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# Appeal Decision

Site visit made on 7 January 2021

**by David Spencer BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 26<sup>th</sup> January 2021**

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**Appeal Ref: APP/X3540/W/20/3258644**

**2 Kents Lane, Bungay NR35 1JF**

- 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 R Youngs against the decision of East Suffolk Council.
  - The application Ref DC/20/1996/FUL, dated 28 May 2020, was refused by notice dated 24 July 2020.
  - The development proposed is full planning permission for the subdivision of the property at 2 Kents Lane, Bungay NR35 1JF, into 2 separate dwelling houses.
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## Decision

1. The appeal is allowed and planning permission is granted for the subdivision of the property at 2 Kents Lane, Bungay NR35 1JF, into 2 separate dwelling houses, in accordance with the terms of the application reference DC/20/1996/FUL, and subject to the conditions in the schedule at the end of this decision.

## Main Issues

2. The main issues in the appeal are:
  - i) the effect of the proposed density and form of the development and proposed arrangement for car parking on the character and appearance of the surrounding area; and
  - ii) whether the proposed development would provide acceptable living conditions for future occupiers, with regards to the provision of private amenity space.

## Reasons

### *Character and Appearance*

3. No.2 Kents Lane is a detached bungalow broadly comparable in its position within its plot to other dwellings in this part of Kents Lane, being set back from the highway with off-street parking and garden to the front of the properties. There is some variety in the appearance and individual layout of the nearby properties on this part of Kents Lane including a modest degree of separation between some of the properties. However, I observed examples of a relative tightness of these single storey properties, including their integral side garages, within their boundaries, notably Nos.4 and 4a Kents Lane adjacent to the appeal site and the new relationship between Nos.5 and 7 Kents Lane, a short distance away. I am also cognisant that a separate dwelling has been

- approved immediately to the north of No.2 on the corner of Kents Lane and Beccles Road which would further reduce spaciousness at the appeal location.
4. The appeal proposal would replace the existing integral side garage and car port structure to form an additional semi-detached single storey dwelling. This arrangement would only moderately alter and enclose the relationship of the existing single storey form at No.2 with the adjacent single storey No.4 Kents Lane. Therefore, whilst the appeal proposal would have marginally lower levels of space around the property compared to the prevailing pattern of development it would not conspicuously appear as a harmfully dense form of development in this part of the town.
  5. The appeal proposal would involve a single centralised point of access providing off-street parking and areas for vehicle manoeuvre to the front of the dwellings. This would replace the existing double width driveway and grassed front garden separated from the footway on Kents Lane by a low brick wall. This proposed arrangement would replicate that found at the recently implemented Nos. 7 and 9 Kents Lane a short distance to the south. It would be also broadly comparable to the extent of off-street parking and hard surfacing to the front of dwellings found at other nearby dwellings on Kents Lane, notably Nos. 4a and 5. Consequently, whilst the proposed arrangement would result in a moderately harmful car dominated appearance in the street scene, it would not be entirely uncharacteristic in this part of Kents Lane.
  6. I therefore conclude that the appeal proposal with regards to the density and form of the development would not result in significant harm to the character and appearance of the surrounding area. The proposal would therefore accord with the 2019 adopted Waveney Local Plan (WLP) Policies WLP8.29, WLP8.32 and WLP8.33 in terms of appropriately responding to the local context and being of an appropriate density.
  7. Whilst the proposed extent and layout of off-street parking to the front of the dwellings would be contrary to the relevant requirement of Policy WLP8.29 to avoid the perception of a car dominated environment, the presence of comparable arrangements in the vicinity of the appeal site, particularly that recently developed at Nos.7 and 9 Kents Lane, are a notable material consideration indicating that any harm from this aspect of the appeal proposal to the appearance of Kents Lane would be no more than moderate. Overall, the proposal would accord with paragraphs 122 and 127 of the National Planning Policy Framework (NPPF) on making appropriately efficient use of land and good design.

