



Appeal Decision

Site visit made on 24 November 2020

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 8 December 2020

Appeal Ref: APP/X3540/W/20/3257094

Part rear garden, 113 Bedingfield Crescent, Halesworth IP19 8EH

- 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 Sean Holmes against the decision of East Suffolk Council.
 - The application Ref DC/19/4795/FUL, dated 11 December 2019, was refused by notice dated 7 February 2020.
 - The development proposed is construction of a one bedroom single storey property on plot of land to rear of 113 Bedingfield Crescent.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Prior to the determination of the planning application by the Council the appellant says that he submitted revised plans¹ to reposition the proposed access in an attempt to overcome the Council's concerns in this regard. Whilst these were not the plans upon which the Council made its decision, the Council refers to its consideration of the revised plans in its statement and confirms that they do not overcome its objections to the scheme. Consequently, as the Council has had the opportunity to comment on them and the changes relate to highway land, no injustice would arise were I to make my decision on the basis of the revised plans.

Main Issues

3. The main issues are : -
 - The effect of the proposal on the character and appearance of the site and the surrounding area,
 - The effect of the site on the living conditions of existing and future occupiers of the land, with particular regard to the provision of private outdoor amenity space.
 - Whether safe and suitable access to the site can be achieved for all users, and: -
 - The effect of the proposal on Suffolk Coast European Sites.

¹ 3953-07-P1-OPT2 Proposed Site Plan - 3953-08-P1-OPT2 Proposed Ground Floor Plan & Elevations - 3953-09-P1-OPT2 Planning Response

Reasons

Character and appearance

4. Bedingfield Crescent lies within an established residential area which contains a mix of mainly semi-detached bungalows and two-storey dwellings. The appeal site is a large part of the rear garden of 113 Bedingfield Crescent, a bungalow on the corner of the junction of Kennedy Avenue with Bedingfield Crescent. No 113 faces onto Bedingfield Crescent and the proposed dwelling would face onto Kennedy Avenue.
5. Some dwellings have had additions, such as front porch enclosures and rear extensions, but generally the built form of the dwellings remains without major alteration giving the estate a sense of uniformity. Further, the layout of the buildings, reinforced by their separation provides the estate with a pleasing sense of rhythm and spaciousness. The sense of spaciousness is emphasised around junctions by the gaps created by the rear gardens of dwellings facing onto the through roads. These are features that make a positive contribution to the character and distinctiveness of the area.
6. The proposed dwelling would have an "L-shaped" footprint with its long sides facing Kennedy Avenue and No 113 and would be positioned to the rear of the site, close to the boundary with No 113. The shape of the building would provide a horseshoe shape of amenity areas around the front, side and part of the rear of the dwelling. The projecting rear wing of the proposed dwelling would be positioned very close to the rear boundary. In addition, the proposed dwelling would be sited close to its shared boundaries with No 113 and 67 Kennedy Avenue. The introduction of a dwelling in this location and the reduction in the garden area for No 113 would erode the spaciousness of the site and appear cramped and incongruous when compared to the more generous spacing of other dwellings in the vicinity, particularly around junctions. This incongruity and reduction in spaciousness would, in this instance, amount to substantial harm.
7. I therefore conclude that the proposed development would result in substantial harm to the character and appearance of the site and the surrounding area. The development would therefore be in conflict with Policies WLP8.33 and WLP8.29 of the East Suffolk Council Waveney Local Plan -2019- (the Local Plan). These policies seek, amongst other things, to ensure that development proposals reflect local distinctiveness and respond to local context and the form of surrounding buildings in relation to the overall scale and character, layout, site coverage and the relationship between buildings and spaces and the wider street scene or townscape, and would not generate a cramped form of development.

Living conditions

8. The proposal provides a private amenity space of approximately 60 square metres to the side and rear of the dwelling, with a further area of front garden. The appellant has indicated his willingness to transfer a strip of land to No 113, to augment the amenity space for the existing dwelling. Such provision would provide roughly 65 square metres to the rear of the property, with further space to the front and on the corner of the junction. The gardens for the proposed dwellings are small in comparison to the prevailing size of gardens in the area.

9. However, No 113 and the proposed dwelling are modest bungalows and the proposed external amenity spaces would provide a reasonable level of private, usable space for the enjoyment of future occupiers within which there would be opportunity to sit out, dry clothes and garden.
10. I note the concerns regarding the provision of private amenity space raised by the previous Inspector in his Decision². However I have determined this appeal on the merits of the proposal which is before me, including the transfer of the garden land.
11. Were I minded to allow the appeal the transfer of the strip of land could be ensured by suitably worded planning conditions and I therefore conclude that, subject to the provision of the additional land for No 113, the proposed development would provide acceptable living conditions for existing and future occupiers of the land, with particular regard to the provision of private outdoor amenity space. The proposal would not, therefore, conflict with Policies WLP8.33 and WLP8.29 of the Local Plan in as much as these seek, amongst other things, to ensure that development proposals protect the amenity of neighbouring uses and provide a good standard of amenity for future occupiers of the proposed development with attractive, useable and proportionately sized amenity spaces.

Access

12. The Local Highway Authority (LHA) advise that an unobstructed splay of 43 metres at a setback of 2.4 metres is required to provide adequate intervisibility between egressing and approaching drivers and there is no dispute between the parties that this is appropriate.
13. The proposal, as shown in drawings 3953-07-P1-OPT2, 3953-08-P1-OPT2 and 3953-09-P1-OPT2, re-uses an existing vehicular crossover onto the site. The existing access, however, lies adjacent to the access to 67 Kennedy Avenue. Further, the access would be widened, providing a vehicular crossing over a considerable length of footway.
14. The proposal would provide an extended length of dropped kerb. This area would be likely to have an increased camber, which can affect the ability of highway users with a mobility or visual impairment to traverse the area with confidence and comfort.
15. Extended lengths of dropped kerb would also facilitate mounting of the footway by vehicles that may be tempted to avoid giving way to oncoming vehicles by so doing. Whilst such actions can further discomfort vulnerable highway users, I have no substantive evidence before me to suggest that there would be any significant incentive for drivers to act in this way at this location.
16. Further, given the restricted length of additional vehicular access over which these effects would be experienced I do not consider that material harm would result to the safety of highway users.
17. I note the existence of other, historical, vehicular crossings of the footway of a similar, or even greater, overall length which would mean that the proposal would not be unique or unexpected in the area.

² (PINS ref: APP/T3535/W/17/3175988)

18. The drawings show dimensioned visibility splays, however that to the right of the access provides visibility to a point within the plot of 61 Kennedy Avenue, rather than the channel line of the road as required in Manual for Streets, which is the appropriate design standard for such a proposal as this. As such the drawing does not demonstrate that adequate visibility at the access can be provided.
19. Notwithstanding this, the access is an existing one and could be brought back into use. Further, it lies amongst numerous other accesses on the same frontage with similar visibility provision. I have no substantive evidence before me of any highway safety issues associated with these accesses.
20. I therefore conclude that safe and suitable access to the site can be achieved for all users. It would therefore be in accordance with Policies WLP8.33 and WLP8.29 of the Local Plan in as much as these seek, amongst other things, to ensure that safe access is provided which does not generate significant harm to the character or amenity of the area. For similar reasons the proposal would comply with Section 9 of the National Planning Policy Framework -2019- which has similar aims.

Effect on European Protected Sites

21. The site is located within the zone of influence of the Suffolk Coast European Sites. They include areas designated as Special Areas of Conservation (SAC), Special Protection Areas (SPA) and Ramsar Sites (the European Protected Sites) which are European Designated Sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Policy DM27 of the Local Plan seeks to protect such sites from harm and, where necessary, seek mitigation against any adverse effect of development. Within the Local Plan the Suffolk Recreational Disturbance Avoidance and Mitigation Strategy (Suffolk RAMS) incorporates strategic mitigation measures to be delivered to avoid adverse impacts. The appellants have provided a financial contribution towards mitigating the effects of the proposal on the SPAs and SAC. This has been secured by an agreement under Section 111 of the Local Government Act 1972.
22. However, the Court of Justice of the European Union has 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 stage³. This responsibility now falls to me within this appeal. Such an assessment is necessary regardless of the status of the policies of the development plan.
23. Had I been minded to allow the appeal, it would have been necessary for me to seek additional information from the parties and consult Natural England in order to undertake the AA. The AA is required on a case-by-case basis to determine whether or not the project will adversely affect the integrity of the site. It would also have required a consideration of whether or not any proposed mitigation would be adequate, effective, could be appropriately secured and delivered in a timely manner. However, as I am dismissing the appeal for other reasons, I do not need to consider the matter further as it would not change the outcome of this appeal.

³ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

Other Matters

24. I note that the appellants have engaged in a positive dialogue with the Council and the LHA. However, this process, whilst laudable, does not provide a guarantee of success and I have determined the proposal on the basis of its own merits.
25. The proposal would provide an additional dwelling within an existing settlement of a type identified in the Halesworth Housing Needs Assessment as being in demand locally. There is no dispute between the main parties that the proposal site is in a sustainable location and I note the support of Halesworth Town Council for the proposal. The proposal would provide short term support to the local building industry and longer term support to local shops and businesses.
26. Whilst these are positive matters to weigh in the overall planning balance, they are, given the limited scale of the development, not of sufficient magnitude to outweigh the substantial harm caused by the proposal to the character and appearance of the site and the wider area.
27. Whilst the issue of the effect of the site on European Protected Sites remains unresolved the effects could only be, at best, neutral in my considerations.

Conclusion

28. For the reasons given above the appeal is dismissed.

I Dyer

INSPECTOR