
Appeal Decision

Site visit made on 30 September 2019

by Sarah Dyer BA BTP MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 10th October 2019

Appeal Ref: APP/J3530/W/19/3232580

The Bungalow Adjacent Hightrees, Foxhall Road, Foxhall IP4 5SY

- 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 and Mrs Howard against the decision of Suffolk Coastal District Council.
 - The application Ref DC/19/0992/OUT, dated 7 March 2019, was refused by notice dated 8 May 2019.
 - The development proposed is described as 'demolition of The Bungalow and erection of a two-storey new build dwelling to an equivalent footprint'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the Local Planning Authority issued their decision Suffolk Coastal District Council and Waveney District Council have merged to form East Suffolk Council.
3. The Suffolk Coastal Local Plan Final Draft Plan (January 2019) (the emerging Local Plan) has been submitted but has yet to be examined and found sound, therefore it attracts limited weight as a material consideration in this appeal.

Main Issues

4. The main issues are:
 - Whether or not the site would be a suitable location for a dwelling having regard to national and local planning policy for the delivery of housing.
 - The effect of the development on the natural environment with particular reference to protected trees of amenity value and the Special Landscape Area (SLA).

Reasons

Location of the development

5. Hightrees is a substantial detached house located within its own grounds adjacent to the Ipswich Hospital (the hospital). The appeal site is a single storey building (The Bungalow) within the existing garden area together with

land between it and the boundary of the hospital. There is currently no boundary between the site and the rest of the garden.

6. There is no dispute between the main parties that the site falls within land designated as countryside. The appeal scheme involves the demolition of The Bungalow and the construction of a two-storey dwelling. Part (a) of Policy DM3 of the Suffolk Coastal District Local Plan Core Strategy and Development Management Policies Development Plan Document (2013) (the Local Plan) allows for replacement dwellings in the countryside. However, there is a dispute between the main parties as to whether or not the existing building constitutes a dwelling.
7. Whilst the planning history of the site has been set out by both parties, I note that there is no evidence of specific planning permission having been granted for The Bungalow, although I accept that express permission may not have been required given the permitted development rights associated with hospitals. I have also not been made aware of any application to establish the lawful use of the building and it is not within my remit to establish the lawful use as part of this appeal. Nevertheless, the use of The Bungalow is germane to the question of whether the development falls to be considered under Part (a) of Policy DM3 of the Local Plan.
8. At the time of my site visit the building was being used for storage of principally building materials. There were bathroom fittings in two of the rooms, however these rooms were being used for storage. The appellants have also provided evidence of a separate electricity supply to the building. However, neither the presence of domestic features and fittings nor the independent services clearly demonstrate that the building was last in use as an independent dwelling.
9. The appellants explain that the building was likely to have been built to serve as staff accommodation in association with the use of Hightrees as an NHS Adolescent Unit. If that was the case, then it is probable that the building provided accommodation ancillary to the health care use, which provides further support for the contention that planning permission was not required for the construction and use of the building. There is limited evidence before me to suggest otherwise.
10. The appellants also point out that there are no planning conditions or other restrictions on the occupation of the building which would prevent it being separately occupied from Hightrees. This is not disputed by the Council, however in itself the lack of any control over occupation does not demonstrate that the building is a dwelling.
11. Taking all of these points together and given the limited substantive evidence of The Bungalow being occupied as an independent dwelling, I do not find that the appeal scheme amounts to a replacement dwelling, therefore it is not supported by Part (a) of Policy DM3 of the Local Plan.
12. The appellants further present an alternative argument that if the building was to be considered as ancillary to Hightrees then its separation would constitute subdivision of a dwelling. Policy DM3 allows for the sub-division of an existing dwelling in the countryside where this would meet a local need under Part (b). The subdivision of a garden and the construction of a new dwelling is not the same as subdivision of a larger dwelling. However, even if I were to accept this

argument, there is very limited evidence before me to demonstrate a local need for the new dwelling or the means by which its occupation could be controlled to continue to meet that need. It follows that the appeal scheme does not gain support from Part (b) of Policy DM3 of the Local Plan.

