



Appeal Decision

Site visit made on 14 December 2020

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: Tuesday, 26 January 2021

Appeal Ref: APP/X3540/W/20/3255467

1 Holly Lane, Little Bealings IP13 6PW

- 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 Terence Doman against the decision of East Suffolk Council.
 - The application Ref: DC/20/1471/FUL, dated 8 April 2020, was refused by notice dated 10 June 2020.
 - The development proposed is described as 'erection of a self build three bedroom detached dwelling and detached garage and store within garden amenity land'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The East Suffolk Council Local Plan (SCLP) was adopted by the Council on the 23 September 2020 and replaces, in their entirety, the Suffolk Coastal District Local Plan – Core Strategy and Development Plan Document (July 2013)(CS) and the Suffolk Coastal District Local Plan – Site Allocations and Site Specific Policies Development Plan Document (January 2017)(SASSP). Accordingly, I have determined this appeal with regards to the SCLP (2020).
3. The Council's reasons for refusal included a number of main issues. With regard to the first reason for refusal this concerned the suitability of the location for the proposed development having regard to the settlement strategy and the accessibility of services and facilities. The appeal site lies outside of the defined settlement boundary of Little Bealings in an area designated as countryside and where new residential development will be strictly controlled.
4. However, SCLP Policy 5.3 is permissive of certain types of development within the countryside. As the proposal would satisfy the requirements of infill development and housing in clusters within the countryside, the Council concede that the proposal could meet the SCLPs strategy for development within the countryside and it confirms that it no longer wishes to contest the appeal scheme on the basis of the principle of the development. In this respect, the scheme could accord with the provisions of SCLP Policies 5.3 and 5.4. Nevertheless, SCLP Policy 5.4 also requires a new dwelling not to result in, among other things, harmful visual intrusion into the surrounding landscape. This matter is considered further below.

Main Issues

5. The main issues are:-

- i) the effect of the proposal on the character and appearance of the area, including its effect on trees;
- ii) the effect on the living conditions of existing and future occupants with particular regard to outlook and privacy; and
- iii) whether adequate mitigation would be made for the potential impacts of the development on the Special Protection Areas (SPAs) and Ramsar of Stour and Orwell Estuaries and Deben Estuary.

Reasons

Character and appearance

6. The appeal site is a roughly rectangular, flat, undeveloped area of maintained garden land that serves No 1 Holly Lane. Although the site is contained by built form to three of its sides, it is largely open along its rear boundary with agricultural land and countryside positioned beyond it. It consists of several mature trees of a variety of species and sizes that largely screen the site and soften the transition between open countryside and the urban edge of settlement location. The trees are visually prominent in views from the wider countryside and from the highway on approach from the north-east from where they are read as having significant amenity value as a group and make a positive contribution to the verdant and semi-rural character of the area.
7. The proposal would introduce a detached dwelling, garage and associated parking and turning areas. Albeit the overall design and appearance of the proposed dwelling would not unduly harm the character and appearance of the area, the Council's concerns relate to the loss of trees on the site to facilitate the development.
8. Notwithstanding the appellant's comments that the majority of the existing trees would be retained, the submitted plans do not reflect this. Moreover, whilst the proposed footprint of the dwelling would not be positioned in such a way as to necessitate the removal of any tree, it would nonetheless be situated in close proximity to these trees. Reference has been made to the declining health of a number of trees, however, there is no substantive evidence before me to demonstrate that any tree would be unlikely to survive on site for many years. Similarly, in the absence of convincing evidence, I cannot be certain that the long-term health of the existing trees would not be unduly compromised as a result of incursion of construction activities within the root protection areas of these trees.
9. I note that the trees are not presently subject to a tree preservation order and could be removed by the appellant at any time. However, I am required to consider this appeal on the basis of the facts that are present at the time of making my decision. Given the existence of the trees, to my mind, their loss would have a significant adverse impact on the character and appearance of the area.
10. I have given consideration to whether an appropriately worded condition could be imposed upon any grant of planning permission to require a tree survey and

impact assessment prior to the commencement of development and to secure a scheme of protection and maintenance. However, there is no clear evidence before me to demonstrate that tree protection methods would be capable of being implemented nor that they would adequately prevent adverse harm to the health of any tree. In this instance, a precautionary approach is appropriate as these matters should be addressed and considered at this stage and not by means of the imposition of a planning condition.

11. Therefore, on the basis of the evidence before me, the proposal fails to demonstrate that there would not be an unacceptable harmful effect on the health and long-term viability of trees which would result in undue harm to the character and appearance of the area. The proposal would conflict with SCLP Policies 11.1, 10.4 and 12.34 insofar as they require development to respond appropriately to important landscape features and protect and enhance the special qualities and features of an area and the visual relationship and environment around settlements.
12. The proposal would also fail to accord with SCLP Policies 5.4, 5.7 and 5.9 which, among other things, require new housing to be well designed. It would be contrary to the aims of the National Planning Policy Framework which requires development to be sympathetic to its landscape setting.

Living conditions

13. The side wall of the proposal would be positioned some 23 metres in front of the rear elevations and private amenity areas of Nos 1 and 2 Holly Lane, taking the appellant's measurements, which have not been disputed by the Council. It has not been put to me that any local separation distances would be breached by the scheme. Albeit the outlook from those dwellings would inevitably change, given the distances involved it would not appear oppressive, visually intrusive nor have a significant enclosing effect. The proposal would not unduly compromise the outlook of neighbouring occupiers.
14. However, there would be first floor windows within the side elevation. Views from these windows would be towards Nos 1 and 2 Holly Lane. Whilst obscure glazing and non-opening windows could overcome the problem, this is not an appropriate solution for a bedroom window from which the room would derive its only source of light and outlook. Although there is some degree of mutual overlooking between houses and gardens in the area, the proposal would result in a direct line of sight from the proposed bedroom window. This would significantly alter the level of privacy experienced by the occupants of the neighbouring dwellings. The level of harm would materially compromise the living conditions of existing occupants of Nos 1 and 2 Holly Lane.
15. A sizeable tree positioned within the rear garden of No 1 Holly Lane could minimise the impact on overlooking in between the existing and proposed dwellings. However, I do not consider this to be an appropriate solution, particularly given that seasonal changes would affect the ability of foliage to provide year-round cover and it may at some future date be removed.
16. In addition, notwithstanding the inclusion of a new fence along the common boundary, the proposed outdoor private amenity area would be capable of being directly overlooked from the upper floors of No 2 Holly Lane. This would result in an unacceptable degree of overlooking thus impacting privacy and

failing to provide an acceptable outdoor amenity space for the future occupiers of the proposed dwelling.

17. Whilst I have found the proposal would maintain an adequate level of outlook for the occupiers of existing dwellings, the scheme would result in an unacceptable standard of living conditions for the existing occupants of Nos 1 and 2 Holly Lane and the future occupants of the proposed dwelling with regards to overlooking and privacy. It would conflict with SCLP Policy 11.2 insofar as development should not cause an unacceptable loss of amenity for existing or future occupiers.

Special areas of protection

18. The appeal site is located within the zone of influence of the Stour and Orwell Estuaries and Deben Estuary SPAs/Ramsar. The proximity of these European sites means that determination of the application should be undertaken with regard to the requirements of the Habitats Regulations 2017. Mitigation would be required in respect of the increased recreational disturbance on the integrity of habitats sites. The Suffolk Coast Recreational Avoidance and Mitigations Strategy provides strategic mitigation measures to address this impact.
19. During the course of this appeal, the appellant asserts that a Section 111 financial contribution has been made to the Council. I have been provided with a receipt by the appellant however, it is not clear to me whether this financial contribution would have adequately mitigated any harm to the SPA/Ramsar.
20. In any event, as the appeal is failing because of the harm which has been identified in relation to the other main issues, it is not necessary for me to come to a conclusion on the mitigation. The development is not going ahead and therefore any harm to the SPA/Ramsar would not occur. Therefore, I do not need to give any further consideration to this matter in this appeal.

Other Matters

21. No harm has been identified by the Council with regards to the proposal being visually intrusive within the streetscene, highway safety, parking nor any undue loss of light. However, the absence of harm is a neutral factor that weighs neither for nor against the proposal.
22. The proposal would make use of under-utilised land and contribute a family dwelling towards housing supply. Whilst I recognise the government's aim to significantly boost housing supply, one additional dwelling and its associated benefits would be very limited in scale.
23. There is no evidence before me to demonstrate an increase in biodiversity.
24. Reference is made to a number of appeal decisions in support of the appellant's case. However, these largely concern the relevance and applicability of policies of the CS and SASSP that have been superseded. As such, they are of limited relevance in my consideration of this appeal.
25. The appellant has drawn my attention to a previous appeal decision at The Orchard¹. I have little information relating to the particular circumstances of this development and whether the circumstances are therefore comparable to the appeal proposal. As such, a comparison is of limited relevance in this

¹ Appeal Reference: APP/J3530/W/17/3191232 – The Orchard, Holly Lane, Little Bealings

instance and I have considered the appeal before me on its individual planning merits.

26. The appellant points out that the SCLP supports the provision of self-build homes. Government policy is also strongly supportive. However, there is no evidence before me that supports the proposal would be self-built. In the absence of such evidence, there would be no restriction preventing the scheme from evolving into a different type of development. I therefore attach minimal weight to this benefit of the proposed scheme.

Conclusion

27. For the reasons given above, the appeal is dismissed.

E Brownless

INSPECTOR