
Appeal Decision

Site visit made on 17 November 2020

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th February 2021

Appeal Ref: APP/R3515/W/20/3246892

Land Adjacent to 'Dickson House', 43A Woodbridge Road East, Ipswich, Suffolk IP4 5QN

- 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 Simon Anderson, SDA Property Solutions against the decision of Ipswich Borough Council.
 - The application Ref 19/00910/FUL, dated 9 October 2019, was refused by notice dated 15 January 2020.
 - The development proposed is described as erection of two storey detached building to accommodate 4 no single bedroom, 1 person self-contained flats. Provision of car parking spaces, courtyards/amenity areas and other external works.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Subsequent to the Council's decision it adopted the Suffolk Coast Recreational Avoidance and Mitigation Strategy (RAMS). This 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. The appeal site falls within the ZoI of the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site.
3. To take account of the impact that the proposed development would have, together with other approved developments, the RAMS requires a contribution of £121.89 per dwelling towards the provision of access mitigation measures in respect of the European sites. No evidence has been provided to indicate that this payment has been received by the Council and no planning obligation has been submitted with the appeal to deliver this. I return to this matter later.

Main Issues

4. The main issues are whether or not the proposed development would provide (i) satisfactory living conditions for future occupiers with particular regard to privacy, outlook, odour and noise and disturbance; and (ii) a safe and convenient means of access.

Reasons

5. The appeal site comprises a vehicular parking area located to the rear of a parade of shops and other commercial properties on Woodbridge Road East. Residential properties are located above the commercial units and Dickson House (DH) a former office building, now converted to four one bedroom flats, is located adjacent the appeal site. Vehicular access to the appeal site would be via an existing driveway which passes between a gap in the parade. It currently provides access to the site, DH, and to the service road associated with the frontage properties.
6. The appeal proposal seeks the erection of a two storey building comprising four, one bedroom, single person flats. The proposal would include the provision of 8 car parking spaces, cycle storage for 8 bicycles, an amenity area and enclosed bin compound, all to be shared equally between DH and the appeal building. The principle elevation of the appeal building would face the side elevation of DH which contains the entrance to three of its flats. There would be a separation distance between these elevations of approximately 5.3 metres.
7. There would not be direct intervisibility between the appeal building and DH at first floor level. However, at ground floor, the living room window of one of the proposed flats would be directly opposite the kitchen window of one of the units within DH. Given the close proximity of these opposing windows a significant level of overlooking would occur. As this would be the only window serving the living/dining and kitchen area of this proposed flat, this arrangement would not provide a satisfactory level of privacy for its future occupants.
8. In addition, the flank wall of the proposed bin compound would be in very close proximity to this window, dominating its outlook. This relationship, in conjunction with the limited separation distance between the buildings, would result in severely restricted outlook from this living area. In this respect the development would be cramped. Consequently, the living conditions of future occupants of this flat would not be satisfactory, with regard to privacy and outlook.
9. The appeal proposal has not been supported by a noise assessment. Even though reference has been made to a noise assessment being considered by the Council, this was undertaken and submitted to the Council in respect of the residential conversion of DH. Nevertheless, I accept that the general level of background noise of the area that would be likely to be experienced by future occupants of the appeal flats is unlikely to be significantly different from that assessed with regard to the occupants of DH. I further accept that the area comprises a mix of commercial and residential uses and therefore the principle of additional residential units in this area is not unacceptable. However, I have no substantive evidence before me to demonstrate that future occupants of the appeal building would be protected from unacceptable levels of noise and disturbance resulting from the design specifics of the appeal scheme.
10. I note that the Council's Public Protection Officer requested a noise survey detailing internal and external sources of noise, proposed extract ventilation and proposed mitigation materials and how these would control or offset background noise. In the absence of such detailed information assessing this particular proposal, including the potential noise impacts of the proposed parking arrangements and the location of the bin storage area immediately

