



Appeal Decision

Site visit made on 15 December 2020

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th February 2021

Appeal Ref: APP/F3545/W/20/3254215

44A Queens Road, Bury St Edmunds IP33 3EP

- 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 Mrs Doreen Rogers against the decision of West Suffolk Council.
 - The application Ref DC/19/0269/FUL, dated 11 February 2019, was refused by notice dated 20 March 2020.
 - The development proposed is described as the "construction of two, 4-bedroom detached dwellings and the provision of four car parking spaces accessed via a new vehicular access into the site from Queens Road, together with landscape improvements across the site."
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues in this appeal are:
 - whether the development would preserve or enhance the character or appearance of the Victoria Street Conservation Area, with particular regard to trees on the site; and
 - the effect of the development on local biodiversity.

Reasons

The Victoria Street Conservation Area (VSCA)

3. The site lies within the VSCA and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker to pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Therefore, in undertaking this duty, I have based my assessment on the evidence presented before me and the observations I made during my site visit.
4. The appeal site forms a woodland area that contains a large number of trees and lies to the rear of a row of properties that form 35 to 44A Queens Road. The VSCA has a pleasant suburban character, with Queens Road and the surrounding area typified by its predominantly residential nature. The area has a close knit character which is reflected in the short terraces of properties that are interspersed with groups of semi-detached dwellings and arranged in a linear manner with principal elevations facing onto the road. Properties tend to

benefit from long rear gardens which, on the whole, contain domestic structures such as sheds and outbuildings. Nevertheless, the garden areas add to the overall openness to the rear of properties and together with the appeal site, provide a sylvan and verdant feature that contributes to the significance of the VSCA.

5. The proposal seeks to erect two detached dwellings that would be sited to the rear of properties that comprise 35 to 43 Queens Road. The dwellings would be part single storey and part two storey and sited opposite one another, with private garden areas provided to the north of each unit. An existing access between 38 and 39 Queens Road would be utilised as a pedestrian route into the site with an entrance between 44a and 46 Queens Road utilised as a new access for vehicles, with four parking spaces provided within the site.
6. The appellant provided an arboricultural report (AR)¹ in support of the application which states that a total of 30 trees and the part removal of two groups of trees within the site would be removed. The trees for removal have been identified within the AR as category 'C' (low quality trees) and category 'U' (trees in such a condition that it cannot realistically be retained). It is also stated that it is proposed to plant an additional 30 trees, resulting in no net loss across the site.
7. The Council argue that taking into account the two groups to be partly removed, a larger number of trees would be felled. However, despite this conflict it is clear from the appellant's statement that 43% of the site would be retained as a woodland following the removal of trees to facilitate the development. Although I have carefully considered the appellant's AR, I am not persuaded that retaining tree cover on the perimeter of the site would compensate for the loss of so many trees within the centre of the site nor negate the impact of the development on the verdant character that the appeal site possesses, and one that contributes towards the significance of the VSCA.
8. I have carefully considered the appellant's Heritage Statement² and Townscape and Visual Appraisal³. However, the less formal arrangement which exists between the linear development and the cemetery is unlikely to remain following the construction of the dwellings, which would be clearly seen through the tree cover from the cemetery and from surrounding properties to the east on Cherry Tree Close and from paths within the cemetery to the south. Moreover, their visibility would be exacerbated during the winter months when the trees would no longer be in full leaf and at night when the interior of the dwellings is likely to be illuminated.
9. Furthermore, along with the visual impacts of the proposal it is also necessary to consider the effects of the residential use of the site. This would include matters such as vehicle movements and parking associated with the development, fencing, domestic cultivation, and items such as garden furniture, external lighting and washing lines for each new dwelling, which would have a suburbanising effect. Although the appellant argues that domestic paraphernalia would be sited towards the northern boundary of the site, there is nothing restricting future occupiers from using the woodland area

¹ Tim Moya Associates, Ref: 170705-PD-11a dated January 2019

² Heritage Statement THA Ref: 2019/5327 dated January 2019

³ Townscape and Visual Appraisal Ref: A217-AS01A dated 21 January 2019

between the proposed dwellings and the cemetery as amenity areas nor any method before me that would enable the Council to control such matters.

