



Appeal Decision

Site visit made on 9 October 2019

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 4 November 2019

Appeal Ref: APP/X3540/W/19/3229968

Land off Beech Way, Woodbridge IP12 4BW

- 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 J D'Arcy of Millcard Ltd against the decision of East Suffolk Council.
 - The application Ref DC/19/0226/FUL, dated 18 Jan 2019, was refused by notice dated 22 February 2019.
 - The development proposed is the erection of a low-profile dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr J D'Arcy of Millcard Ltd against East Suffolk Council. This application is the subject of a separate Decision.

Procedural Matters

3. As part of this appeal the applicant has submitted amended plans. The 'Procedural Guide – Planning Appeals – England' advises that: -

"If an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application". (Annexe M.1.1) and: -

"If an appeal is made the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought". (Annexe M.2.1)

4. The amended plans omit the garage and playroom, retaining the existing garage; lower ground levels and the finished levels of the building substantially; introduce a retaining wall and fence; and introduce a reinforced surface providing a vehicular track through the site and a parking space adjacent to the proposed dwelling. These amendments fundamentally alter the scheme from that which was considered by the Council and upon which interested parties were consulted.
5. I therefore consider that accepting the amendments would prejudice the outcome of the appeal and I have considered this appeal on the basis of the drawings submitted with the application and upon which the Council made its decision.

6. Since the 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 no longer wish to uphold the fourth reason for refusal. Although this issue is no longer in dispute between the parties, it is a matter that I will return to later in my decision.
7. East Suffolk Council was formed on 1 April 2019 by the merging of Suffolk Coastal District Council with Waveney District Council.
8. 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.

Main Issues

9. The Main issues are: -
 - The effect of the proposal on the character and appearance of the area;
 - Whether, or not, the proposal provides suitable access for persons accessing the dwelling;
 - The effect of the proposal on the living conditions of neighbours, with particular reference to the outlook of occupiers of 49 Ipswich Road (Riverhill House); and: -
 - The effect of the proposal on European Designated Sites.

Reasons

Character and appearance

10. The appeal site is a long, narrow strip of land running up from Beech Way towards the rear of 49 Ipswich Road. The site is bounded by mature hedges and contains a caravan, situated towards the top of the site, and a garage close to Beech Way.
11. Around the site are the gardens of properties fronting Ipswich Road. These are large villas set within their own substantial grounds on the higher ground overlooking the valley of the River Deben.
12. The overall character and appearance of the vicinity of the site is of a spacious setting with a row of substantial villas at the top of the slope facing Ipswich Road, and their rear facades looking out over the open, undeveloped vista of the Deben Valley. This provides a very strong grain of development and sense of character to the area.
13. The greater part of the site falls outside the physical limits boundary of Woodbridge as defined in the Development Plan. However, the topmost part of the site, where it is proposed to locate the dwelling, lies within the physical limits boundary. This section of the site lies within an Area to be Protected from Development and is therefore subject to Policy AP28 of the Suffolk Coastal Local Plan Policies -1994 (incorporating first and second alterations 2001 and 2006) (the Local Plan). Policy AP28 states that, within an Area to be Protected

- from Development, development will not normally be permitted where it would materially detract from the character and appearance of those areas. This policy is broadly in accordance with those parts of the National Planning Policy Framework (the Framework) which seek to ensure good design.
14. The existing planting within and around the site limits longer views into and out of it into the wider countryside. However, the boundary on the south-western side is generally lower and more open, affording views into and out of the site to the west through to the south. The bottom of the site, containing the existing garage, is well screened by the existing planting.
 15. The development would introduce a substantial flat roofed single storey dwelling to the area at the top of the site, accessed from Beech Way. A garage and playroom would be located at the bottom of the site, close to Beech Way, together with two uncovered parking spaces. Access would be gained from Beech Way. The proposed dwelling, together with its associated residential paraphernalia, would be clearly visible from windows in the rear faces of dwellings on Ipswich Road and the gardens to the west of the site. I have placed significant importance on the open, undeveloped nature of the area within which the proposed dwelling will sit and the grain of development along the top of the slope. The incongruous positioning of the proposed dwelling further down the slope within the open, undeveloped setting and outside the prevailing grain of development would materially detract from the character and appearance of the area and would, in this instance, constitute harm.
 16. The Council have recently proposed an extension to the Woodbridge Conservation Area. However, the site does not currently lie within the Conservation Area and so is not protected by the statutory provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 or those parts of the Framework that aim to protect the historic environment.
 17. The appellant has suggested that the proposal could be considered to help safeguard/enhance the prevailing character of the area by providing additional tree planting on the valley side. However, I have no details before me of how this would be achieved and so I give this matter limited weight.
 18. Whilst no details of the proposed design of the outbuildings have been provided, given the limited views available of these at the bottom of the site any benefit resulting from the replacement would be limited and would be outweighed by the harm that I have identified above.
 19. My attention has been drawn to backland development at 55 Ipswich Road. However, in that particular case, the dwelling is of a scale and design and positioned in a manner that relates to the existing properties of Ipswich Road and the grain of development in the immediate vicinity. I do not, therefore, consider that development to be contextually comparable to the appeal site.
 20. I therefore conclude that the positioning of the development would result in harm to the character and appearance of the area. The proposal is therefore contrary to Policy AP28 of the Local Plan.