13. The appellants point out that Policy SCLP5.3 of the emerging Local Plan does not include a local need test in terms of subdivision of an existing larger dwelling. However, I have limited information before me regarding the scale of objection to this particular policy, if any, and given the status of the emerging Local Plan it does not yet attract sufficient weight to outweigh the requirements under Policy DM3 regarding a demonstrable local need.
14. Policy SP19 of the Local Plan establishes a Settlement Hierarchy for the District to meet the scale of development which is needed whilst maintaining and enhancing the quality of the environment and Policy SP1 relates new housing development to employment services, transport and infrastructure. The Council's settlement strategy is broadly consistent with the aims of the National Planning Policy Framework (the Framework) of promoting sustainable development in rural areas by requiring housing to be located where it will enhance or maintain the vitality of rural communities.
15. The appeal site is located off the access serving the hospital which has some street lighting and footpaths but is generally enclosed by dense vegetation. There are also footpaths on Foxhall Road which leads toward the built-up edge of Rushmere St Andrew. However, there are no facilities such as shops or services in the immediate vicinity of the appeal site which would meet the day-to-day needs of residents. Whilst the footpaths alongside the access road and Foxhall Road would provide opportunities for walking, by virtue of the dense woodland character of the immediate area and the narrowness of the footpaths on Foxhall Road in combination with the winding nature of the road, they would not provide desirable routes for all particularly in the winter months and during inclement weather.
16. The appellants argue that there are facilities within the wider area which could be accessed by foot, cycle or by bus, however, there is limited evidence about the location of these shops and services. Whilst, notwithstanding the constraints of the route along the access road and Foxhall Road, the edge of the built-up area is within walking distance, there are no obvious facilities at this point and there is limited information before me regarding how much further residents would have to travel to reach them.
17. My attention has been drawn to publications from the Department of Transport (Walking and Cycling Statistics for England 2018 and 2016) and statistics regarding walking have been highlighted in support of the appeal proposals. However, this information is based on a nationwide study and there is very limited evidence to demonstrate that these figures can be extrapolated to the appeal site, where the context would be likely to deter residents from travelling by foot.
18. Cycling to access services and employment opportunities would be a possibility for some residents but would not be an attractive option for inexperienced cyclists and children given the constraints of the access road and Foxhall Road including the lack of opportunity of refuge clear of the carriageway. Although the appellants refer to bus stops in the vicinity of the site, these have not been

identified and in any event, pedestrians would have to negotiate the access road and Foxhall Road to access them.

19. In summary, it is likely that the constraints of access to and from the site would result in future residents being heavily reliant on private cars to access shops and services to meet their day-to-day needs. It is therefore not a location where a new dwelling would be well served by sustainable modes of transport and this is a significant factor weighing against the scheme.
20. The appellants consider that the site falls within the Eastern Ipswich Plan Area (EIPA) and that Policy SP20 of the Local Plan is engaged. Save for the appellants assumptions regarding the extent of the EIPA I have limited information before me regarding whether or not the site falls within this area. However, even if it does apply, Policy SP20 refers to small scale development opportunities within the defined built-up area, and therefore does not provide support for the appeal scheme which falls well outside the built-up area.
21. I conclude that the site would not be a suitable location for a dwelling having regard to national and local planning policy for the delivery of housing. The appeal scheme is therefore contrary to Policies SP1, SP1A, SP19, SP27, SP29, DM3 and DM4 of the Local Plan and to Policy SSP2 of the Site Allocations and Area Specific Policies Development Plan Document (January 2017). These policies, jointly, amongst other things, support integrated and sustainable patterns of land use and housing within defined centres and limit development in the countryside to that which is required to be located there or which meets distinct criteria which include replacement dwellings or the sub-division of larger dwellings.
22. Policy DM1 of the Local Plan relates to affordable housing on exception sites and Policy DM13 of the Local Plan applies to the conversion and re-use of redundant buildings in the countryside. The appeal scheme does not fall into either of these development types, therefore these policies are not relevant to this main issue. I also do not find Policy DM20 of the Local Plan which deals with Travel Plans to be applicable to the development.

