

Appeal Decision

Site visit made on 11 May 2021

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 June 2021

Appeal Ref: APP/X3540/W/20/3255490

315 Victoria Road, Lowestoft, Suffolk NR33 9LS

- 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 & Mrs B Wallis against the decision of East Suffolk Council.
 - The application Ref DC/20/1434/FUL, dated 3 April 2020, was refused by notice dated 18 June 2020.
 - The development proposed is erection of single storey dwelling, garage, drive access, fencing, materials.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the appeal site and surrounding area;
 - the effect on the living conditions of nearby residents and future occupiers of the proposed dwelling, with regard to noise and disturbance, and outlook; and
 - the effect on protected European sites.

Reasons

Character and Appearance

3. No 315 is a detached bungalow in a residential road of varied property types, including bungalows and two storey dwellings. The proposed dwelling would be located to the rear of the back garden of the host dwelling, with vehicular access to the side of No 315.
 4. There are no visible examples of backland development within the surrounding area and the properties along Victoria Road are laid out on consistent building lines fronting the road. As such, the proposed dwelling, which would be seen in passing views from the public realm to the front and rear as well as from neighbouring properties, would represent a departure from this prevailing pattern of development.
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5. The host dwelling's rear garden is wider than the gardens of the majority of nearby properties along Victoria Road. However, despite this, to obtain sufficient separation from No 315 the new dwelling and its garage would be positioned close to the rear and side garden boundaries, which are shared with neighbouring properties. Consequently, its position close to these boundaries and the relatively limited plot size would result in it appearing cramped in its setting and, therefore, as a form of overdevelopment. This would also be apparent from the close proximity of the side of the garage to the kitchen window.
6. Therefore, for these reasons, I conclude that the proposed dwelling would have an unacceptably harmful effect on the character and appearance of the appeal site and surrounding area. As such, it is contrary to Policies WLP8.29 and WLP8.33 of the East Suffolk – Waveney Local Plan (2019) (LP), which seek, amongst other things, to safeguard visual amenity by seeking high quality design that responds to local context and character, and not generating a cramped form of development.

Living Conditions

7. The new driveway would result in vehicles passing close to the side of No 315, which includes two windows, one or both of which is likely to serve a habitable room or rooms. While the small dwelling would not reasonably be expected to generate significant vehicle movements, these would occur close to No 315 and its rear garden, as well as the rear garden of No 319. As such, this would result in noise and disturbance experienced by the occupiers of these properties, thereby materially harming the enjoyment of their homes and gardens.
8. I acknowledge that an established driveway serving a rear parking area runs between Nos 323 and 325 Victoria Road. However, this will result in some noise and disturbance to existing residents and does not provide a sufficient basis to justify development that would cause additional noise where such vehicle movements between dwellings and past rear gardens are largely uncharacteristic.
9. As noted above, views from the kitchen window would be towards the side wall of the garage, which would be positioned close to the dwelling. I acknowledge the dual aspect to this room with patio doors to the living area, but this does not overcome the fact that the relative position of the buildings would result in a poor outlook from the kitchen for future occupiers.
10. I have also had regard to representations on this issue made by neighbouring residents. The property known as 'Bridewell' is directly behind the appeal site with a frontage on Heath Road. The back-to-back gardens and separation distances between this property and the new dwelling would not be unusual in a residential setting. As such, there would be no harmful effects on the occupiers' living conditions.
11. The side garden boundary of the property known as 'The Chase', also fronting onto Heath Road, forms part of the rear boundary of No 315. The new dwelling would be positioned relatively close to this boundary, which currently is marked by a low fence. 'The Chase' has a conservatory to its rear and its back garden is directly adjacent to the site of the new dwelling. It would be possible to

erect a higher fence to maintain privacy between the two dwellings. However, despite the proposed dwelling being single storey, it would be readily visible from the conservatory and rear garden of the neighbouring property. Due to its proximity to the shared boundary it would be a dominant and overbearing feature, which would contrast unfavourably with the open aspect that currently exists.

12. Accordingly, taking these findings as a whole, I conclude that the proposed dwelling would result in material harm to the living conditions of nearby residents and future occupiers of the proposed dwelling, with regard to noise and disturbance, and outlook. Consequently, it is contrary in this regard to Policies WLP8.29 and WLP8.33 of the LP, which seek to protect the living conditions of occupiers of proposed and existing properties.

Protected European Sites

13. The site is within the Suffolk Recreational Avoidance Mitigation Strategy (RAMS) zone of influence for likely impacts arising from residential development. The impacts in this case would be with regard to the Benacre to Easton Bavents SPA and Benacre to Easton Bavents Lagoons (SAC). As such, the Council indicates that a tariff payment is required towards the mitigation strategy and no such payment has been secured.
14. While I note the arguments made by the main parties, I have found against the appellants with regard to the first two main issues. Consequently, as the proposal would result in unacceptable harm based on the above findings, I have not considered the issue of a financial contribution any further.

Other Matters

15. I have had regard to other matters raised by interested parties. These do not, however, raise any additional matters in relation to the main issues in this appeal that would lead me to reach a different overall conclusion.
16. The National Planning Policy Framework (the Framework) is a material consideration in planning decisions¹ and should be taken into account in dealing with applications². It requires that plans and decisions should apply a presumption in favour of sustainable development³. However, in circumstances where development is likely to have a significant effect on a habitats site, which cannot be discounted here, then the presumption does not apply⁴.
17. For the avoidance of doubt, however, even were the presumption to be considered, I am not aware that either main party refers to the Council's current supply of housing land. Consequently, the presumption would not be engaged as a result of housing under-supply in accordance with footnote 7 to paragraph 11. Furthermore, the most important policies for determining the application from the LP, Policies WLP8.29 and WLP8.33, are not out-of-date as they are consistent with the Framework's advocacy of well-designed places⁵.

¹ Paragraph 2.

² Paragraph 212.

³ Paragraph 11.

⁴ Paragraph 177.

⁵ In accordance with paragraph 213.

18. While the proposal would help to meet the Framework's objective of boosting housing supply, this is not a sufficient reason to outweigh the harm and conflict with the development plan that has been found.

Conclusion

19. The proposal would result in material harm and 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