
Appeal Decision

Site visit made on 26 May 2020

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th June 2020

Appeal Ref: APP/R3515/W/20/3244225

20 Bixley Road, Ipswich IP3 8PF

- 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 Lee Farthing against the decision of Ipswich Borough Council.
 - The application Ref IP/19/00614/FUL, dated 24 June 2019, was refused by notice dated 17 October 2019.
 - The development proposed is described as 'proposed dwelling at land rear of 20, 22 & 24 Bixley Road, Ipswich'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposed development on:
 - the character and appearance of the area;
 - the living conditions of the occupiers of neighbouring properties in respect of noise and disturbance; and
 - the biodiversity of the site and the surrounding area.

Reasons

Character and appearance

3. The appeal site comprises garden land to the rear of 20, 22 and 24 Bixley Road and is adjacent to 92 Chilton Road. There is a vehicular access to the rear of no. 20 near to a junction between Bixley Road and Chilton Road. A large number of trees are within and adjacent to the site, which provide the immediate area with a verdant character and contribute to a sense of spaciousness between the nearby dwellings when viewed from Chilton Road.
4. The surrounding area consists predominantly of residential properties in a well defined formal pattern of building lines. Whilst there is variety in the appearance of the properties near to the site, a significant proportion feature bungalows with almost pyramidal roof designs and are set within consistently sized plots.
5. The proposed bungalow would be located behind the dwellings in Bixley Road and Chilton Road. However, it would not be set back substantially and would be visible on entry to Chilton Road from the junction. Whilst the design of the

bungalow would be compatible with the appearance of the nearby dwellings, it would appear larger than them as a result of its height, width and gable ended roof design, with its ridge running roughly parallel to Chilton Road. The bungalow would therefore have a dominating presence behind, and appear out of character with, the surrounding properties.

6. The proposal would also require the removal of many of the trees within the site and significantly reduce the spaces between the nearby buildings when viewed from Chilton Road, and appear cramped as a result. This would have a harmful effect on the character and appearance of the area.
7. Neither the proposed access arrangements nor the driveway in themselves would be sufficiently prominent to cause harm to the existing character and appearance of the area. However, the removal of the outbuildings to the rear of no. 20 to facilitate the creation of the driveway would increase the visibility of the proposed bungalow, compounding the issues I have identified.
8. I note that the North East Character Area Ipswich Urban Characterisation Study states that varied architectural approaches and designs contribute to the character of the area within which the site is located. I also acknowledge that the Council does not dispute that the proposal complies with elements of the Space and Design Guidelines Supplementary Planning Document (the SPD) in respect of the distances between properties and the size of amenity spaces. However, these matters in themselves do not indicate that the effect of the proposal would be acceptable and the proposal nonetheless conflicts with the SPD's overarching aims to ensure development is compatible with local character.
9. I have been directed towards fairly recent examples of residential development in the area that has been built behind established building lines. However, they are not directly comparable to the proposed development as they either form much larger infill schemes, are set back further from the highways to which they relate or be less visible than the proposed development. In any event, I have determined this appeal on its own merits and found it to be harmful.
10. The proposed development would harm the character and appearance of the area. It is contrary to Policies DM5 and DM13 of the Ipswich Borough Council Local Plan Core Strategy and Policies Development Plan Document Review (the Local Plan), the SPD and paragraph 127 of the National Planning Policy Framework (the Framework) which, amongst other matters, seek development that protects and enhances the character of its surroundings.

Living conditions

11. The proposal would use the established vehicular access and the driveway would be relatively short in length. However, the proposal would reduce the size of the rear gardens of nos. 20, 22 and 24 and the driveway would be close to them. The driveway would extend along the entire width of the rear garden of no. 20, the turning area would be near to the rear gardens of nos. 22 and 24, and the driveway and parking spaces would effectively surround no. 92.
12. Following the development, the rear gardens of the neighbouring properties would be small and vehicle movements associated with the development would inevitably result in general noise and disturbance to their occupiers. The private amenity space of the host properties would be adversely affected, contrary to

paragraph 4.22 of the SPD. Whilst the proposal would be located within a suburban environment, near to a junction, there would nevertheless be harm and I am not persuaded that this could be suitably mitigated.

13. The proposed development would harm the living conditions of the occupiers of neighbouring properties in respect of noise and disturbance. It is therefore contrary to Policy DM13 of the Local Plan, the SPD and paragraph 127 of the Framework which, amongst other things, seek to ensure that development protects living conditions.

Biodiversity

14. The appellant has raised that there are no protected trees or records of protected species within the site and there are no legal requirements to submit arboricultural assessments or protected species surveys. The appellant also indicates that the Council did not request such information at the time the application was validated. However, these matters do not imply that the development would be acceptable, with Local Plan Policy DM31 and paragraph 170 of the Framework seeking to protect biodiversity. In addition, Local Plan Policy DM10 explains that trees of biodiversity value should be retained where possible and SPD paragraph 4.32 indicates that residential gardens can make a significant contribution to biodiversity.
15. The trees within and adjacent to the site are of various sizes and varieties. I also noted from my site visit that the rear garden of no. 22 features an area of brambles, and outbuildings that have openings within their structures. It is therefore highly likely that habitats supporting protected species may be present on the site or nearby.
16. The appellant suggests that planning conditions could be used to ensure that the effect of the proposal on biodiversity would be acceptable and that such an approach has been adopted by the Council for development nearby. I do not have full details of the circumstances which may have applied in that case but, in any event, Circular 06/2005¹ states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before planning permission is granted.
17. On the basis of the evidence before me, it would not be appropriate to condition the undertaking of surveys. A condition to require mitigation in the absence of surveying would also not be appropriate as there can be no certainty that mitigation would acceptably address any harm to protected species which may be present.
18. Accordingly, the proposal fails to demonstrate that its effect on the biodiversity of the site and the surrounding area would be acceptable. It conflicts with Policies DM10 and DM31 of the Local Plan, the SPD and paragraph 170 of the Framework which, amongst other matters, seek to ensure that development conserves and enhances biodiversity.

¹ Office of the Deputy Prime Minister Circular 06/2005: Biodiversity and Geological Conservation - Statutory Obligations and their Impacts within the Planning System

Planning Balance and Conclusion

19. Paragraph 11 of the Framework states that where there are no relevant development plan policies, or the most important policies for determining the application are out of date (including where local planning authorities cannot demonstrate a 5 year supply of deliverable housing sites), permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The Council has confirmed that it is unable to demonstrate a 5 year supply of deliverable housing sites and paragraph 11 of the Framework is therefore relevant.
20. In terms of benefits, the appellant contends that the development would make effective use of land to increase the district's supply of housing, it could incorporate renewable energy features and be completed within a short timescale. The site is in a relatively accessible location which is well connected to services and facilities required for day to day living. The proposal would benefit the local economy from the construction of the property and the occupiers spending on goods and services. The occupiers may also engage in activities in support of the local community. However, as a result of the small scale of the development, these matters constitute relatively limited benefits to weigh in favour of the proposal.
21. The appellant suggests that there would be a specific benefit from providing a bungalow as there is a need for this type of dwelling in the area and that biodiversity enhancements could be secured. The evidence of local need for bungalows from a local estate agent is an anecdotal and generalised statement. In the absence of any firm and substantive evidence indicating otherwise, the provision of a bungalow would not specifically attract additional benefits beyond increasing housing supply. In addition, as a result of my conclusions in respect of biodiversity, I cannot be certain that enhancements would be able to offset the potential impacts of the development. These matters do not constitute benefits which I find would weigh in favour of the proposal.
22. In respect of the adverse effects of the development, I have found that it would be harmful to the character and appearance of the area and the living conditions of the occupiers of neighbouring properties. The proposal fails to demonstrate that it would have an acceptable effect on the biodiversity of the site and the surrounding area.
23. For these reasons the proposal is contrary to policies within the development plan and I consider that the policies are consistent with the aims of the Framework. Thus, the adverse effects of the development significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole. A decision should therefore be taken in accordance with the development plan.
24. The proposal is contrary to the development plan taken as a whole and there are no other material considerations which outweigh this finding. For the reasons I have identified, I conclude that the appeal should not succeed.

Mark Philpott

INSPECTOR