
Appeal Decision

Site visit made on 21 January 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2020

Appeal Ref: APP/J3530/W/19/3239228

The Old Bell, Main Road, Marlesford IP13 0AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs Stowe against East Suffolk Council.
 - The application Ref DC/19/3157/FUL, is dated 17 June 2019.
 - The development proposed is described as 'construction of single storey detached building to establish commercial premises and associated activity for Stowe Building Contractors Ltd'.
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Decision

1. The appeal is dismissed and planning permission refused for construction of single storey detached building to establish commercial premises and associated activity for Stowe Building Contractors Ltd.

Preliminary Matter

2. The Council's statement refers to policies of the emerging Suffolk Coastal Local Plan Final Draft Plan January 2019, which was submitted to the Secretary of State for examination on 29 March 2019. However, I attach limited weight to the emerging policies as details of the level and significance of any unresolved objections have not been provided to me. The policies in the emerging plan do not have the same statutory force accorded to adopted policies under s38(6) of the Planning and Compulsory Purchase Act 2004.

Main Issues

3. The Council did not make a decision on the planning application within the statutory period and this has taken the jurisdiction to determine the application away from the Council. However, the Council has provided an appeal statement which outlines that it would have refused planning permission for reasons relating to the location of the proposed development; its effect on the living conditions of the occupiers of neighbouring properties; the Special Landscape Area; the setting of the Grade II Listed building at The Old Bell; and, flood risk.
4. As such, the main issues are:
 - The effect of the proposed development on the living conditions of the occupiers of No 8 Main Road and The Old Bell, with particular regard to noise and disturbance;

- Whether the location of the proposed development would accord with the development plan strategy for the area;
- The effect of the proposed development on the Special Landscape Area;
- The effect of the proposed development on the setting of the listed building at The Old Bell; and,
- The effect of the proposed development on flood risk.

Reasons

Living conditions

5. The proposed building would be in close proximity to the eastern boundary, adjacent to an end-of-terrace dwelling at No 8 Main Road. The application form shows that the proposed development would be for mixed use, including B1(a) office (140 square metres); B2 general industrial (105 square metres) and storage and distribution (72 square metres).
6. The activities associated with the proposed development would include the use of a builder's workshop; the loading/unloading of building materials; and movement of plant and vehicles. I acknowledge that there is a hedge along the boundary with No 8 Main Road, however this is a natural feature which cannot be relied upon in perpetuity to screen the development from the neighbouring property. Furthermore, whilst the proposed building has been designed to face the doors away from the eastern boundary, the close proximity of the proposed development to No 8 Main Road would cause noise and disturbance to the occupiers of the neighbouring property due to the industrial activities associated with the proposed use.
7. Furthermore, the proposed development would share a vehicular access with the existing residential property at The Old Bell. Given the additional industrial activities associated with the proposed development, as referred to above, and the lack of segregation between the existing and proposed land uses, it would cause noise and disturbance to occupiers of The Old Bell.
8. Whilst it appears that the proposed development would be within the same ownership as The Old Bell, this situation may not remain in the future. I have considered whether a condition could be imposed to require a personal permission to the appellant, however the National Planning Practice Guidance (PPG) advises that planning permission usually runs with the land and it is rarely appropriate to provide otherwise. Moreover, it states that a condition limiting the benefit of the permission to a company is inappropriate because its shares can be transferred to other persons without affecting the legal personality of the company. Having regard to the PPG, such a condition would be inappropriate. In any event, the harm that I have identified to neighbours residing at No 8 would remain.
9. Furthermore, I have considered whether a planning condition to restrict the hours of working and deliveries would make the proposed development acceptable. The application form states that the hours of working would be between 0800-1730 Monday – Friday and 0800-1300 on Saturdays. However, restricting working and deliveries to these hours would still cause noise and disturbance to occupiers of the neighbouring properties. In particular, B2 uses can involve the use of heavy machinery and activities likely to generate a high

level of noise, both sustained and with high transient peaks depending on the operations being performed.

