



Appeal Decision

Site visit made on 10 August 2020

by S A Schinaia MSc EngD FGS

an Inspector appointed by the Secretary of State

Decision date: 22 December 2020

Appeal Ref: APP/R3515/W/20/3251207
594 Foxhall Road, Ipswich IP3 8NA

- 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 Universal Property Services Ltd against the decision of Ipswich Borough Council.
 - The application Ref IP/20/00016/FUL, dated 8 January 2020, was refused by notice dated 5 March 2020.
 - The development proposed is 'alterations to approved erection of two-storey detached dwelling (approved under IP/19/00438/FUL). Erection of detached bungalow.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development
 - (i) on the character and appearance of the surrounding area;
 - (ii) on the living conditions of neighbouring residents, with regard to outlook, and on future residents, with regard to disturbance and provision of a secure environment; and
 - (iii) on the local designated sites.

Reasons

Character and appearance

3. The appeal site is a rectangular plot of land to the south of Foxhall Road, which is located within a predominantly residential area of Ipswich. The appeal site comprises part of the side and rear garden and storage areas of the donor property at 594 Foxhall Road. The host property has a residential use.
4. The surrounding area comprises low density development with a variety of housing with differing design, size and styles, but predominantly two-storey dwellings in properties characterised by substantial grounds fronting the roadways, with larger side and/or rear gardens.
5. Planning permission was granted for the erection of a detached dwelling and two detached double garages at the rear of the property in 2019¹, the extant permission. The proposed development is to approve changes relating to

¹ IP/19/00438/FUL, date: 2 August 2019.

- landscape and parking to the extant permission, and the erection of a detached bungalow within land to the rear of the property.
6. The rear of the property is bounded and enclosed by high fences with wooden gates on the side access. Within the rear of the property, there was an outbuilding adjacent to the southern boundary and large timber 'lock up' type structures closer to the entrance. Although the evidence provided by the appellant suggests that there were trees within the property, at the time of my site visit, the rear area had been largely cleared to make space for the double garages and was laid to grass.
 7. The proposed bungalow would sit within the rear part of the property with its main rear elevation less than 6 metres from the boundary with 5 Chilton Road and with a height of about 5.1 metres to the ridge of the roof. Even with a high fence enclosing the rear garden, the dwelling would still be particularly visible from neighbouring gardens and from Foxhall Road and would present itself as an imposing feature over neighbouring properties.
 8. The appellant argues that the double garages already permitted at the site will sit much closer to the boundary of 5 Chilton Road, in the region of 2 metres only, and the ridge height in the elevation drawings in the extant permission is 5.45 metres. I do not appear to have the plans for the extant permission, albeit the plan I have² is not fully reflective of the proposed layout, which includes separate garages within the double unit. Nonetheless, I note that the plan referred to as being for the current proposal includes a double garage with a 5.45 metres annotation which, as the Council argue in relation to the extant permission, appears to refer to the height of both the ridge and the eaves, which is illogical. The Council's strong suggestion is that this is a drafting error. In accordance with the Council's position, I also noted that the maximum planned elevation of the garage ridge height, according to scale, would be around 4.5 metres and not 5.45 metres. I further noted that in Final Comments, the appellant has not continued with this height argument, but addressed the overall footprint of the garages.
 9. The appellant also contends that under permitted development rights it is possible to construct a building 4 metres high within 2 metres from a neighbouring boundary. However, these rights are for ancillary buildings, and I find that the proposed bungalow would be taller and with a mass and scale more visible than that of the permitted garages or another form of ancillary development.
 10. The neighbouring property, 596 Foxhall Road, has been recently developed with a similar frontage dwelling to that permitted here and with two double garages to the rear. The two garages rise to a height comparable, if not less than, the garages permitted as part of the extant permission. Furthermore, each block of permitted and neighbouring double garages has a much smaller footprint than the proposed bungalow. Within each block the garages appear as separate buildings as opposed to a single detached dwelling. Therefore, the proposed bungalow, with its different orientation, would have a greater impact than the two permitted garages. As such, it would fail to have a well-designed and sustainable layout and, in my opinion, the bungalow would not sit well or integrate with the surrounding area.

