

Appeal Decision

Site visit made on 24 March 2021

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 April 2021.

Appeal Ref: APP/R3515/W/20/3259522

67 Valley Road, Ipswich IP1 4NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Sarah Mindham against the decision of Ipswich Borough Council.
 - The application Ref IP/20/00057/OUT, dated 28 January 2020, was refused by notice dated 17 March 2020.
 - The development proposed is erection of four new bungalows on garden land to the rear of 67-75 Valley Road, Ipswich, with improved vehicular access from Cotswold Avenue IP1 4NE.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is for outline planning permission with all matters reserved for subsequent consideration. Drawings have been provided which show the layout of and access for the proposed dwellings, although I have treated these as indicative only. One of the Council's reasons for refusal concerns the adequacy of the access to serve the development. While recognising that this is a reserved matter, I have addressed this as a main issue in the context of this outline application given that the single access point is clearly delineated on the site plan and I was able to consider it during the site inspection.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the appeal site and surrounding area;
 - based on the information provided with the outline application, whether adequate and safe access to and from the site could be achieved;
 - the effect on the living conditions of nearby residents, with regard to noise and disturbance; and
 - the effect on the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site.
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Reasons

Character and Appearance

4. The appeal site is a substantial area of open land formed from the rearmost parts of the back gardens of Nos 67, 69 and 75 Valley Road, as well as that of 14 Cotswold Avenue. The gardens rise from away from the properties on Valley Road, but level out so that the appeal site is on the same level as the dwellings along Cotswold Avenue. Vehicular access would be via an existing track between Nos 14 and 18 Cotswold Avenue.
5. Policies DM5 and DM13 of the Ipswich Core Strategy and Policies Development Plan Document Review (2017) (the CSP) include a criterion that requires development, respectively, to protect and enhance the special character and distinctiveness of Ipswich; and to protect the setting of existing buildings and the character and appearance of the area.
6. The existing properties on Valley Road and Cotswold Avenue that back onto the site are typically large detached properties set in generous plots. The Council's *Urban Character Supplementary Planning Document* (SPD) identifies the area as being spacious, with natural corridors formed by the large gardens as a natural extension to the adjacent Broom Hill Park. The *Space and Design Guidelines SPD* provides guidance that space standards for the layout of dwellings should be consistent with the character of the area in which they are to be sited.
7. The dwellings would be single storey, thereby reducing their profile, and I note that the existing mature trees on the site, which contribute to its character and appearance, would be retained and this could be required by condition, as well as additional landscaping to the boundaries. Nonetheless, the proposal would inevitably reduce the openness of the site through the four dwellings as well as hard standing and the internal access road.
8. While I acknowledge that layout is a reserved matter, within the constraints of the site the uncharacteristic effects of the development would be apparent from the proximity of the dwellings to the site boundaries and the disproportionate amount of hard standing and internal road compared to garden land. This would be in stark contrast to the much more extensive plots of established properties and would by contrast result in the appeal proposal being a cramped form of overdevelopment in this setting. As such, while policies do not preclude backland development as a matter of principle, the proposal would not be in keeping with the established pattern of development.
9. The Council draws attention to an appeal decision for a single dwelling to the rear of No 75 Valley Road, which is part of the appeal site¹. While the policies in that case pre-date those of the CSP, the Inspector's findings are nonetheless relevant. He found that *'the erection of a house to the rear of 75 Valley Road would not have any particular visual or physical affinity with the existing pattern of frontage development on Valley Road or Cotswold Avenue. In effect, the scheme involves the piecemeal development of one existing large garden which contributes to the distinctive spacious character of the locality. Consequently the scheme would be out of keeping with the character of the immediate*

¹ APP/R3515/A/13/2192222 dated 24 October 2013.

locality and it would be inappropriate to its context'. While the current proposal involves a larger site, for the reasons given, I agree with this finding.

