
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: 12 April 2021

Appeal Ref: APP/R3515/W/20/3261106

7 Shannon Road, Ipswich IP3 0JS

- 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 Messrs Pemberton & Copping, Maison Investments Ltd against the decision of Ipswich Borough Council.
 - The application Ref IP/20/00017/FUL, dated 6 January 2020, was refused by notice dated 11 September 2020.
 - The development proposed is Erection of 1 No. dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the proposed development was amended during the course of the application and is therefore different from that given on the application form. This was done with the agreement of both main parties and consultation was undertaken in respect of the amended proposal. As a result, I am satisfied that no party has been prejudiced by this change. The description of the development above has, therefore, been taken from the decision notice. I have determined the appeal on that basis.
3. The main parties indicate that the development would have likely significant effects on one or more European sites. The appellants have submitted evidence that payment has been made to the Council in accordance with the requirements set out in the Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy. The Council has sought not to defend its third reason for refusal as a result. I return to this matter later in my decision.

Main Issues

4. 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 No 92 Turner Road (No 92) with regard to outlook, daylight and sunlight.

Reasons

Character and appearance

5. The appeal site is situated within the Gainsborough and Greenwich sub area of the South East Character Area, as identified in the Ipswich Urban Characterisation Study (IUC). It is an established residential area primarily comprised of a mix of short terraces and pairs of semi-detached houses

- featuring occasional gables. The estate has a hybrid layout of both the grids and spoke and wheel plans as seen elsewhere in the character area and therefore often provides spacious corner plots. The IUC observes that new development in the area should be sure not to reduce the open spacious character of the area and respect the established building line.
6. The host property, No 7 Shannon Road (No 7), comprises an end terrace dwelling that is a corner plot, close to the junction with Turner Road and Nightingale Road. In common with other properties on corner plots, No 7 has a large, somewhat triangular shaped side garden area. The appeal site positively contributes to the spacious character of the area.
 7. The proposal comprises an additional dwelling to the side of No 7. It would continue along the same plane as the front elevation and roofline of No 7, which is set down from the roofline of the rest of its terrace. The proposal would be a continuation of the terrace which would respect the established building line. However, it would result in the incursion of a two storey structure, with a frontage wider than those of the existing dwellings, into the side garden, detrimentally reducing the characteristic sense of spaciousness afforded by the corner plots.
 8. This reduction in spaciousness would be further compounded by the enclosure of the plot by a 1.8 metre high, close boarded, perimeter fence to the back of the footpath. The proposed fence would, by virtue of its prominence, height and length be obtrusive in the street scene. I do not consider that the effect of the proposal could be ameliorated by landscaping.
 9. I note there are other examples of corner plots which have been enclosed by fences of a similar height to that proposed but such features are not rife. Moreover, where present, they serve to demonstrate the harmful imposing effect on the otherwise open nature of the area and are not examples that should be followed. Therefore, they fail to provide justification for the appeal development.
 10. I acknowledge that the design of the proposal seeks to reflect that of existing dwellings, however, the proposal would appear as an unsympathetic and incongruous addition due to its uncharacteristically wide gable element, the creation of a passageway to access No 7, and conflicting window proportions. Although the opposite end of this terrace hosts a two storey side extension which has altered the symmetry of the block, this addition is clearly subordinate to the original form of the terrace and is not situated within a corner plot position. It is not therefore a prominent feature in the street scene, nor does it reduce the original planned spaciousness as the proposed development would do.
 11. Whilst other terraces in the area have been variously altered over time, I have not been directed to any additions akin to the appeal proposal that alter my assessment of it.
 12. Consequently, I conclude that the proposed development would have a significant and harmful impact on the character and appearance of the area. Thus, it would conflict with Policies DM5 and DM13 of the Ipswich Borough Council Local Plan Core Strategy and Policies Development Plan Document Review 2017 (LP), the Council's Space and Design Guidelines Supplementary Planning Document (2015) (SDG) and the IUC, which together and amongst

other matters require development to protect the character and appearance of the area. For the same reasons the proposal would fail to adhere to the guidance contained within the National Planning Policy Framework (the Framework).

Living conditions

13. The proposal would result in a two storey dwelling being situated within 5 metres of the rear elevation of No 92. In addition, the proposed dwelling would, at its closest, be situated only 3 metres from the common boundary with No 92. No 92 has a very small courtyard area at its rear. Whilst I recognise that the relationship between the rear garden/courtyard spaces of No 92 and No 7 is already close knit, this is currently balanced by the spaciousness of the side garden areas.
14. This spaciousness would be diminished by the proposal occupying the part of the appeal site situated closest to the rear of No 92. This would be to the detriment of the living conditions of the occupiers of No 92. Due to the combined width and height of the proposed development, in such close proximity to the rear elevation windows and rear garden/courtyard area of that property, the proposal would appear unacceptably oppressive and visually intrusive in the outlook when viewed from No 92.
15. Although the footprint of the proposed development would effectively mirror that of No 92, it does not automatically follow that the position of the proposed development would be acceptable. The current staggered relationship between the appeal terrace and the adjacent terrace on Turner Road provides sufficient separation between the properties to ensure satisfactory living conditions for the occupiers of those properties in relation to outlook and daylight and sunlight levels. Whilst the proposed position might not appear harmful in plan form, notwithstanding the harm I have already identified in relation to the effect on character and appearance of the area, its proximity would, nonetheless, create an increased and unacceptable overbearing impact on the living conditions of the occupiers of No 92.
16. The Council considers that the proposal would result in considerable overshadowing of the rear garden of No 92 and makes reference to having applied the principles concerning overshadowing as set out in its SDG. However, the Council does not explain the details of the conflict with the principles. Although a sunlight and daylight analysis has not been undertaken, because of the orientation and relationship of the proposed development to No 92, in relation to the path of the sun, the difference to the amount of daylight and sunlight reaching the rear garden area and rear elevation windows of that neighbour would be limited. Any overshadowing and reduction in daylight would not be so significant as to cause unacceptable harm to the living conditions of the occupiers of No 92.
17. Notwithstanding my conclusion with regard to daylight and sunlight impacts, I conclude that the proposal would result in unacceptable harm to the living conditions of the occupiers of No 92 with regard to outlook. Thus, the proposal conflicts with LP Policies DM13 and DM26, the SDG and the Framework, which together and amongst other matters require development to protect the amenity of adjacent residents.

Other Matters

18. Reference has been made to how the site could be developed under permitted development rights and how this could result in a loss of openness. The suggestion being that this negates any argument against the appeal proposal in respect of loss of openness. However, permitted development allowances would restrict, amongst other matters, the height of any such development and would not allow for the erection of perimeter fencing greater than 1 metre in height adjacent to the highway. I do not consider this fallback argument to be directly comparable to the appeal scheme. I therefore attribute limited weight to the arguments put forward in this context.
19. The appellants made reference to a number of planning permissions and an appeal decision which they consider demonstrate that housing infill developments are not uncommon or uncharacteristic within the borough. The Council agrees that planning permission for infill development has been approved and is supported by LP Policy DM13. However, I have not been provided with any specific details of these examples and as such I cannot make any direct comparisons with the site specific details that apply in this appeal. I, therefore, necessarily reach my own conclusions on the proposal before me.
20. The appellants consider that recent case law¹ is relevant to this case and make reference to the application of "exceptional circumstances". It appears to be suggested that the present housing shortage and the impact on housing delivery of the Covid-19 pandemic amount to "exceptional circumstances" that should be weighed in the planning balance. The referenced case was concerned with the "exceptional circumstances" test set out in paragraphs 136 – 137 of the Framework for the alteration of a Green Belt boundary and is not therefore directly relevant to the case before me. However, the concept of "exceptional circumstances" was considered to be deliberately broad and a matter to be left to the judgment of the decision-maker in all the circumstances of the case before them. I return to this matter in the planning balance.

Planning Balance

21. On 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 appears to be 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 current shortfall, given the consequence set out in the HDT I consider it to be substantial.
22. 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. Therefore, even taking account of the objective of significantly boosting the supply of housing, the potentially exceptional circumstance of the possible additional negative impact on housing delivery that may result from the Covid-19 pandemic and the

¹ Keep Bourne End Green v. Buckinghamshire Council [2020] EWHC 1984 (Admin)

Council's housing land supply position, the conflict between the proposal and LP Policies DM5, DM13 and DM26, in respect of character and appearance and impact on the living conditions of a neighbouring occupier, should be given significant weight in this appeal.

23. Set against the harm identified there would be modest social and economic benefits associated with the proposal commensurate with the scale of development proposed. The delivery of a three-bedroom dwelling would make a modest contribution to the overall supply and mix of housing in a sustainable location. Recognising the importance of small and medium sized site delivery², I afford these benefits modest weight. The proposal would be able to be built out quickly, with the appellants indicating willingness to accept the imposition of a condition requiring development to commence within 18 months of a favourable decision, instead of the usual 3 year time limit. I afford this benefit modest weight.
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 taken as a whole 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. Although the Council considers this matter to have been addressed, 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 given above the appeal is dismissed.

S Tudhope
Inspector

² As highlighted in appeal decision APP/C1570/W/20/3242024 referred to by the appellants.