² 19-017-PL-03

11. Furthermore, the proposed development of a bungalow within this backland location would introduce a form of development that would be out of keeping with the surrounding area, which is characterised by open garden land. The gardens within the area typically represent the most substantial part of the surrounding properties and, consequently, are an important feature of the suburban and green character of the area. This verdant and spacious character is specifically addressed for the Heath Road sub area of the 'North East Character Area' in the Ipswich Urban Characterisation Study (2015). This aims for development in Foxhall Road to contribute to the pleasantly landscaped and gardened suburban setting of the larger area.
12. The appellant has brought to my attention two proposals granted on appeal at Heath Lane and Freehold Lane, both in 2017³, which are considered similar to the proposed backland development. However, in both cases the developments are in varied settings of neighbouring buildings with a variety of land uses, which allowed a different approach from this case. The development in Heath Lane is in the Heath Road sub area but the Inspector decided that the dwelling would have not affected the setting of the surroundings properties, which the Council note include terraces which differ from the case before me. In the case of Freehold Lane, this is in a different sub area to the appeal site and I note the Inspector found the generally linear development was altered by the presence of a range of residential buildings of differing heights; this again differs materially from the situation in the appeal before me.
13. The appellant also presented numerous examples of backland development. However, many of these are in other areas of Ipswich with different character and contexts from the appeal site. I note the evidence of the Council that those planning permissions local to the site on Foxhall Road predated current local and national policies. I have assessed this appeal according to its own merits and the current local and national planning policies.
14. For the reasons set out above, I conclude that the proposed bungalow would fail to have a well-designed and sustainable layout and would not integrate within the surrounding sites. Consequently, it would have a significant and harmful impact upon the character of the surrounding area as it would erode the landscaped and garden character that is typical of the suburban setting of the area, as described in the Heath Road sub-area character. As such, the proposed bungalow would not protect and enhance the special character and distinctiveness of the town.
15. Therefore, I conclude that the proposed backland development at Plot 2, would be contrary to Policies DM5 and DM13 of the Ipswich Core Strategy and Policies DPD Review (2017) (DPD) and to 'Heath Road' sub area of the Urban SPD. Policy DM5 of the DPD requires development to be well designed and sustainable, with a specific requirement to protect and enhance the special character and distinctiveness of the town. With regard to design and layout, Policy DM13 of the DPD also requires backland developments to protect the setting of existing buildings and the character and appearance of the area.
16. Furthermore, according to paragraph 70 of the Framework, 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

³ APP/R3515/W/17/3170404 and APP/R3515/W/17/3171978

local area. Therefore, I conclude that the proposed development would be contrary to paragraphs 70 and 122 of the Framework.

Living conditions of neighbouring and future residents

17. The bungalow would rise to a height that would create an increased and overbearing impact on the neighbouring property. I find that although a fence of almost 2 metres has been raised, which may provide privacy, the massing and scale of the bungalow would still create a much greater imposing effect on the neighbouring residents than the permitted garages separately.
18. The proposal would involve the formation of a parking and turning area immediately in front of the proposed bungalow, Plot 2, as well as the formation of a paired double garage.
19. There would be an intensification of activity to the proposed frontage of Plot 2, which would be directly adjacent to a communal parking area serving up to three cars, with no defensible space between the vehicular area and the front aspect of the dwelling, which would include a bedroom and kitchen area. This would include cars not associated with the bungalow itself, and would represent material harm, notwithstanding the appellant's argument that the parking areas in the extant permission would be closer to the rear boundary.
20. Therefore, I conclude that the proposal would lead to harm to living conditions for neighbouring residents, as well as to those of future residents in terms of disturbance from car movement and parking. The proposal would be contrary to Policy DM18 of the DPD, as parking is not well integrated into the design of the scheme to provide secure and convenient facilities and create a safe and attractive environment. It would also conflict with Policy DM13 of the DPD, due to the loss of outlook and the visual amenity of neighbouring properties.

Designated sites

21. The Suffolk Recreation Avoidance Mitigation Strategy ("Suffolk RAMS") identifies that new housing development within a 13km zone of influence ("ZoI") of any designated European site in Suffolk will have a likely significant effect on the interest features of those sites through increased recreational pressure, both alone and in-combination with other housing in the ZoI.
22. The appeal site is not, itself, designated as a site of international, national or local importance to nature conservation but the urban area of Ipswich does fall within the ZoI of the Stour and Orwell Estuaries Special Protection Area (SPA) and the Stour and Orwell Estuaries Ramsar site.
23. To take account of the impact that the proposed development would have, together with other approved developments, a contribution per dwelling is required as mitigation. In absence of such a payment, I am not able to reach a conclusion of "no likely significant effect" whilst ensuring that the delivery of the RAMS remains viable.
24. While I note the appellant suggests that this requirement was not in place at the time of the application, the payment has not been received by the Council and no planning obligation has been submitted with the appeal to deliver this. The proposal is therefore contrary to Policy DM31 of the DPD, which seeks to protect designated sites.

Planning Balance and Conclusions

25. Notwithstanding the Council's latest housing figures associated with the DPD Review⁴, 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.
26. 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.
27. Above I have found that the proposal is contrary to the policies of the local plan and absent a mechanism to secure mitigation measures for biodiversity, according to the Planning Policy Guidance, paragraph 010, which precludes in turn the possibility of securing it through a negatively worded condition, limiting a development from taking place until a planning obligation is submitted for a small dwelling. The harms I have identified significantly and demonstrably outweigh the benefits associated with the delivery of a single additional house in this location.
28. For the reasons set out above, I conclude that the appeal should be dismissed.

S A Schinaia

INSPECTOR

⁴ Ipswich Borough Council Local Plan Review. Topic Paper: Reviewing the Ipswich Housing Figure – Including Addendum June 2020.