10. The appeal site is part of a designated green corridor, to which Policy DM33 of the CSP applies. The policy says that development within green corridors will be expected to maintain, and where possible enhance, the corridor's amenity, recreational and green transport functions. The site comprises private garden land that is not intended to be publicly accessible. As such, aside from private use as gardens it cannot have any recreational or green transport functions.
11. With regard to amenity, I note the findings of the Inspector in another appeal referred to by the parties². This is now quite dated and also pre-dates current policies. Again, however, there is a finding that is relevant here given that the physical circumstances have not changed. The proposal was for two dwellings in the rear garden of 67 Valley Road, which is also part of the current appeal site. The Inspector said in that case, *'I have little doubt that the new houses would be seen from the nearer parts of Broom Hill Park particularly in winter, and that would amount to the erosion of the "green impression" mentioned by the Council'*.
12. I have no reason to find differently, given that development would occur in the same location. I acknowledge that the proposal in the earlier appeal involved two 2 storey dwellings, the effects of which would be more significant than bungalows. Nonetheless, the purpose and value of the green corridor is in large part due to the continuity and connectivity of open green areas. Given the site's proximity to Broomhill Park, the amenity of this part of the corridor would be harmfully undermined by views from the park of the nearest dwellings in this uncharacteristic location.
13. The appellant questions the validity of Policy DM33, particularly that regard should not be had to it in the context of the Council's housing land supply position and the presumption in favour of sustainable development included in the National Planning Policy Framework (the Framework). However, such matters are properly considered as part of the planning balance, which is separate to consideration of the main issues against relevant development plan policies as required by Section 38(6) of the Planning and Compulsory Purchase Act 2004.
14. Accordingly, for all the above reasons, I conclude that the proposed development would have an unacceptably harmful effect on the character and appearance of the appeal site and surrounding area. Consequently, it is contrary to Policies DM5(e), DM13(c) and DM33, as described above.

Site Access

15. From the site inspection, I agree with the Council's concern that the existing track would not be sufficiently wide and would not provide a safe and convenient means of access for residents or visitors to the development. However, the appellant has provided evidence as part of the appeal submissions that the access could be widened through taking land from the adjacent No 14 Cotswold Avenue, which is owned by the appellant's relative.

² APP/R3515/A/04/1167385 dated June 2005.

16. Therefore, there is sufficient evidence to suggest that there is scope to widen the access as shown on the indicative proposed site plan, the details of which would be considered as a reserved matter. I agree with the appellant that it would be possible to impose a condition to ensure that these requirements are clear for the subsequent reserved matters stage. As such, I conclude that the proposal would not be in conflict for the purposes of this outline proposal with Policy DM13(e) of the CSP, which requires small scale infill and backland residential developments to have safe and convenient access, while recognising that this would be considered in detail at the reserved matters stage.

Living Conditions

17. The character of the appeal site, apart from its openness, derives from the fact that as part of large rear gardens it is quiet and tranquil. This would be the experience of residents backing onto the site, particularly those closest in properties on Cotswold Avenue. The need to gain vehicular access to the new dwellings, particularly those furthest from the access, would involve vehicles passing close to the existing rear boundaries of the established dwellings. The extent of such regular vehicle movements from residents, visitors and for deliveries would be in marked contrast to the undeveloped nature of the site at present. Consequently, it would result in a harmful degree of noise and disturbance to neighbouring residents, particularly in the summer months when their rear gardens would be in greatest use. I acknowledge that layout is a reserved matter, but within the parameters of the site it is clear that these concerns could not be overcome to the extent that the harm found above would be mitigated.
18. These effects would be particularly apparent to the occupiers of No 18 Cotswold Avenue, adjacent to the proposed access. The boundary fence of this property is directly next to the access with little gap to the side elevation and habitable rooms as well as the back garden. The use of the access would, therefore, be particularly harmful to the reasonable use and enjoyment of their home to the occupiers of No 18. I am not convinced on the basis of the site inspection that a brick boundary wall or additional landscaping would overcome these concerns. I have had regard to the examples referred to by the appellant of approved schemes with access past existing dwellings. However, I have considered this proposal on its individual merits and found that harm would result from use of the proposed access. The existence of these other schemes is not sufficient basis to overcome this harm.
19. Accordingly, for these reasons, I conclude that the proposed development would cause material harm to the living conditions of nearby residents, with regard to noise and disturbance. It is, therefore, contrary to Policy DM13(d) of the CSP, which requires backland residential development to protect the amenity of neighbouring residents; and to Policy DM26 of the CSP, which states that planning permission for any development will not be permitted where it would be likely to cause material nuisance to adjacent residents.

