

Appeal Decision

Site visit made on 9 February 2021

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 February 2021

Appeal Ref: APP/X3540/W/20/3263548

130 Mill Lane, Felixstowe IP11 2LL

- 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 LKM Properties Ltd against the decision of East Suffolk Council.
 - The application Ref DC/20/2452/FUL, dated 2 July 2020, was refused by notice dated 16 September 2020.
 - The development proposed is the erection of a single-storey dwelling and construction of new access.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Local government in the area has undergone re-organisation. Since the application was determined, East Suffolk Council has adopted the Suffolk Coastal Local Plan 2020 (LP) which replaces the development plan policies which were used primarily to determine the application. The appellant commented on the then emerging LP policies in its appeal statement and had the opportunity to respond to the adopted LP policies in its final comments. No comments were received on this matter. Nevertheless, for the purposes of this appeal, the LP policies referred to in the Council's statement are broadly consistent with those cited in the decision notice. Therefore, I consider that it does not prejudice the appellant's case to make the decision on the basis of the LP policies.

Main Issues

3. The main issues are the effects of the proposal on:
 - the character and appearance of the area;
 - the living conditions of neighbouring and future occupiers with particular regard to the provision of external space and outlook;
 - the integrity of the European protected SPA/Ramsar sites at the Stour and Orwell Estuaries and Debden Estuary.
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Reasons

Character and Appearance

4. The appeal site comprises part of the rear garden of the two-storey dwelling at 130 Mill Lane. That property is positioned at right angles to Mill Lane, such that the southern boundary of the site abuts the road and the site itself is prominent in public views. It, therefore, contributes positively to the street scene by providing characteristic spacing between the rear of No 130 and the flank wall of the bungalow at No 132. The bungalow is positioned close to the appeal site's western boundary. That spacing is created by the absence of built development and is not significantly undermined by the presence of site boundary enclosures.
5. The proposed dwelling, whilst modest in scale, would take up much of the space between Nos 130 and 132. In particular, there would be a very narrow gap between the proposed building and the rear corner of No 130. The remaining space between the buildings would be largely occupied by parking areas for the proposed dwelling and No 130. Indeed, the parking and turning area for No 130 would extend across the end wall of that property. To my mind that is indicative of the proposal's cramped layout. This, together with the loss of the characteristic spaciousness which the appeal site currently provides, leads me to find that the proposal would have a harmful effect on the character and appearance of the area.
6. The appellant makes the point that there are examples elsewhere in the area of bungalows adjoining two storey dwellings. However, my concern is with the spacing and layout of the proposal, rather than the juxtaposition of single and two storey buildings.
7. Consequently, the proposal would conflict with Policies SCLP5.1, SCLP5.7 and SCLP11.1 of the LP. Together, these policies require infill proposals to respond to local distinctiveness in terms of their layout, scale and siting, to not harm the street scene and to provide sufficiently sized curtilages for the existing and proposed dwellings. Nor would the proposal accord with National Planning Policy Framework (the Framework) paragraph 127 insofar as it has similar aims.

Living Conditions

8. The parties have not provided details of the size of the external area available to future occupiers. However, the application plans show that the private external area would be very modest in size, narrow in width and closely flanked by the side walls of the proposed building and No 132. As such, I consider that it would not provide future occupiers with adequate space for functions including clothes drying, sitting out, play and storage. The appellant argues that the proposed dwelling would be likely to be occupied by older people who do not require large external areas. However, no mechanism to control occupation has been offered and, since the property has two bedrooms, it could be occupied by a household with children.
9. Therefore, I find that the proposal would not provide adequate living conditions for future occupiers by reason of insufficient external space. As such, it would conflict with LP Policy SCLP5.7 insofar as it requires infill development to avoid

harm to the amenity of the occupants of proposed dwellings and ensure sufficient curtilage space.

10. The Council has also expressed concern that the proposed building would have an overbearing presence on the outlook of neighbouring occupiers. However, the building would be in excess of 5m from the rear wall of No 130 and there appear to be no primary windows in the facing flank wall of No 132. Having regard also to the single storey height of the proposed building, I consider that it would not have an overbearing effect on the outlook of neighbouring occupiers. To that extent, the proposal would not conflict with LP Policy SCLP5.7 inasmuch as it requires infill development to avoid harm to the amenity of the occupants of existing dwellings.

European Sites

11. The appeal site is located within the recreational disturbance Zone of Influence for the European Sites at Stour and Orwell Estuaries and Deben Estuary SPA/Ramsar as defined in the Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). The Habitats Regulations Assessment (HRA) of the LP has found that residential development in the Zone of Influence would lead to increased recreational disturbance of the European Sites. The in-combination effect would, without adequate mitigation measures, result in an adverse effect on the integrity of the Sites. The RAMS provides for strategic mitigation and the Council seeks a financial contribution for residential development to fund those measures.
12. The appellant has not provided substantive evidence to demonstrate that the appeal proposal would not have the harmful effect identified in the HRA. Nor have alternative mitigation measures been put forward. Whilst the appellant has indicated a willingness to provide a financial contribution, there is no evidence that the contribution has been made and no mechanism to secure it has been offered. In these circumstances, I find that it has not been shown that the proposal would have no adverse effect on the integrity of the European Sites. Consequently, it would conflict with LP Policy SCLP10.1 which presumes against proposals that would adversely affect a European Site.

Planning Balance and Conclusion

13. The proposal would provide an additional residential unit and, therefore, derives support from Framework paragraph 59 which seeks to boost the supply of new housing. It would also make a modest, short term contribution to the local economy through construction activity as well as ensuring Council Tax and Community Infrastructure Levy payments to the Council. The appellant argues that the dwelling would be constructed with modern materials and be environmentally compliant to reduce carbon emissions. However, it has not been shown that the proposal would exceed normal policy and statutory requirement in these regards. Therefore, I give little weight to this consideration.
14. Of themselves, the appearance and materials used in the proposed dwelling would be unobjectionable. However, that does not overcome my concerns regarding the proposed layout of the and the loss of spaciousness. I have also found that the proposal would have a harmful effect on the living conditions of future occupiers and that it has not been shown that the proposal would have no adverse effect on the integrity of the European Sites. The proposal would,

therefore, conflict with a number of relevant development plan policies and no development plan policies provide sufficient support to outweigh that conflict. As such, the proposal would conflict with the development plan as a whole. There is nothing to suggest that the relevant policies are out of date or that the Council cannot demonstrate a five-year supply of housing land. Consequently, the proposal does not amount to sustainable development and does not benefit from the presumption in favour of sustainable development set out in the Framework.

15. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR