The Planning Inspectorate

Appeal Decision

Site Visit made on 11 May 2021

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th June 2021

Appeal Ref: APP/X3540/W/20/3262487
Westhouse Cottage, Saxmundham Road, Theberton, IP16 4TH

- 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 G Hill against the decision of East Suffolk Council.
- The application Ref DC/20/2651/FUL, dated 14 July 2020, was refused by notice dated 22 September 2020.
- The development proposed is new detached residential dwelling and associated garage.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council issued its decision it has adopted the East Suffolk Council – Suffolk Coastal Local Plan (LP). The policies in the LP supersede those referred to in the Council's delegated report. It is incumbent upon me to base my decision upon the most up to date planning policy and this is what I have done. The appellant had the opportunity to address the change in policy through their appeal submissions, albeit no appeal statement was submitted.

Main Issues

3. The main issues are:

   - the effect of the proposed development on protected species; and
   - the effect of the proposed development on the character and appearance of the area.

Reasons

Biodiversity

4. The presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

5. Paragraph 175 of the National Planning Policy Framework (the Framework) advises that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less than harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

6. It is important that developments likely to affect biodiversity contain adequate, up-to-date information to effectively evaluate the impacts. This should include relevant site (field) surveys and desk-based studies to inform the baseline position. The submitted Ecological Survey is dated August 2017 and the initial site walkover was undertaken on 13 January 2017, with the Bat emergence surveys undertaken in May of that year. This identified the presence of a soprano pipistrelle bat and acknowledged that the pond on the site had a good suitability for Great Crested Newts, albeit none were found at the time of the survey.

7. A further survey was undertaken on 22 December 2020, which would appear to have been a visual inspection of the building. Natural England guidance states that when surveying buildings visually that visits should take place during summer or autumn if possible, although winter is acceptable. However, as the survey was done outside of the bats active season (May to September) it does not fully update the Ecological Survey to be sufficiently robust. It notes that in order to obtain a license to enable the works to proceed two further emergence or dawn swarming surveys will be required. In addition, there has been no further surveys of the pond to rule out the presence of Great Crested Newts.

8. Given the time that has elapsed since the original survey was undertaken, and with nothing before me to indicate that a fully updated Ecological Survey has been carried out, there is insufficient evidence before me to conclude whether protected species are present on the site and therefore any potential impacts on these species as a result of the proposed development.

9. In conclusion, in the absence of sufficient evidence to the contrary, the proposals would potentially cause unacceptable harm to protected species. This would be contrary to policies SCLP10.1 of the LP which requires development to be supported by an appropriate ecological survey and assessment.

Character and appearance

10. The appeal site comprises an existing dwelling, formerly two cottages, now occupied as a single dwelling. The appeal site is surrounded by large open fields with native hedging along the road opposite the site. This contributes to the rural appearance of this part of Saxmundham Road.

11. The existing dwelling is a red brick construction with a shallow pitched roof and has a flat roof extension extended along the entire length of the building. This extension detracts somewhat from the otherwise traditional appearance of the building. The dwelling is prominent within the landscape, being visible along Saxmundham Road, as a result of its siting with the building being positioned close to and at right angles to the road. However, as a result of its materials and modest proportions is well related to the rural character of the area.

12. Policy SCLP5.3 of the LP allows for the replacement of a dwelling on a one to one basis where they are no more visually intrusive in the countryside than the building to be replaced. The subtext to the policy highlights how, in particular, the impact of the new dwelling on the landscape when compared to the existing dwelling will be a key consideration.

13. The proposed development would result in the replacement of the existing dwelling with an l-shaped building located centrally within the plot with the construction of the garage to the front, with associated parking and manoeuvring. The design of the building with standing seam roof, natural timber vertical cladding and aluminium grey windows, has the appearance of a contemporary building.

14. As a result of its siting and orientation the proposed dwelling would alter the character and appearance of this rural site, resulting in an urban form of development that would intrude into the countryside. Furthermore, the increase in the amount of built development on the site, having regard to the increased scale, massing and overall footprint; the arrangement of the dwelling within the site and the introduction of a garage forward of the proposed dwelling would be at odds with the rural character of the area.

15. I note the appellants final comments in relation to the condition of the existing building and the likely costs of repairs. However, it does not follow that this should enable its replacement with a building which is harmful to the character and appearance of the area and therefore I have attributed little weight to this consideration.

16. I have also had regard to the neighbouring cement works which is screened to some degree by existing landscaping. In any event, its existence does not lead me to conclude that the harmful effects arising from the proposed development should be permitted.

17. I note the appellant raises other development that has been approved within the vicinity of the site, but I have not been provided with any specific details. However, these permissions appear related to conversions of existing buildings and therefore may not have been subject to the same policy considerations. In any event, I am not bound by other decisions of the Council and I give this minimal weight.

18. For these reasons, therefore, the proposed development would introduce a discordant built form to the locality that would be harmful to the character and appearance of the surrounding area. Consequently, it would conflict with policies SCLP5.3 and SCLP11.1 of the LP which seek to ensure locally distinctive and high quality design which responds to the local character of the area and would not be more visually intrusive than the dwelling it replaces.

Other matters

19. The appeal site is within the 13km zone of influence of a designated site. There is a need to ensure that new residential development and any associated recreational disturbance impacts on designated sites are compliant with the Habitats Regulations. As the competent decision making authority, if I had been minded to allow the appeal it would have been necessary for me to complete an Appropriate Assessment for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

Conclusion

20. For the reasons given above the proposal would conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. Therefore, I conclude that the appeal should be dismissed.

G Pannell

INSPECTOR