Access to the dwelling

21. Policies DM21 and DM22 of the Suffolk Coastal District Local Plan Core Strategy and Development Management Policies -July 2013- (the Core Strategy) seek, amongst other things, to ensure that developments create attractive and

comfortable places to live and visit, and provide safe and convenient access for people with disabilities. In this respect the policies are in broad accordance with paragraphs of the Framework, which have similar aims.

22. The ground levels within the site fall steeply towards Beech Way. The car parking for the proposal is at the opposite end of the site from the proposed dwelling, requiring an uphill walk of some distance to reach the dwelling. The length of journey, and steepness of the slope would make accessing the dwelling laborious, particularly for elderly persons or those with a disability.
23. I therefore conclude that the proposal would not provide suitable access for persons accessing the dwelling and is therefore contrary to Policies DM21 and DM22 of the Core Strategy. For similar reasons the proposal would be contrary to paragraphs 108, 110 and 127 the Framework in and much as the proposal fails to provide safe and suitable access to the site for all users or to address the needs of people with disabilities and reduced mobility; or create a place that is safe, inclusive and accessible.

Living conditions

24. Policy DM23 of the Core Strategy, amongst other things, seeks to protect the living conditions of neighbouring properties. In this respect Policy DM23 is in broad accordance with those parts of the framework that seek to protect amenity for existing and future users
25. Riverhill House has windows and a balcony facing towards where the proposed dwelling would be located. Currently the outlook from the rear elevation of Riverhill House is over the open landscape of the Deben Valley and this outlook is an essential part of the enjoyment of the dwelling and that external space.
26. The proposed building, whilst being of a low profile with a green roof, would introduce a new dwelling with its associated paraphernalia, very close to the rear boundary of Riverhill House. The site is currently heavily overgrown and the works associated with the construction, whilst seeking to retain and protect existing trees and boundary hedges, would be likely to result in the clearance of vegetation and alter the appearance of the site. Although this vegetation clearance could be undertaken without planning permission, the introduction of a dwelling would introduce a much more urban appearance to the outlook from Riverhill House.
27. This change would, as I have identified above, have a negative impact on the character and appearance of the area. In so doing it would also have an adverse impact on the outlook from Riverhill House.
28. I therefore find that the development would result in harm to the living conditions of the occupiers of Riverhill House. The development would, therefore, be contrary to Policy DM23 of the Core Strategy.

European Designated Sites

29. The site is located within the zone of influence of the Deben Estuary Special Protection Area/Ramsar Site (the SPA), which is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Policies SP14 and DM27 of the Core Strategy seek to protect such sites from harm and, where necessary, seek mitigation against any adverse effect of development. The Suffolk Recreational

Disturbance Avoidance and Mitigation Strategy (Suffolk RAMS) incorporates strategic mitigation measures to be delivered to avoid adverse impacts. The appellant has provided a financial contribution towards mitigating the effects of the proposal on the SPA. This has been secured by an agreement under Section 111 of the Local Government Act 1972.

30. 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) rather than at the screening stage¹. This responsibility now falls to me within this appeal. Such an assessment is necessary regardless of the status of the policies of the development plan.
31. 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 the AA. The AA is required on a case-by-case basis to determine whether or not the project will adversely affect the integrity of the 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

32. The appellant has drawn my attention to paragraph 68 of the Framework, which indicates that great weight should be given to the benefits of using suitable sites within existing settlements for homes.
33. The Framework identifies the three overarching objectives to consider in regard to sustainable development. These include an environmental objective to contribute to protecting and enhancing our natural, built and historic environment. I have identified that the proposal would have an adverse effect upon the character and appearance of the area, which would be in conflict with this objective. Albeit that the site lies within the physical limits boundary of Woodbridge, I do not, therefore, consider that the appeal site has been demonstrated as being a suitable site for a home.
34. The appellant considers that certain of the works proposed, both as part of the application scheme and the amended scheme accompanying the appeal, could be carried out as permitted development. Irrespective of this, I have limited evidence to suggest that such works would be carried out independent of the proposed development considered under this appeal and so this matter attracts limited weight.

Conclusion

35. For the reasons given above the appeal is dismissed.

I Dyer

INSPECTOR

¹ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244