10. Whilst I accept that there is a certain level of background noise given the proximity of the A12, ambient noise differs from that associated with impulse noise, such as the use of machinery associated with industrial processes or the start-up and movement of large vehicles, and does not have the same startling effect. In light of the close proximity of the neighbouring properties, occupiers would be highly susceptible to the nature and intensity of such noise levels during the hours referred to above. There is no substantial technical evidence before me to address my concerns. I acknowledge that there were no objections from local residents or the Council's Environmental Health department, however this would not overcome my concerns set out above.
11. For the above reasons, I conclude that the proposed development would be harmful to the living conditions of the occupiers of No 8 Main Road and The Old Bell with particular regard to noise and disturbance. The proposal would therefore be contrary to Policy DM23 of the Suffolk Coastal District Local Plan Core Strategy & Development Management Policies Development Plan Document July 2013 (the LP), which states that development will be acceptable where it would not cause an unacceptable loss of amenity to adjoining occupiers of the development.

Location

12. Policy SP1 of the LP seeks, amongst other things, to reduce the overall need to travel by relating new housing development to employment services, transport and infrastructure and mitigate against and adapt to the effects of climate change. Policy SP19 of the LP sets out a settlement hierarchy to determine the scale of development appropriate to a particular location. Policy SP29 states that new development outside physical limits of settlements will be limited to that which of necessity requires it to be located there and accords with other relevant policies in the LP. Policy SP7 sets out that opportunities to maximise the economic potential of the rural areas, particularly where this will secure employment locally, will be generally supported. Amongst other things, this includes the creation of new employment in accordance with the settlement hierarchy.
13. The appeal site is located outside the physical limits boundary of Marlesford. It is therefore located in the countryside for planning purposes. The proposed development would provide jobs and services and would therefore support the growth of the rural economy. In this respect, I have had regard to the support from the Council's Economic Development Team.
14. Supporting paragraph 3.86 of Policy SP7 states, amongst other things, that in relation to individual proposals, issues such as scale, access to the main road networks, to markets, labour etc. will be important. The total gross floorspace of the proposed development would be approximately 317 square metres, which is modest. Whilst the appeal site is located outside the physical limits boundary of a settlement, it would have direct access to the A12, which is a main road. Furthermore, there is a bus stop nearby to the west of the appeal site, which provides a route between Ipswich and Aldeburgh and is accessed by a footpath. The site is therefore accessible by passenger transport facilities.

15. The Design & Access Statement shows a map of building projects carried out in the last 3 years, which covers a wide area and is not concentrated in a settlement. Based on the evidence before me, the location of the proposed development would be appropriate in respect of the client base of the appellant's business.
16. Paragraph 84 of the National Planning Policy Framework (the Framework) states that the use of previously developed land, and sites that are well-related to existing settlements, should be encouraged where suitable opportunities exist. The appeal site comprises a residential garden which is not in a built-up area. In accordance with the glossary in annex 2 of the Framework, it is therefore previously developed land. Furthermore, whilst the appeal site is not located in a settlement, it is adjacent to existing commercial uses that are accessible by public transport, as referred to in the appellant's statement.
17. For the above reasons, I conclude that the location of the proposed development would accord with the development plan strategy for the area. It would comply with Policies SP1, SP7, SP19, and SP29 of the LP, which, amongst other things, seek to reduce the overall need to travel, mitigate and adapt to the effects of climate change, and maximise the economic potential of rural areas.

Special Landscape Area

18. The appeal site is located within a Special Landscape Area (SLA). Policy SSP38 of the Suffolk Coastal District Local Plan – Site Allocations and Area Specific Policies Development Plan Document January 2017 (the DPD) states that the valleys and tributaries of the River Ore are designated as Special Landscape Areas. Development will not be permitted in these areas where it would have a material adverse impact on the qualities of the landscape that make it special.
19. The northern boundary of the appeal site consists of hedging. The views from Main Road towards the south consists of the open and predominantly grassed curtilage of The Old Bell, including a single storey outbuilding adjacent to the southern boundary. Mature trees are visible further beyond to the south, which follow the course of the River Ore. The River Ore is not discernible in views from Main Road across the appeal site. Wooden pylons are visible from Main Road and I find that the view across the appeal site does not constitute an important view in the SLA.
20. The land level of the proposed building would be set approximately 2 metres below the level of Main Road, which, taken together with the screening provided by the front boundary hedge, would limit its visual impact on views from the road towards the River Ore. Furthermore, the design, form and materials of the proposed building would be in keeping with the local vernacular. The height of the proposed building would be lower than The Old Bell and its siting between The Old Bell and the residential terrace to the east would restrict its visual impact on the landscape.
21. For these reasons, I find that the proposed development would not cause harm to the SLA. The proposal would therefore accord with Policy SSP38 of the DPD and Policies SP15 and DM21 of the LP, which, amongst other things, seek to protect the qualities of the special landscape. The proposal would also comply with paragraph 170 of the Framework which, along with other things, states that planning decisions should contribute to and enhance the natural and local

environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.

Setting of listed building

22. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, special regard must be had to the desirability of preserving the building or its setting.
23. The proposed development would be within the curtilage of The Old Bell, which is a Grade II listed building. The building is a former public house dating from the late 17th or early 18th century. It is timber-framed; finished in roughcast render; and it has a steeply-pitched thatched roof. The building has a large 2 storey rear extension of contemporary appearance, and a hexagonal World War II pill box is positioned close to the rear. The significance of the building relates to its local vernacular architecture, and the appeal site contributes to the setting by providing open green surroundings as a backdrop to the building.
24. The external materials of the proposed building would include a red brick plinth; black stained timber weather boarding; and natural red clay pantiles. Taken together with the form of the building, including gables and pitched roofs, it would have the appearance of a Suffolk barn which would respect the local vernacular.
25. The proposed building would be set down at a lower height from the listed building, which, together with the separation distance of around 14 metres, would provide a subservient relationship to the listed building. The proposed building would not infringe views of the listed building from the public realm due to its set back from the road and the level of separation that would be provided.
26. For these reasons, I conclude that the proposed development would not have a harmful effect on the setting of the listed building, and thus would preserve its significance. The proposal would therefore accord with Policy DM21 of the LP, which, amongst other things, seeks to protect existing site features of heritage value. It would also comply with Chapter 16 of the Framework, which seeks to conserve and enhance the historic environment.

Flood risk

27. Paragraph 155 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.
28. Footnote 50 of the Framework states that a site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. The red edge on the location map has been drawn around the entire curtilage of The Old Bell. Whilst the south-eastern corner of the appeal site would be within Flood Zone 2 or 3, the proposed development consisting of the construction of a single detached building and yard would be within Flood Zone 1 and would therefore be at low risk of flooding.
29. I therefore conclude that the proposed development would not have an adverse effect on flood risk. The proposal would therefore comply with Policies SP12

and DM28 of the LP which together require development to, amongst other things, minimise the risk of flooding and ensuring appropriate management of land within the flood plain. It would also accord with paragraph 155 of the Framework which states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.

Conclusion

30. I have found that the location of the proposed development would accord with the development plan strategy for the area; and would not cause harm to the Special Landscape Area or the setting of The Old Bell Grade II listed building. Furthermore, the proposed development would be at low risk of flooding. However, the proposal would be harmful to the living conditions of the occupiers of No 8 Main Road and The Old Bell and these are sufficient reasons to dismiss the appeal. For these reasons, and having had regard to all other matters, I conclude that the appeal should be dismissed.

C Osgathorp

INSPECTOR