



Appeal Decision

Site visit made on 11 August 2020

by S A Schinaia MSc EngD FGS

an Inspector appointed by the Secretary of State

Decision date: 7th December 2020

Appeal Ref: APP/R3515/W/20/3250329

Land Rear of 133 - 139 Valley Road, Ipswich IP1 4PQ

- 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 Pajoma Limited against the decision of Ipswich Borough Council.
 - The application Ref IP/19/01040/FUL, dated 17 November 2019, was refused by notice dated 16 January 2020.
 - The development proposed is described as: 'Erection of two detached dwellings and 2 pairs of semi-detached dwellings, with garages and new vehicular access (in lieu of part of the site approved for a total of 7 dwellings under IP/19/00325/FUL)'.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Background

2. As partly stated in the banner, the new planning application seeks permission for additional dwellings in lieu of four buildings already approved¹ for a scheme of 7 detached dwellings on the site, the 'extant permission'.
3. In the banner I used the correct post code of the appeal site included in the appeal form, to correct the one included in the application form.

Main Issues

4. The main issues are the effect of the proposed development:
 - (i) on the character and appearance of the area, and
 - (ii) on the protected trees and biodiversity, within the site and the surrounding area.

Reasons

Character and appearance

5. The appeal site is part of a large plot of land resulting from the merging of back gardens of properties in Valley Road and Valley Close. These properties are characterised by substantial detached dwellings in large plots of land with very large gardens, mainly developed at the rear of the dwellings. The surrounding area of the appeal site is therefore characterised by a low density of development. The appeal site is also located in a Green Corridor.

¹ IP/19/00325/FUL

6. The appeal proposal seeks the development of two detached dwellings and two pairs of semi-detached dwellings in the back gardens immediately north of properties in 133, 135, 137 and 139 Valley Road. The development is in lieu of part of the extant permission, comprising four of the seven detached dwellings approved. The proposal would result in a total of nine dwellings in the development as a whole.
7. Although the number of buildings would remain the same, there would be an increase in footprint and hardsurfacing, with enlargement and alteration to structures and the addition of garages and parking areas.
8. The appellant argues that the semi-detached dwellings are designed to appear similar to the detached dwellings of the extant permission. However, the detailed design of the proposed dwellings and the very close relationships with their garages would certainly look different from the low-density detached dwellings in the surrounding areas. Furthermore, the increased built footprint and the addition of parking spaces and garages would further reduce both the space between dwellings and the available outdoor space for landscaping, in plots already smaller than those in the surrounding area.
9. The appellant contends that, being a backland site, the proposed scheme would not need to maintain the same level of low density as observed on Valley Road and that an increased density would allow the construction of more affordable houses. However, backland areas and back gardens do have a positive role in both allowing distance between dwellings as well as the provision of green space within urban areas.
10. Furthermore, the policies and guidelines of the Borough seek to carefully control such development to protect the character and amenity of the neighbourhood. Policy DM5 requires all new development to be well designed and sustainable, including protecting and enhancing the special character and distinctiveness of Ipswich. Policy DM13 requires backland developments to protect the setting of existing buildings and the character and appearance of the area. According to paragraph 4.5 of the Space and Design Guidelines Supplementary Planning Document (SPD) (2015) (Space and Design SPD), in the case of small developments the standards adopted should be consistent with the character of the area in which they are to be sited. The 'Valley Road' Character Sub-Area of the Park Character Area in the Urban Character Study Supplementary Planning Document (SPD) (2015) ('Valley Road' Urban Character SPD) indicates that in this location the dominant pattern of building is low-density single dwellings in substantial gardens, and that this is a pattern which should be maintained in future developments. Furthermore, the 'Valley Road' Urban Character SPD states that it is important that the low development density of the area is maintained in the planning of new schemes and that the extent and character of open spaces is protected.
11. I accept that the extant permission proposes 7 detached properties on the wider site, albeit on smaller plots generally than found in the area. However, I find that this proposal would result in a development where some of the dwellings are constrained within the boundaries of their respective plots of land, with densities that are not consistent with the prevailing distribution of the built form in this area of Ipswich. Furthermore, the proposal would fail to protect the setting of the existing buildings along Valley Road and Valley Close and the character and appearance of the area. The appeal proposal would not

reinforce the attractive physical characteristics of the local neighbourhood, notably the detached and low-density character. Therefore, I conclude that the proposed scheme would be out of character with the surrounding area.

12. The proposed scheme would therefore be contrary to Policies DM5 and DM13 of the Ipswich Core Strategy and Policies DPD Review (2017) (DPD).
13. For the reasons set out above, I also conclude that the changes introduced by the proposed development in terms of increased built footprint, increased density of development and reduced communal and private landscaping are considered harmful and not in keeping with the distinctive character of the area as required by the 'Valley Road' Urban Character SPD. Therefore, the proposal would be contrary to the Space and Design SPD and the Urban Character Study SPD of the Council, as it would fail to protect and enhance the special character and distinctiveness of this part of Ipswich, in particular the low density character identified by the Urban Character SPD.
14. The above policies are consistent with paragraphs 70 and 122 of the National Planning Policy Framework (2019) (the Framework) that state that plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area, as in this case, and that the desirability of maintaining an area's prevailing character and setting, including residential gardens, should be part of planning policies and decisions aiming towards an efficient use of land, respectively. Furthermore, paragraph 117 of the Framework require decisions to promote an effective use of land in meeting the need for homes, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Paragraph 127 of the Framework, require development to be sympathetic to local character and history, including the surrounding built environment and landscape setting.
15. Therefore, I conclude that the proposal would be contrary to paragraphs 70, 117, 122, and 127 of the Framework.

Protected trees and biodiversity

16. The site includes trees that are protected by a Tree Preservation Order (TPO), TPO No. 7 of 2009, including T1 Oak on adjacent land but close to boundary with its Root Protection Areas (RPA) and crown over site. Within the site there is G2, comprising a Lime and Sycamore. Further trees located either on the sites boundary or on adjacent land are also protected by the same Order, including G3 Lime and Sycamore trees, on the northern boundary of the site, and T2 Sycamore, within the rear garden of 6 Valley Close. The extant permission was considered acceptable having regard to tree impact, subject to conditions.
17. According to the evidence submitted, the proposed development would include new structures and hardstanding that, in places, would be closer to existing trees and their RPAs. There would be limited spacing between the trees on the northern boundary and ground floor living room patio doors within Plots 2 and 3, including the protected Lime. In my view, due to the overbearing and imposing impact that the trees would have upon the proposed dwellings, the proposal is likely to result in pressure to fell or cut back the trees.

18. The installation of the parking area for visitors and Plot 4, under the very large crown of the protected Oak Tree, would very likely result in pressure to reduce the crown, due to the risk of branches or even leaves falling on parked cars or over the driveway. Furthermore, despite the proposal for a no-dig construction, the parking would extend well into the RPA for that tree.
19. The appellant contends that it is highly unlikely that future occupants would wish to remove or significantly cut back the existing trees to the north of the appeal site, as they provide screening to the adjacent school field. Furthermore, the appellant maintains that the occupation of the new development is likely to result in the continued maintenance of the trees, prolonging their longevity and the habitat that they offer.
20. I accept that there are conditions in place to secure biodiversity enhancement and tree management for the approved planning permission. However, the behaviour of future residents with regards to trees and biodiversity cannot be predicted. Therefore, it would be unreasonable to secure the protection or the management of the trees through a condition that would impede their removal if future residents consider them a threat to their properties.
21. In terms of biodiversity, it would also be difficult to infer how the trees and hedgerows will thrive in the presence of buildings and parking spaces, especially when the proposed development is reducing space for communal landscaping, such as under the protected Oak Tree. Furthermore, the proposal has not demonstrated how the scheme will incorporate measures to enhance conditions for biodiversity within and around the development or result in a net-gain in biodiversity as required by the Framework. No biodiversity report has been submitted that suggests alternative mitigation or measure to enhance biodiversity.
22. Policy DM10 of the DPD states that applications for development should retain existing trees and hedgerows of amenity or biodiversity value where possible. It further states that where development affecting trees or hedgerows is proposed, the application must be accompanied by an appropriate tree assessment; design in new development should have proper regard to the setting of protected trees; and that landscaping and tree planting should be integrated into new development.
23. I note the appellant refers to other properties in the area with relatively close relationships to trees, but I have no information on the implications of that relationship on the occupiers or the health of the trees in question. Ultimately the reduction in scale or quality or even removal of the protected trees at this site would have additional significant impacts on the character and the appearance of the area.
24. Therefore, I conclude that the proposal would fail to consider the setting of the protected trees and overall has failed to demonstrate that the proposed scheme would not have a detrimental effect on the protected trees and on biodiversity within the site and on the surrounding area. For the above reasons, I conclude that the proposal would be contrary to Policy DM10 of the DPD. I also conclude that the proposal would be contrary to the policies of section 15 of the Framework on Biodiversity and specifically paragraph 170.

Planning Balance and Conclusions

25. The evidence before me suggests that no mechanism has been put in place to secure the delivery of the smaller semi-detached dwellings as affordable market properties. The delivery of 3-bedroom dwellings may be closer to the outcome of the Ipswich Housing Market Area Strategic Housing Marketing Assessment Update² and therefore potentially meet a recognised need in the Borough. However, at this scale, any minor benefit of this must be assessed against the overall harms I have found from the increased densities and changed relationship to the protected trees in the area.
26. The appellant contends that the extant permission in the appeal site is an important material consideration in the determination of this proposal, and I have taken it into account in my consideration of the case.
27. Notwithstanding the Council's latest housing figures associated with the DPD Review³, the main parties agree that the Council is unable to demonstrate sufficient housing land supply and, as a result, paragraph 11 of the Framework should be engaged. Paragraph 11 states that where relevant policies are out of date, 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 whole or specific policies in the Framework indicate that development should be restricted.
28. In comparison to the extant permission, the proposal would provide a very limited increase in housing to the Council's supply as well as limited temporary economic benefits in terms of construction works and support to the local economy. Although some measures in terms of enhancement to biodiversity and protection to trees could be put in place, I found that the proposed scheme would still result in significant harm in particular with regards to the protected trees and biodiversity and overall, significant harm to the local character and appearance.
29. In conclusion, I found that the proposed scheme would be contrary to the policies of the local plan related to harm found and that the policies of the local plan relevant to this decision are consistent with the policies of the Framework. The adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as whole.
30. For the reasons set out above, I conclude that the appeal should be dismissed.

S A Schinaia

INSPECTOR

² January 2019.

³ Ipswich Borough Council Local Plan Review. Topic Paper: Reviewing the Ipswich Housing Figure – Including Addendum June 2020.