



Appeal Decision

Site visit made on 29 May 2020

by David Wallis BSc (HONS) PG DipEP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2020

Appeal Ref: APP/X3540/W/20/3245276
84 Fairfield Road, Saxmundham IP17 1EG

- 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 Mrs C Hitchcock against the decision of East Suffolk Council.
 - The application Ref DC/19/3412/FUL, dated 30 August 2019, was refused by notice dated 22 October 2019.
 - The development proposed is Erection of new 2-bedroom, single storey dwelling with 2no. parking spaces, within rear garden of existing dwelling and sharing the existing vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for the Erection of new 2-bedroom, single storey dwelling with 2no parking spaces, within rear garden of existing dwelling and sharing the existing vehicular access at No 84 Fairfield Road, Saxmundham IP17 1EG in accordance with the terms of the application, Ref DC/19/3412/FUL, dated 30 August 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not 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: PW1008_PL02 Revision B and PW1008_PL1 Revision A.
 - 3) The dwelling hereby permitted shall not be occupied until space has been laid out within the site for 2 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear, and that space shall thereafter be kept available at all times for those purposes.

Preliminary Matters

2. 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 Suffolk Coastal District Council until such a time as they are revoked or replaced. I have therefore determined this appeal with reference to the policies in the plans produced by the now dissolved Suffolk Coastal District Council.
3. The emerging Suffolk Coastal Local Plan has been subject to examination and, subject to main modifications, is said to be capable of being found sound and

legally compliant. I am cognisant that the plan may still be subject to change and thus afford its policies limited weight.

4. The Council have advised that the appellant has made a Recreational Avoidance Mitigation Strategy payment to mitigate any impacts on Special Protected Areas (SPA) and Special Areas for Conservation (SAC), therefore the Council does not contest its second reason for refusal. I deal with this later in my decision.
5. I note that a plan was submitted to the Council proposing an alternative parking arrangement to the one initially proposed in the application, but the Council did not base its refusal upon this plan. On the basis that the alternative plan has not been publicised, it may be prejudicial to the public and interested parties to accept the plan at the appeal stage under the Wheatcroft principles. I have based my decision on the suite of plans submitted as part of the original application and not on the revised plan.

Main Issues

6. The main issues for the appeal are:
 - the effect on living conditions of neighbouring properties with regards to noise and disturbance
 - whether, on the basis of available evidence, it can be shown that the proposal will not adversely affect the integrity of European sites of environmental importance.

Reasons

Effect on living conditions

7. The B1119, Rendham Road, is the main thoroughfare connecting Saxmundham to the A12. The appeal site is on Fairfield Road and is situated just off the principal highway of Rendham Road. The residences in the area generally consist of chalets and two storey dwellings, with short front gardens and fronting onto the public highway. There are notable instances in the vicinity where residences are in a 'tandem' form of development, which add to the organic grain of this urban area.
8. No 84 Fairfield Road is a large two storey dwelling that sits within this urban context. A two-storey side extension to that property, containing a double garage at ground floor, forms part of the street-facing façade. Parking for that property is also available in front of the double garage. The garden of No 84 is surrounded by the rear gardens pertaining to other residences.
9. In order to access the appeal site, pedestrians and vehicles would need to exit the highway and pass between the flank of No 84 and its southern boundary, shared with No 86 Fairfield Road and No 25 Rendham Road in particular. The access would also wrap around the southeast corner of the proposed new rear garden area for No 84, formed with proposed fencing.
10. Whilst there is the potential for vehicle movements to generate noise, the number of movements associated with a single dwelling are unlikely to be significant. There are no windows at ground floor level in the south elevation of the host dwelling. Cars would, because of the width and orientation of the access, be travelling at low speed. Subject to a suitable surfacing of the drive,

it would be unlikely that noise from vehicles accessing the appeal site would be that much more perceptible above general traffic noise in the vicinity.

