



Appeal Decision

Site visit made on 19 June 2019

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 14 October 2019

Appeal Ref: APP/J3530/W/19/3223485

Oak Tree Cottage, Whitehouse Farm Road, Hasketon IP13 6JP

- 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 and Mrs D Watts against the decision of Suffolk Coastal District Council.
 - The application Ref: DC/18/3086/FUL, dated 6 August 2018, was refused by notice dated 19 September 2018.
 - The development proposed is the erection of a replacement dwelling and outbuilding following the demolition of existing outbuildings and part demolition of existing dwelling to be retained as a personal yoga studio, with associated parking, landscaping and boundary treatments.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a replacement dwelling and outbuilding following the demolition of existing outbuildings and part demolition of existing dwelling to be retained as a personal yoga studio, with associated parking, landscaping and boundary treatments at Oak Tree Cottage, Whitehouse Farm Road, Hasketon IP13 6JP in accordance with the terms of the application, Ref: DC/18/3086/FUL, dated 6 August 2018, subject to the schedule of conditions to this decision.

Application for costs

2. An application for costs was made by Mr and Mrs D Watts against Suffolk Coastal District Council. This application is the subject of a separate Decision.

Procedural Matters

3. On 1 April 2019 Suffolk Coastal District Council merged with Waveney District Council to become East Suffolk Council. The development plans for the merged local authority remain in place for the former area of the Suffolk Coastal District Council until such a time as they are revoked or replaced. It is therefore necessary for me to determine this appeal with reference to policies set out in the plans produced by the now dissolved Suffolk Coastal District Council.
4. The emerging Suffolk Coastal Local Plan has been submitted for examination. However, as it has yet to be examined and found to be sound, it could still be subject to change. Therefore, I attach limited weight to the emerging Local Plan as a material consideration.

5. An extant permission¹ at the appeal site exists for an extension to Oak Tree Cottage (the host dwelling), a non designated heritage asset (NDHA) together with its restoration and the removal of unsympathetic additions.

Main Issue

6. The main issue is whether the appeal site is a suitable location for a dwelling having regard to local and national planning policy.

Reasons

7. The proposal seeks to retain the host dwelling due to its importance as a NDHA and to construct a new dwelling. When compared to the approved scheme, the differences are that the proposal would remove a short single storey link between the host dwelling and the approved extension, however, in terms of scale, massing and design, the proposal is identical to the approved scheme.
8. As the appeal site is located outside the physical limits boundary for Hasketon, for the purposes of applying planning policy the site is located within the countryside.
9. Policy DM3 of the Suffolk Coastal District Local Plan Core Strategy & Development Management Policies (2013)(CS) is permissive of specified types of development within the countryside subject to certain exceptions being met. Of particular relevance is the provision relating to replacement dwellings, however, the policy further stipulates that replacement must be on a one for one basis.
10. It is the appellants case that they propose to use the two buildings as one unit of residential accommodation and the host dwelling will not be reasonably capable in its own right of functioning as a residential dwelling due to an absence of facilities within it. The appellants contend that the proposed new building would replace the residential unit of the host dwelling therefore negating the need for its demolition. However, to my mind, the requirement to 'replace' includes something to take the place of another and I find that the proposal does not amount to a replacement dwelling. Thus, the loss of a physical connection between the host dwelling and the extension would have the effect of creating a new dwelling within the countryside. Taken together with the proposal being substantially larger than the host dwelling, the proposal would appear more visually intrusive within the countryside than the host dwelling.
11. Accordingly, I find the proposal would be contrary CS Policies SP19, SP29 and DM3 and Policy SSP2 of the Suffolk Coastal District Local Plan Site Allocations and Area Specific Policies Development Plan Document (2017)(SAASPPDP) insofar as these policies seek to direct new housing to within defined physical limits boundaries and strictly control development within the countryside.
12. Notwithstanding that the proposal conflicts with the development plan, I am required to have regard to the extant planning permission and the fall-back position. At the time of my site visit, I observed that construction works had commenced. It would appear that the extant 2017 planning permission was implemented and as such it would be open to the appellants to continue to construct that permission. On the evidence before me, it is clear that the

¹ DC/17/4847/FUL

appellants would continue to do so and accordingly, I find this represents a valid fall-back position and is a material consideration to which I attach significant weight.

