



Appeal Decision

Site visit made on 12 September 2019

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2019

Appeal Ref: APP/T3535/W/19/3229919

20 Church Road, Kessingland, Lowestoft, NR33 7TQ

- 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 Mark Ardley against the decision of Waveney District Council.
 - The application Ref DC/18/1198/FUL dated 19 March 2018, was refused by notice dated 4 February 2019.
 - The development proposed is the erection of 3 two-bedroom bungalows.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The Council has confirmed that its decision was based on amended plans, which show a reduction in overall built-footprint to 3 two-bedroom bungalows and the removal of the garages. For the avoidance of doubt and in view of the fact that there does not appear to be any dispute between the Council and appellant on this matter, I have proceeded to assess the scheme on the basis of the amended scheme and revised the development description accordingly to that shown above. I am satisfied that dealing with the appeal on this basis is in the interests of proper planning and has not prejudiced the interests of any party.
3. The Council has confirmed that Policies DM02 and DM29 of the Development Management Policies Plan¹ were superseded by Policies WLP8.29, WLP8.33 and WLP8.34 of the new Local Plan adopted on 20 March 2019². The appellant was given the opportunity to comment on this in their response to the Council's statement and did not contest the relevance of the policies referred to. Further consultation was not carried out with neighbours or other interested parties as the Local Plan adoption has not resulted in any changes to the proposed scheme. As a consequence, my determination of this appeal is now against the Local Plan and Neighbourhood Plan³ policies referred to by the Council.

Main issues

4. Within the context of the Council's reason for refusal and the evidence in this case, the main issues are the effect of the development on:

¹ Development Management Policies Development Plan Document, Adopted January 2011, Waveney Local Development Framework, Waveney District Council.

² Waveney Local Plan, Covering the former Waveney Local Planning Authority area, Adopted 20 March 2019, East Suffolk Council.

³ Kessingland Neighbourhood Plan 2016-2030, Made on 25th January 2017.

- living conditions, with specific regard to whether the access road would result in noise and disturbance to neighbouring occupiers at Nos 20 and 22 Church Road;
- the character and appearance of the area, with specific regard to layout and scale;
- the Benacre to Easton Bavents and Minsmere-Walberswick Special Protection Areas.

Reasons

Appeal site context

5. Church Road is characterised by detached and semi-detached dwellings fronting onto the highway, of varying architectural styles and maturity. The appeal site forms part of the rear garden to No 20 Church Road, a large detached bungalow. It is laid to grass, scrub and compacted hardcore/topsoil and enclosed by timber fencing.

Living conditions

6. The proposed private access road would be in extremely close proximity to the side elevations of Nos 20 and 22 Church Road, which both have a number of windows at ground floor level. To my mind, the close proximity of passing vehicles to these openings would cause significant noise and disturbance to the occupants of these dwellings, particularly at warmer times of the year when windows are kept open. The presence of narrow private footways between the access road and the respective side elevations of Nos 20 and 22 would not diminish this impact to an acceptable level.
7. I recognise that the level of traffic generated by 3 dwellings on the private access road would be slight and that the overall noise level associated with this would be unlikely to exceed that generated on Church Road. However, to my mind, the noise of vehicles using the private access road would be quite different in that cars travelling at a slower speed would need to use lower gears with a potentially higher engine revolution, unlike those on Church Road which would more likely be using higher gears and making more consistent progress. Furthermore, the sound of traffic on Church Road would also be mitigated by the side elevation windows not directly facing it, which would not be the case in terms of noise from the private access road. As a consequence, it is my view that the noise events associated with vehicle movements on the private access road would be much more intermittent, distinct, irritating and intrusive to the occupants of No 20 and 22.
8. The appellant states that the properties are more likely to be occupied by senior citizens and that there would as a consequence be less vehicle movements. However, even if the occupants were elderly, I am not persuaded that they would be any less likely to be dependent on cars for their day to day needs, or use them less frequently, and am therefore satisfied that this would not diminish the level of noise and disturbance generated.
9. I note the appellant's assertion that potential purchasers of No 20 would be aware of the presence of the private access road and the proposed development. However, this does not justify the harm identified and in any

event, it would not address the harm to the living conditions of the occupants of No 22.

10. In view of the above, I conclude that the occupiers of Nos 20 and 22 Church Road would experience unacceptable living conditions in terms of noise and disturbance from vehicular comings and goings utilising the private access road. The proposal would therefore conflict with Policy WLP8.29 of the Local Plan and Policy H2 of the Neighbourhood Plan, which collectively seek, amongst other things, to ensure that new development protects the amenities of neighbouring occupiers.
11. I also find that the scheme would conflict with Paragraph 127 of the Framework⁴ which seeks, amongst other things, to ensure that development provides a high standard of amenity for existing users.

Character and appearance

12. The proposed bungalows would be low-lying and of a comparable density and scale to other more recent developments in the area, particularly those at Sanctuary Close to the north and Badger's Holt to the south-west. Furthermore, there already exists a small number of narrow private drives leading to backland-character buildings on Church Road, namely; (a) a property set behind a former Police station to the north; (b) a workshop to the south; and (c) a property set behind 'The Paddock' to the south-east. I have also noted that the scheme would not intrude into the open undeveloped gap between Nos 20 and 22. As a consequence, I am satisfied that the layout and scale of the development would not be out of character with the area or the prevailing streetscene.
13. In view of the above, I conclude that the development would not be harmful to the character and appearance of the area. The proposal would therefore accord with Policies WLP8.29 and WLP8.33 of the Local Plan and Policy H2 of the Neighbourhood Plan, which collectively seek, amongst other things, to ensure that new development respects the local context, density and form of surrounding buildings in terms of layout, siting, scale and character.

The Benacre to Easton Bavents and Minsmere-Walberswick Special Protection Areas.

14. The Council has confirmed that a financial contribution to mitigate the impact of the scheme on nearby Special Protection Areas has been secured from the appellant and that they no longer wish to contest the second reason for refusal. However, given that I am dismissing the development for other reasons, it has not been necessary for me to carry out an appropriate assessment of the scheme and consider the requested financial contribution as it would not alter the outcome of the appeal.

Other matters

15. I note the Appellant's frustrations regarding pre-application discussions and the manner in which the formal application was processed, but these have little bearing on the planning merits of the scheme before me and are a matter between the parties.

⁴ National Planning Policy Framework, Ministry for Housing, Communities and Local Government, February 2019.

16. Given my conclusion on the main issues that the development is unacceptable, the other matters raised by interested parties have not been central to my decision. Accordingly, there is no need for me to consider them further as it would not alter the outcome of the appeal.

Planning balance

17. The appellant has referred to other decisions made by the Council for backland development in support of their position. However, I am unaware of the circumstances of each site and case and in any event I must consider the appeal scheme on its own merits. The existence of these other decisions does not therefore set a precedent in this case.
18. In accordance with paragraph 68 of the Framework, I have given great weight in my assessment to the benefits of using suitable small and medium sized sites within existing settlements for homes. I also recognise that the scheme would result in a range of economic and social benefits, namely; (a) future occupiers contributing to local shops, services and facilities; (b) the provision of 3 additional dwellings towards the Council's housing land supply; and (c) local employment during construction. However, it is my view that when considered collectively, these economic and social benefits would be of limited value given the quantum of development proposed, and when taken cumulatively would not outweigh the environmental harm to the living conditions of neighbouring occupiers from noise and disturbance.

Conclusion

19. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR