
Appeal Decision

Site visit made on 24 February 2021

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 March 2021

Appeal Ref: APP/R3515/W/20/3261574

26 The Avenue, Ipswich IP1 3TB

- 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 K Cattermole against the decision of Ipswich Borough Council.
 - The application Ref IP/20/00318/FUL, dated 1 April 2020, was refused by notice dated 5 June 2020.
 - The development proposed is subdivision of existing plot, demolition of existing garage, and the erection of new 1.5 storey detached dwelling with new vehicular access.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on (i) the character and appearance of the area; and (ii) the living conditions of occupiers of Nos 22 and 26 The Avenue (Nos 22 and 26), with particular regard to privacy, daylight and sunlight and outlook.

Reasons

Character and appearance

3. Policy DM5 of the Ipswich Borough Council Local Plan Core Strategy and Policies Development Plan Document Review 2017 (LP) requires all new development to be well designed, including by helping to reinforce the attractive physical characteristics of local neighbourhoods and the visual appearance of the immediate street scene. LP Policy DM13 seeks that small scale infill, such as that proposed, protects the setting of existing buildings and the character and appearance of the area.
4. The appeal site is situated within the Valley Road sub-area of the Parks Character Area (PCA), as identified in the Ipswich Urban Characterisation Study 2015 (IUC). The area is characterised by large interwar and mid-20th century dwellings on wide plots with features typical of the period. The IUC observes that the low density, garden suburb character of the area should be protected and reflected in the design of modern development.
5. Whilst there is variety in the size and design of dwellings in the street, they generally consist of large detached properties, set in substantial plots with wide frontages. There is consistency in their setback from the road frontage with

- driveway access, frontage parking and front boundaries generally defined by low level boundary walls and fencing with soft landscaping.
6. The appeal proposal would involve the creation of a plot between Nos 26 and 22, utilising the space that is, in part, currently occupied by the detached pitched roof garage of No 26. The subdivision of the plot would result in an uncharacteristically narrow plot that would fail to respect the prevailing settlement pattern present within the street and wider PCA. Although the size of the plot would be sufficient to accommodate the size of dwelling proposed, it would nevertheless appear cramped within the context of the area.
 7. I acknowledge that the site is not an 'undeveloped space', however, the ancillary nature of the existing building, its single storey height and its position between its host dwelling and the neighbouring property is in keeping with, and contributes positively to, the character and appearance of the area. It is also contained within a single wide frontage with its host dwelling. The introduction of a two storey dwelling to this space, and the associated alteration to the existing plot frontage, would be fundamentally different in both character and appearance to the existing situation and would be out of keeping with its surrounds. Despite some similarity in the scale of the front elevation of the proposal with that of the existing garage, the proposed dwelling would be far greater in overall scale and this would be readily apparent in views along the street.
 8. Unlike the broad horizontal emphasis of adjacent dwellings, the proposal would have its roofline perpendicular to the road. In this way it would further disrupt the general pattern of development. Although other forward facing gables are present in the street scene, these are generally subordinate projecting features and I do not consider that the presence of these elements offers support for the design of the proposal.
 9. The absence of an existing No 24, The Avenue, irrespective of the reason for this anomaly, does not persuade me that the appeal site is suitable for the proposed development.
 10. Some infilling of larger plots within the area has previously taken place; noticeably within the adjacent street, Kingsfield Avenue. The appellant has stated that the appeal site would be slightly larger than that of No 8 Kingsfield Avenue (No 8) and that the density of development in that street is higher than would result from the proposal. However, No 8 and its neighbours are single storey dwellings, with wider plot frontages which do not jar with the prevailing pattern of development, despite being close together. As such, I find the comparison with the appeal scheme to be of limited relevance in this case, and I necessarily determine the appeal on its own merits.
 11. The appellant considers that the proposal would make effective use of land as required by Section 11 of the National Planning Policy Framework (the Framework). In seeking to make effective use of land the Framework makes clear that this should be balanced with safeguarding and improving the environment. My attention is drawn in particular to paragraph 118 e) which requires decisions to support opportunities to use the airspace above existing residential premises for new homes. Even if paragraph 118 e) was intended to apply to the demolition of ancillary domestic buildings in order to allow for the erection of a taller new dwelling, this would only be the case where the resultant development would be consistent, not only with the height of

neighbouring properties but also the form, and that of the overall street scene. That is not the case here, where I have found that the proposed development would be out of keeping with the prevailing pattern of development.

12. I am also referred to paragraph 122 of the Framework which requires decisions to support development that makes an efficient use of land. However, when doing so it requires the desirability of maintaining an area's prevailing character and setting, including residential gardens, to be taken account of. For the reasons given above, I do not consider that the increase in density of development that would result from the appeal proposal would maintain the prevailing character and setting of the area.
13. Consequently, I conclude that the proposal would have a significant and harmful impact on the character and appearance of the area. Thus, the proposal would be contrary to LP Policies DM5 and DM13 and the requirements of the Framework.

Living Conditions

14. The appeal dwelling would be located between Nos 26 and 22 and separated from them by approximately 1.8 metre high fencing. There would be no side elevation windows at first floor level and the rear elevation of the proposed building would largely align with the rear elevations of its neighbours.
15. According to plans of No 22, submitted with the appellant's evidence, that property has a single window in its facing side elevation. This window is at ground floor level and serves a garage. I could not see this window when I visited the appeal site, but I could see that no windows exist above ground floor level in this facing elevation. Assuming that the said window exists, it currently faces the boundary fencing and No 26's garage. Given this arrangement and the position of No 22 in relation to the appeal site and the path of the sun, I do not consider that any significant loss of light or overbearing impacts would occur in relation to the living conditions of the occupiers of No 22.
16. The proposed dwelling would result in some additional overshadowing of the facing windows of No 26. However, because two of these windows are secondary windows to a living room, and the third serves a bathroom, and all of these windows are obscure glazed, the effect on the living conditions for the occupants of No 26 with regard to daylight and sunlight and outlook would be modest.
17. The upper floor windows in the rear elevation of the proposed dwelling would cause some overlooking of the rear gardens of both Nos 22 and 26, but in this suburban location there will already be a degree of overlooking between these properties, and the additional impact would not be overly harmful.
18. Overall, I am satisfied that the proposal could be accommodated without causing unacceptable harm to the living conditions of the occupiers of Nos 22 and 26, with particular regard to privacy, daylight and sunlight and outlook. Consequently, there would be no conflict in respect of these matters with LP Policies DM26 and DM13 which, together and amongst other matters, seek to protect the amenity of adjacent residents.

Other Matters

19. The Council's officer report raises concern regarding the level of light that would serve the interior of the proposed dwelling, suggesting that it would be inadequate, resulting in unsatisfactory living conditions for future occupiers. However, this concern was not included within the Council's reasons for refusal. Given my findings on the main issues I have not given this matter any further consideration.
20. The Council has made reference to a number of outline planning permissions it has granted, for 1,915 dwellings, in order to demonstrate that it is moving forward with addressing its deliverable supply of housing sites. However, as reserved matters permissions have not yet been granted this is not a matter to which I afford weight in my determination of this appeal.

Planning Balance

21. 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.
22. The LP pre-dates the Framework but the weight to be attached to it does not hinge on its age. Rather paragraph 213 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. Good design is a key aspect of sustainable development and the Framework expects development to be visually attractive and sympathetic to local character.
23. Therefore, even taking account of the objective of boosting significantly the supply of housing, the contribution small sites can make to that supply and the Council's housing land supply position, the conflict between the proposal and Policies DM5 and DM13 should be given significant weight in this appeal.
24. Set against the harm identified there would be limited social and economic benefits associated with the proposal. An additional dwelling, albeit adding to the mix of housing types, would make little difference to the overall supply of housing and the support one extra household would provide to the local economy would also be insignificant.
25. Matters where the proposal complies with the development plan, including adopted space standards, accessibility to services and facilities, the provision of adequate bin storage space and an electric vehicle charging point, are neutral in the planning balance.
26. 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 conflict

with the development plan as a whole and there are no other considerations including the provisions of the Framework which outweigh this finding.

27. The Council has indicated that the development would have likely significant effects on the Stour and Orwell Estuaries Special Protection Area and Ramsar site. A legal agreement by way of Unilateral Undertaking, under Section 106 of the Town and Country Planning Act 1990, has been provided by the appellant as part of the appeal to make payment to the Council, in the event that permission is granted, in accordance with the requirements set out in the Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy. The Council considers this matter to be satisfied. As I am dismissing this appeal on other substantive grounds, this is not a matter which needs to be considered further here.

Conclusion

28. For the reasons above the appeal is dismissed.

S Tudhope

Inspector