10. Moreover, notwithstanding that only the pedestrian access would go through the woodland and that the gardens would be to the north of the development, this does not overcome the physical realities that the central part of the woodland would be cleared of trees to make way for two substantial four bedroom dwellings with formalised gardens and pathways. The removal of such a large number of trees from within its central core to facilitate the development would increase the exposure of the site and the proposed dwellings. Furthermore, the extent of the accesses into the site would emphasise the detachment of the dwellings from the frontage development that prevails in the area.
11. Additionally, having viewed the site from the cemetery I remain unpersuaded that being set back some 14m would result in sufficient distance to shield the development from views from the cemetery. Whilst the trees may also be afforded some level of protection as they are located within a Conservation Area, I have not been presented with a scheme to control the management of the woodland by the occupants of the dwellings. Furthermore, the proposed landscaping would take a considerable time to become effective, and there is no guarantee that it would remain in perpetuity.
12. I also acknowledge the trees to be removed are within the lower categories and are mainly within the centre of the site where the dwellings would be located. However, the trees as a collection contribute towards the verdant character that the site possesses and one that contributes towards the setting of the VSCA. Although the surrounding area is largely suburban in character, the appeal site provides an area of verdant undeveloped land that sits between the rear of the dwellings on Queens Road and the large suburban cemetery to the south. The development would ultimately erode the sylvan qualities of the site, which contribute towards the setting of the VSCA, to such a degree that its significance would ultimately be diminished and would result in the loss of a valued parcel of undeveloped land and would suburbanise the site, to the detriment of the character and appearance of the VSCA.
13. Consequently, the proposed development would fail to preserve or enhance the setting and the significance of the designated heritage asset. Given the size of the VSCA, I find the harm identified to be less than substantial. Accordingly, the Framework requires at paragraph 196 that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
14. Although the harm is less than substantial, it should not be treated as a less than substantial objection to the proposal. I find the harm to the significance of the heritage asset to be appreciably greater than the perceived public benefits advanced at paragraph 5.6 of the appellant's statement such as the replacement of low and poor quality trees within the site and biodiversity enhancements. In addition, planning is concerned with land use in the public interest and there is little substantive evidence before me that appropriate enforcement action could not resolve matters such as anti-social behaviour which may take place at the site.

15. Therefore, whilst I acknowledge the benefits of the development, they can only be afforded limited weight in support of the appeal and do not overcome the great weight the Framework states at paragraph 193 must be given to the conservation of a heritage asset. Thus, I am not persuaded that they would outweigh the harm that I have identified above. It would be in conflict with Policies DM2 and DM17 of the West Suffolk Council Joint Development Management Policies Document 2015 (the JDMPD) and paragraphs 194 and 196 of the Framework, which seek, amongst other things, that developments preserve or enhance the character and appearance, and the setting, including views in or out of, a conservation area.

Local Biodiversity

16. Policy DM11 of the JDMPD states that development that would have an adverse impact on protected species will not be permitted unless there is no alternative and the Council is satisfied that measures have been taken to reduce disturbance and maintain the species population identified on site, or adequate alternative habitats to sustain the current levels of population. In addition to the Conservation of Habitats and Species Regulations 2010 (as amended), Policy DM11 also refers to species within the Suffolk Biodiversity Action Plan, in which hedgehogs are noted.
17. The site is situated between residential properties to the north and the cemetery to the south, which is also designated as a local wildlife site. The appellant provided an Ecological Report (ER) in support of the planning application which makes several recommendations and notes that significant numbers of hedgehogs have been recorded within 2km of the site, with nine records of the animal returned for properties on Queens Road. It is evident therefore, that as an optimal habitat for hedgehogs, Policy DM11 of the JDMPD is relevant in this case.
18. The ER states that the overall impact on hedgehogs in the local area is unlikely to be significant, as the proposed garden areas will also provide a suitable habitat for hedgehogs. Recommendations within the ER are to ensure that occasional holes are provided within fences to allow movement between gardens and it is possible that hedgehog habitat could be improved through the installation of log/brush piles being provided within shaded and undisturbed locations within the site.
19. However, the areas for the installation of such piles has not been identified by the appellant. Additionally, from the information before me, it has not been adequately demonstrated that there are locations for piles within the site that would not be in close proximity to a dwelling, its garden area, the pedestrian and vehicle accesses or the proposed footpath leading from the car parking area to the dwellings which crosses the rear of the site. Furthermore, I have no information before me of suitable nearby sites for the translocation of hedgehogs should they be found during the removal of dense brash and scrub.
20. Moreover, given the location of the development within a woodland, it is highly probable that external lighting would be required in order to navigate from parking areas and the pedestrian access at night, and during the winter months. In addition, although hedgehogs have been recorded within the garden areas of properties on Queens Road that back onto the site, those gardens are of a sizeable depth in comparison to the proposed dwellings. Therefore, whilst I accept that the proposed gardens would be wider than

adjoining ones to the north and could contain gaps to allow hedgehogs to move between areas, I remain unpersuaded that the development would not result in a fragmented environment that would harm the population of hedgehogs currently utilising the appeal site or that such matters should be the subject of a planning condition.

21. Thus, the development would result in harm to biodiversity, especially hedgehogs, on the site. It would be in conflict with Policy DM11 of the JMDPD and paragraph 170d of the Framework which seek, amongst other things, that developments do not have an impact on species protected and listed within the Suffolk Biodiversity Action Plan.

Other Matters

22. I acknowledge that, despite their spatial shortcomings, the design of the proposed dwellings is acceptable and that suitable materials could be employed. Additionally, although I acknowledge that the retention of a gate at the entrance to 44A Queens Road could restrict views into the site, there would not be a practical way of enforcing such a condition to ensure that, when not in use, the gate is closed. Moreover, the gate would not restrict views of the site from other vantage points such as the cemetery.

Conclusion

23. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is dismissed.

Graham Wyatt

INSPECTOR