13. When comparing the visual impact of the proposal to the approved scheme, given that they are almost identical, I find that the proposal would be no more visually intrusive within the countryside than the approved scheme.
14. In addition, I am mindful that the approved scheme was permitted, albeit in accordance with policies regarding extensions to existing buildings, to facilitate development to the host dwelling. These heritage benefits would prevail as a consequence of the proposal. Furthermore, the appellants suggest that the removal of the link would lessen any impact upon the NDHA and as a consequence this would be a greater benefit in returning the host dwelling to its historical form. The Council have not provided any comment on this matter, however, I see no reason to disagree with the appellants view in this instance. As such, the effect of the proposal would be less harmful to the importance of heritage assets than the approved scheme.
15. Albeit the proposal would result in two buildings, the use of these buildings would be as one residential unit of accommodation, with the host dwelling serving as an ancillary annexe to the main dwelling. Accordingly, the proposal does not represent a net gain in dwelling numbers and therefore the number of trips by private motor vehicle to access services and facilities would be unlikely to be any greater than those generated under the approved scheme. Thus, despite the proposal being contrary to the spatial strategy of the district, the conflict caused by the proposal would have a similar impact as the approved scheme.
16. There are no kitchen, bathing or toilet facilities proposed for the host dwelling, however, this matter could be subject to change in the future without any planning control. Therefore, to safeguard the proposal from a net gain in dwelling numbers it would be appropriate in these circumstances to impose an appropriately worded condition to prevent the creation of a separate planning unit within the annexe.
17. Reference has been made to the proposed conversion of the host dwelling to an annexe as being incompatible with Policy DM6, however, no detail concerning this policy has been put before me. Additionally, the Council have cited a conflict with paragraph 79 of the National Planning Policy Framework (the Framework), however given the proximity of other dwellings along Whitehouse Farm Road I do not consider that the appeal site would be 'isolated' for the purposes of the Framework, since it cannot be said that it would be far away from other places, buildings or people, albeit the location is rural.
18. Overall, I conclude that the proposal would conflict with the development plan insofar as it is contrary to CS Policies SP19, SP29 and DM3 and SAASPPDP Policy SSP2. However, given the material considerations in this case, a decision otherwise than in accordance with the development plan is justified in this instance, which would be less harmful overall than the extant planning permission and for which the ancillary use of the host dwelling can be secured by condition.

Conditions

19. The Council have suggested a number of conditions and I have considered these against the advice in the Framework and Planning Practice Guidance. As a result, I have omitted some of them and amended others for consistency or clarity.
20. In addition to the standard time limit, a condition specifying the approved plans is necessary as this provides clarity. However, I have removed reference to plan numbers PA06 A and LSDP 1040-01B as I have not been provided with a copy of these plans and on the evidence before me it would appear that the Council did not take these into account when making their decision.
21. I have imposed a condition specifying external materials. I note the appellants view that construction has commenced and the proposal utilises identical materials to the approved scheme, however, I shall impose this condition as it is necessary to safeguard the character and appearance of the area.
22. A condition relating to the ancillary use of Oak Tree Cottage is necessary to prevent the creation of a separate planning unit.
23. The Council have requested a number of other conditions relating to manoeuvring and parking, vehicular access, gates, ecology, boundaries and site investigation, remediation, implementation, validation and treatment of unexpected contamination. However, no similar conditions were attached to the approved scheme. Thus, I find that these conditions fail to satisfy the test of being reasonable in all other respects given the fall-back position. Furthermore, I have not been provided with any exceptional circumstances to justify the removal of permitted development rights as suggested by the Council.

Conclusion

24. For the reasons given above, I conclude that the appeal should be allowed subject to the conditions within the schedule.

E Brownless

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: PA01 Rev A, PA02 Rev A, PA03 Rev A, PA04 Rev A, PA05 Rev A, PA07 Rev A, PA08 Rev A, PA09 Rev A, PA10 Rev A, PA11 Rev A, PA12 Rev A, PA13 Rev A, PA14 Rev A, PA15 Rev A, PA16 Rev A, PA17 Rev A, PA18 Rev A, PA19 Rev A, PA20 Rev A, PA21 Rev A, Site Location Plan, 1710-02 and SU01.
3. No development above ground floor slab level shall take place until details of materials and samples of the materials to be used in the construction of the external surfaces shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and samples.
4. The building identified as Oak Tree Cottage on approved plan PA01 Rev A shall not be occupied at any time other than for purposes ancillary to the residential use of the main dwelling.