### *Living Conditions*

8. No.2 Kents Lane is a detached bungalow centrally positioned within its plot, such that there is moderate area of garden and driveway to the front of the property and a slightly smaller area of private garden space to the rear of the dwelling. Under the appeal proposals the garden space to the front of the property would be given to parking for vehicles such that there would be a reliance on the proposed garden areas to the rear to provide the amenity space for the proposed two-bedroom dwellings. The appeal proposal would remove existing alterations to the rear of the property, such that the altered footprint of the proposed dwellings, including the very modest rear extension, would allow for more cohesive and functional rear garden areas.

9. The overall depth and area of the rear garden areas the proposed dwellings, when allowing for potential secure cycle storage, would be of a sufficient size for the intended scale of occupation for activities such as private relaxation and basic play provision for children. They would be broadly comparable in scale to the recently implemented arrangement nearby at Nos. 7 and 9 Kents Lane, which I was able to observe from the slightly higher Hillside Road East.
10. I note that the LPA measures the plot area and available amenity areas to be larger at Nos.7 and 9 compared to the appeal proposal. However, even using the LPAs figures, the differences to the appeal scheme would be marginal, such that I attach appreciable weight to the material consideration that the LPA has relatively recently approved a similar level and dependency of rear private amenity space nearby in Kents Lane. I also give weight to the fact that the rear of No.2 has an attractively open outlook over adjacent meadows to the west in contrast to the more hemmed-in aspect at the rear of Nos.7 and 9.
11. I therefore conclude that the appeal proposal would provide acceptable living conditions with regard to the provision of private amenity space for future occupiers of the appeal proposal. The proposal would therefore accord with WLP Policy WLP8.33 in terms of providing useable and proportionately sized amenity spaces, as well as NPPF paragraph 127(f) on standards of amenity.

#### *Other Matters*

12. The appeal proposal was accompanied by a Flood Risk Assessment (FRA) which identifies that the site is in Flood Zone 1 and therefore at a very low risk of flooding. The FRA does acknowledge that the appeal site would be partially located within the 100-year surface water flood extents and therefore would be at a 'Low to Medium risk' of flooding from this source. However, the existing floor level of No.2 is shown in FRA to be sufficiently elevated to be unaffected during surface water flooding events up to the 1000-year event. I note the submissions that in combination with the separately approved dwelling to the north, the area of permeable surface around No.2 would be reduced, but I am not persuaded that subject to the mitigation measures identified in the FRA that there would be an increased risk of surface water flooding to occupants of the appeal dwellings or adjoining properties. I therefore conclude that subject to a condition ensuring the recommended FRA mitigation is secured, the appeal proposal would accord with WLP Policy WLP8.24 on flood risk. There is no persuasive evidence before me that sewerage capacity is so severely restricted in Bungay that permission should be refused on this basis. Any connection into the available system would be a matter for the appellant and Anglian Water outside of the planning process.
13. The appeal proposal, including a side pedestrian access to the rear amenity area, would be close to the boundary with No.4 Kents Lane. Given the proposed opening at the rear of the property directly onto the rear garden area I do not consider the side pedestrian access would be a much-used feature. Additionally, there are no openings proposed on the nearest side elevation facing towards No.4. The appeal proposal would be separated from No.4 by an existing mid-height close board timber fence along the boundary together with the existing open side area to No.4. Consequently, there would be no significant harm to the living conditions of the occupiers of No.4 and that it would not be necessary to stipulate a taller boundary fence to make the appeal proposal acceptable in planning terms.

14. Kents Lane provides a cut-through from Beccles Road to Hillside Road East as well as the means of accessing housing on Farm Close. It is a typical suburban street and not a main thoroughfare. It is of reasonably straight alignment with street lighting and within a 30mph speed limit. Whilst the highway slightly narrows at the appeal location there is nothing to suggest that additional vehicle movements arising from the appeal proposal would have a severe effect on highway safety, including pedestrians using the reasonable footway adjacent to the appeal site. In coming to this view, I attach significant weight to the lack of objection from the local highway authority.