- adjacent to habitable rooms of one of the proposed flats and within close proximity to other units, I do not consider that it can be determined, with any degree of certainty, that the proposal would provide satisfactory living conditions for future occupiers with regard to noise and disturbance.
11. Whilst the internal layout could be 'flipped' thereby moving the bedroom away from the bin store, there would still be the potential for noise and disturbance within the main living area of this flat, and within the flat above, given their relative positions with the bin storage and car parking areas.
 12. Although the occupants of the first floor bedroom at the front of the building would be somewhat protected from potential odour from the bin store by the use of a rooflight, rather than a window in the elevation, this design feature does not take account of the position of the bin store in relation to the ground floor flat. The bin compound would be in very close proximity to the only window serving the living/dining and kitchen area of this flat. The time of the year when future occupiers would be most likely to want to be able to keep this window open would be during the hottest months, when any odour from the stored waste would be at its most pungent.
 13. The appellant argues that the bin store would be built with a roof and louvre doors to stop odours. However, the proposed plans do not include a roof to this area. There is, therefore, potential for odour from the refuse bins/area to have an adverse and detrimental impact upon the living conditions of future occupiers of this ground floor flat, given the proximity of the bin store to the only window of the main living area within this flat.
 14. The Highway Authority has not raised objection to the proposal; however, the Council is concerned with the potential conflict between users of the appeal site and users of the service road, rather than matters that would affect the public highway. The appellant states that the commercial owners have no right of access over the appeal site and that he could construct a wall or fence on the appeal site land at any time without permission. As the erection of such a wall or fence would prevent occupiers of DH accessing their parking areas, I do not consider this a reasonable suggestion. I have no reason to question the rights of access over the appeal land, however, I saw on my site visit that vehicles accessing the rear of the commercial properties were using part of the vehicular access at the side of DH when they were turning round, due to the restricted width of the service road.
 15. As the appeal site does not include the whole of the service road, it is clear that third party land would also be required in order to access and egress some of the proposed parking spaces. The proposed changes to the parking arrangements of DH would result in more parking at the front of the building than the current layout, thus introducing greater likelihood of conflict. This is the case, even when taking into consideration the possibility that many of the occupiers of DH and the proposed development may not own a motor vehicle, and the reduction in vehicular movements at the site, when compared with its previous commercial use. Inevitably there would be occasions when inconvenience and possibly the safety of users of the appeal site and other users of the service road would occur. It has not been satisfactorily demonstrated that the proposed access and parking arrangements would be able to function in a safe and convenient manner.

16. I therefore conclude that the proposed development would not provide acceptable living conditions for its future occupiers in respect of outlook, privacy, odour and noise and disturbance, and would not provide a safe and convenient means of access. Thus, it would be contrary to Policies DM5 and DM13 of the Ipswich Borough Council Local Plan Core Strategy and Policies Development Plan Document Review 2017 (LP) which together and amongst other matters require development to be well designed, to function well and to have a safe and convenient means of access. For the same reasons the proposal would fail to adhere to the guidance contained within the National Planning Policy Framework (the Framework).

Other Matters

17. I note the appellant's evidence regarding the engagement with the Council's planning officers, the withdrawal and amendment of an earlier scheme, and the favourable recommendation made by officers to the planning committee. However, the Council was entitled to make a decision on the application contrary to the officer recommendation, thus this consideration has had no bearing on my decision.
18. I note the lack of objection from the Council's waste management officer and other statutory consultees; however, this does not alter my conclusions in respect of the main issues.

Planning Balance

19. On the 19 January 2021 the Government published the 2020 Housing Delivery Test (HDT) results which identify Ipswich Borough Council as an authority where the presumption in favour of sustainable development should be applied. I have had regard to this information, but as it is common ground that the Council cannot demonstrate a five year supply of deliverable housing sites and paragraph 11 d) of the Framework is already engaged, it has not been necessary for me to seek further comments on this matter. Although the parties do not specify the size of the recognised shortfall, given the consequence set out in the HDT I consider it to be substantial.
20. The Framework makes it clear that due weight should be given to Local Plan policies according to their degree of consistency with the Framework. The Framework considers good design to be a key aspect of sustainable development and expects development to function well and to provide a high standard of amenity for existing and future users. Even taking account of the objective of significantly boosting the supply of housing and the Council's housing land supply position, the conflict between the proposal and LP Policies DM5 and DM13 should, therefore, be given significant weight in this appeal.
21. Set against the harm identified there would be modest social and economic benefits associated with the proposal. The delivery of 4 single person flats would make a meaningful contribution to the overall supply and mix of housing in a sustainable location. I afford this benefit moderate weight.
22. There would be economic investment and therefore benefits resulting from both the construction and subsequent occupation of the proposed development. I afford these benefits modest weight commensurate with the scale of development proposed. The proposal would be high density, making use of

previously developed land and would be able to be built out quickly. I afford these benefits moderate weight.

23. Matters where the proposal complies with the LP Policies and building to current building regulation requirements are neutral in the planning balance.
24. Consequently, even if I found that the shortfall in housing land supply was very substantial, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply. The proposal would be contrary to the development plan and this conflict is not outweighed by other material considerations including the Framework.
25. It is, therefore, not necessary that I consider the effect of the proposal on European sites, as such an assessment would have no bearing on my decision. Should I have found the proposed development acceptable, it would have been necessary for me to give further consideration to the impact upon European sites in accordance with the Habitats Regulations.

Conclusion

26. For the reasons above the appeal is dismissed.

S Tudhope

Inspector