11. The proposals indicate a gate would be positioned along the access drive. I acknowledge that vehicles are likely to have idling engines whilst waiting for the gate to be opened. However, given that the dwellings of No.86 and No.25 are separated by both modest distances and detached outbuildings from the appeal site boundary, the noise would not be at a level to cause undue harm to the living conditions of those occupiers. I note that the outbuilding for No.25 is stated to be in use as an annexe and thus its occupiers could be subjected to noise disturbance. However, there are no ground floor windows in the north elevation of this building.
12. The proposal would not therefore be harmful to the living conditions of either the host or neighbouring properties with regard to noise disturbance. The development would not conflict with policies DM7 or DM23 of the East Suffolk, Suffolk Coastal District Local Plan Core Strategy and Development Management Policies Development Plan Document 2013 (the Local Plan), which seek to ensure development would not significantly reduce residential amenity.

Integrity of European Sites

13. In 2018 the Court of Justice of the European Union 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 stage^[1]. This responsibility now falls to me within this appeal.
14. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of the European sites.
15. The site falls within 13 kilometres of the Alde-Ore Estuary SPA and Ramsar, Minsmere to Walberswick Heaths and Marshes SAC, Minsmere to Walberswick SPA and the Sandlings SPA. These are sites designated at European level for their environmental importance, since they provide habitats for wintering birds, wildfowl and wading birds including little terns, bitterns, brent geese and avocets. All sites are used for public recreation and there is no dispute between the parties that it cannot be ruled out that the proposal, when considered alone or in combination with other schemes, would have significant effects on the quality features of interest of the SPAs due to the increased recreational use. I have no reason to disagree with the conclusion of the main parties relating to the potential significant effects.
16. Having agreed that the scheme, either alone or in combination with other schemes, would have a significant effect on the quality features of interest of the identified European sites, it is incumbent upon me to undertake an Appropriate Assessment. In this Appropriate Assessment I may consider any conditions or other restrictions which could secure mitigation of this harm, and which would therefore allow development to proceed in the knowledge that the Conservation Objectives of the two identified sites would be ensured.
17. Natural England and the Council have indicated that there is an agreed strategic solution to mitigate the effects of the proposal, in the form of the Council's Suffolk Recreational Disturbance Avoidance and Mitigation Strategy

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

(RAMS). This strategy requires financial contributions from developments and allocates detailed and costed infrastructure and non-infrastructure projects to proposals dependent on their scale and location.

18. The main parties agree that the mitigation can be delivered via the appellant entering into an agreement pursuant to Section 111 of the Local Government Act 1972. This has been supplied by the appellant and the Council has listed the specifics of the infrastructure to which the payment would contribute towards, in the technical report underpinning the RAMS.
19. This agreement would therefore serve to mitigate the recreational impacts arising from the proposal. I am therefore able to favourably conclude my Appropriate Assessment.
20. On this basis I am able to conclude that the required mitigation would be properly secured and that the proposals would be unlikely to have a significant effect on the identified SPA, Ramsar or SAC.

Other Matters

21. The proposed development would provide suitable off-street parking for both No 84 and the proposed new dwelling. It is unlikely therefore to result in significant increased demand for on-street parking in the area.
22. The proposal is for a single storey dwelling that would be enclosed by fencing and planting. In this regard, the development would not give rise to any adverse loss of privacy for neighbouring occupiers.

Conditions

23. I have imposed conditions regarding commencement and implementation in accordance with relevant plans for certainty as to the development hereby permitted. I have also imposed a condition ensuring off-street parking and turning space is provided and retained for such purposes in the interests of highway safety.
24. The application form details the materials to be used in the development and these do not need to be conditioned further. I have no evidence before me to suggest that the land is contaminated or likely to contain such contamination, and therefore it is unnecessary to impose a condition in that regard.

Conclusion

25. For the above reasons, I allow the appeal.

David Wallis

INSPECTOR