### **Conclusion and Conditions**

15. Overall, I have found the proposed layout and altered form to create an additional dwelling would not result in any significant harm to the character and appearance of the surrounding area. The proposed private amenity areas for both dwellings, whilst modest, would be sufficient. On this basis the appeal proposal would accord with the development plan. I have found that there would be moderate harm arising from the appearance of the off-street parking to the front of the dwelling contrary to the development plan. However, this limited degree of harm needs to be considered against the fact that comparable arrangements of off-street parking to the front of dwellings exist and have recently been approved elsewhere in Kents Lane. I also find the modest level of harm identified would be outweighed by the appreciable benefits of the efficient use of land, a diversification of housing stock (including smaller units) and the delivery an additional dwelling to meet housing need in a highly sustainable location where there are no other harms.
16. I have taken into account all other matters raised, but there is nothing that leads me to conclude other than that the appeal should be, on balance, allowed for the reasons given. The LPA has suggested a number of proposed conditions which it considers necessary were the appeal to be allowed. I have considered the suggested conditions in light of the content of the Planning Practice Guidance on the use of conditions and the guidance at paragraph 55 of the NPPF and where necessary amended the wording slightly for comprehension.
17. In addition to the standard time limit condition, a condition requiring the development is carried out in accordance with the approved plans and the appellant's submitted FRA is needed in the interests of proper planning and for the avoidance of doubt. Given the specified detail on the approved plans a further condition requiring external materials to match those of the existing building would not be necessary to ensure a satisfactory appearance. Whilst the PPG<sup>1</sup> cautions against the removal of permitted development rights, I am satisfied given the particular constraints at the appeal site and the moderate level of resulting amenity space (including any deductions for secure cycle storage), it would be necessary in this instance to remove those permitted rights related to extensions, alterations and ancillary structures within the curtilage. I have imposed a condition accordingly in the interests of maintaining the character of the area and suitable living conditions for future occupiers.
18. A condition requiring the new access is implemented to the required standard and the existing access stopped up and for these arrangements to be maintained is necessary to ensure highway safety. The reference in the condition to drawing DM.03 is of the standard layout for domestic vehicular

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<sup>1</sup> Paragraph: 017 Reference ID: 21a-017-20190723

access which the local highway authority considers to be necessary. To maximise the sustainable location of the site and encourage non-car modes a condition requiring details of secure parking for cycles would be necessary in accordance with WLP Policy WLP8.21. Additionally, a condition requiring details of bin storage would be necessary for both maintaining the appearance of the area and highway safety.

*David Spencer*

Inspector.

### **Schedule of 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: 1835 PL 100 Rev E (Site and Location Plans); 1835 PL 201 Rev C (Proposed Floor Plans); 1835 PL 202 Rev C (Proposed Elevations); 1835 PL 203 Rev C (Proposed Elevations); and the Flood Risk Mitigation Measures within the Flood Risk Assessment dated May 2020.
- 3) The access shall be completed in all respects in accordance with Drawing DM.03 with an entrance width of 4.5m and be available for use before occupation. Thereafter it shall be retained in its approved form. At this time, all other means of access within the frontage of the application site shall be permanently and effectively "stopped up" in a manner which previously shall have been approved in writing by the Local Planning Authority.
- 4) Before the development is occupied details of secure covered cycle storage shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.
- 5) Before the development is occupied details of the areas to be provided for storage and presentation of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (As amended) (or any order revoking and re-enacting that Order) (with or without modification), no building or structure permitted by Classes A (extensions or alterations), B (changes to the roof) or E (buildings or enclosures within the curtilage of the house) of Schedule 2 Part 1 of the Order shall be erected without the submission of a formal planning application and the granting of planning permission by the Local Planning Authority.

Schedule Ends.