Stour and Orwell Estuaries SPA and Ramsar site

20. The site is within the Suffolk Coast Recreational Avoidance and Mitigation Strategy (RAMS) zone of influence for likely impacts arising from residential development. The Suffolk Coast RAMS sets out the detailed mitigation

measures that are to be delivered from the RAMS tariff. The relevant regulations require that if likely significant effects on a protected site cannot be excluded, then the competent authority must undertake an appropriate assessment of the implications for that site³.

21. The Council undertook an appropriate assessment using the Natural England standard approach. The proposal is assessed as having likely effects on the Stour and Orwell Estuaries SPA and Ramsar site resulting from increased recreational disturbance, in combination with other schemes. As such, a tariff contribution per dwelling is required to mitigate the effects. In these circumstances, I have relied on the appropriate assessment already undertaken by the Council and agree that a contribution is necessary to mitigate the likely effects in accordance with the Suffolk Coast RAMS.
22. I acknowledge that the appellant is willing to make the relevant contribution if the appeal were to succeed. However, in these circumstances where there is no formal agreement or undertaking through a planning obligation provided as part of the appeal submissions, there is no certainty that the necessary contribution will be made and no means of securing it. Therefore, I must conclude that the proposal fails to ensure that adequate provision would be secured for the mitigation of the likely effects on a protected European site. Consequently, it is contrary to Policy DM31 of the CSP concerning the natural environment, which seeks amongst other matters to protect the integrity of designated sites.

Other Matters

23. I have had regard to the representations made by interested parties. Many of the matters raised relate to the main issues and, therefore, have been addressed or concern reserved matters, which are outside this appeal's scope. Concern is expressed about the effect of the proposal on wildlife. However, I note that the site is not part of a designated wildlife corridor, and that the Suffolk Wildlife Trust and the Council do not object on this basis. Therefore, from the available information, there is no basis to find against the proposal in relation to this matter.
24. Notwithstanding evidence on housing supply to support the emerging CSP Final Draft, to which only limited weight can be given⁴, the main parties concur that the Council cannot demonstrate a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing, as required by the Framework⁵. Consequently, the view taken is that the appeal proposal should be considered in the context of paragraph 11d) of the Framework. I acknowledge that the appellant makes a substantive argument in this regard, including setting out the extent of the shortfall from the requisite supply. However, I have found above that the proposal would not make adequate provision to mitigate the likely effects on a protected European site. In these circumstances, the Framework says that the presumption in favour of sustainable development does not apply and, therefore, I must conclude as such⁶.

³ The Conservation of Habitats and Species Regulations 2017, Regulation 63.

⁴ In accordance with paragraph 48 of the Framework.

⁵ Paragraph 73.

⁶ Paragraph 177.

25. The appellant also refers to the development plan position on housing supply. Policy CS7 of the CSP says that in the absence of a five year supply of housing within the Borough, the Council will adopt a positive approach to appropriate new housing developments which may come forward on sites not allocated for housing in accordance with policies DM25 and DM34.
26. While I give some weight to Policy CS7 in respect of the appellant's arguments that a lack of land supply should weigh in the appeal's favour, the development plan needs to be considered as a whole. I have found that the proposal would be contrary to a number of development plan policies in respect of three of the four main issues. Consequently, I find that Policy CS7 does not outweigh the extent of this overall conflict with the development plan.

Conclusion

27. I have found in the appellant's favour with regard to one main issue, concerning the adequacy of the access for the purposes of this outline application. However, I have also found that the proposed development would have a materially harmful effect on the character and appearance of the site and surrounding area; on the living conditions of nearby residents; and that adequate provision has not been secured to mitigate the likely effects on a protected European site. As such, the proposal is contrary to the development plan. The presumption in favour of sustainable development does not apply and there are no other material considerations that outweigh the conflict with the development plan. Accordingly, it is concluded that the appeal should be dismissed.

J Bell-Williamson

INSPECTOR