Natural Environment

23. Hightrees is surrounded by dense woodland and there are several groups of mature trees within the garden, including in close proximity to The Bungalow. The scale and density of trees, combined with the narrow, winding access road serving the hospital give the wider area a sense of buildings set in a sylvan landscape and the natural environment is a dominant feature of the character of the appeal site and its surroundings.
24. The Council states that the appeal site falls within a Special Landscape Area (SLA). Whilst I have limited information before me regarding the basis for this designation, it is clear from the evidence and my observations during the site visit that mature trees define the character of the landscape in this case. The importance of the trees is recognised by a Tree Preservation Order (TPO) which covers the woodland and includes the hospital complex and Hightrees.
25. The appeal scheme would involve the removal of The Bungalow and the erection of a two-storey building in its place. Given the single storey nature of the existing building the development would result in a new structure of greater height. However, as the application has been submitted in outline,

- despite the appellants' reference to a dwelling of an equivalent footprint to The Bungalow, the layout of the site including the footprint of the new house is not part of my determination and it may or may not be larger than The Bungalow.
26. The Tree Constraints Plan demonstrates that part of the appeal site is clear of the canopies of existing trees and on that basis a modest house could be accommodated without the need for tree removal or significant cutting back. Given the size of the site, existing trees would be in close proximity to a new dwelling such that they could affect outlook. Nevertheless, there is very limited evidence before me to demonstrate that the layout and appearance of the new building, which are 'reserved matters', could not be designed so as to provide adequate living conditions for future occupants whilst at the same time safeguarding the existing trees.
27. The Council is also concerned that the trees could be a safety risk given their likely relationship with the new dwelling. However, there is very limited evidence to substantiate this concern or to counter the conclusions set out in the additional information provided by the appellants as part of the appeal submissions.
28. In summary there is very limited information to demonstrate the adverse impact which a replacement structure on the site would have on the existing trees. Furthermore, as landscaping is a reserved matter, this provides an opportunity for the enhancement of the site in terms of any necessary landscape improvements which may be justified by virtue of the location in the SLA and for its value in terms of biodiversity to be maintained or enhanced.
29. Given the importance that I have placed on the contribution which the trees make to the SLA and their protection under the TPO it would be necessary to carefully control the effects of the development on the trees through tree protection measures, foundation design and service routes. In the event that the appeal were to be allowed, such matters could be appropriately dealt with by planning conditions.
30. There is the potential for the site to have a more domesticated appearance were the appeal scheme to be implemented. However, it is currently part of the garden serving Hightrees and a similar effect would arise if the garden was used in a different way.
31. I conclude that the appeal scheme would not have a harmful effect on the natural environment with particular reference to protected trees of amenity value and the SLA. The development would therefore accord with Policies SP15 and DM27 of the Local Plan which protect biodiversity and landscape character areas. For similar reasons the development would not be in conflict with the National Planning Policy Framework (the Framework) as it relates to the conservation and enhancement of the natural environment.

Other Matters

32. The Conservation of Habitats and Species Regulations 2017 requires that where any proposal is likely to have a significant effect on a European site either alone or in combination with other plans or projects, an appropriate assessment must be made in view of that site's conservation objectives. The Council states that the site is within 13km of the Deben Estuary Special Protection Area (SPA), which is a European Site.

33. Circular 06/2005 sets out that the decision on whether or not an appropriate assessment is necessary should be made on a precautionary basis. In this case the site's distance to the SPA means that there is a reasonable likelihood that it would be accessed for recreational purposes by future occupants of the development. Although the impact of the occupiers of one dwelling may be low of itself, a significant effect could occur when considered in combination with any other new residential development in the surrounding area. Adopting the precautionary approach, I consider that there is a potential for recreational disturbance to the SPA through additional activity associated with this residential development, which would affect the integrity of the European site.
34. I am only required to carry out an Appropriate Assessment where the circumstances that could lead to a grant of planning permission are present. In this case while I have established that the development could have a likely significant effect (either alone or in combination) on the European site I am intending to dismiss the appeal on other grounds, therefore, there is no prospect of planning permission being granted. On this basis, it is not necessary for me to undertake an Appropriate Assessment or give any further consideration to Habitats Regulation Assessment.
35. The Bungalow is in a poor state of repair and does not have a positive impact on the character and appearance of the site and the surrounding area. However, its adverse visual impact is not so severe as to justify the harm which would arise from the unsuitability of the site for a new dwelling.
36. The Council has referred to the removal of trees which were protected by the TPO, however this is disputed by the appellants. In any event this is a matter for the Council, and I have determined the appeal on its own merits.

Conclusion

37. For the reasons set out above, the appeal is dismissed.

Sarah Dyer

Inspector