerns regarding the lack of information in regards to contamination within the site. These concerns, were I minded to allow this appeal, could be addressed through the imposition of planning conditions.
22. The main parties are agreed that the development would respect the amenity of neighbours. This lack of harm does not weigh either in favour of, or against, the development. I accept that the development constitutes more efficient use of land in as much as it provides an additional dwelling above the permitted scheme. However, I do not consider that this modest benefit would outweigh the harm that I have identified above and so it does not alter my overall conclusion.

Conclusion

23. For the reasons given above, and having regard to all other matters raised, the appeal is dismissed.

I Dyer

INSPECTOR