



Appeal Decision

Site visit made on 24 January 2022

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2022

Appeal Ref: APP/X3540/W/21/3273550

The Red House, Red House Lane, Leiston IP16 4LR

- 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 Fogarty against the decision of East Suffolk Council.
 - The application Ref DC/20/0006/FUL, dated 20 December 2019, was refused by notice dated 11 December 2020.
 - The development proposed is erection of 3 houses and conversion of existing buildings to 4 houses, with new shared access off Red House Lane.
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Decision

1. The appeal is allowed, and planning permission is granted for erection of 3 houses and conversion of existing buildings to 4 houses, with new shared access off Red House Lane at The Red House, Red House Lane, Leiston IP16 4LR in accordance with the terms of the application, Ref DC/20/0006/FUL, dated 20 December 2019, subject to the conditions set out in the attached schedule.

Procedural Matters

2. Red House is listed at grade II. The Council has previously granted listed building consent¹ for its conversion to four dwellings. The Council refers to plan number 3423 11, which shows the floor plans of the proposed conversion as being the plan on which it based its decision. Plan number 3423 11A has been submitted with the appeal. This plan is referred to in condition 2 of the listed building consent. Because it has previously been approved, I shall base my decision on the latter plan.
3. The Council's second reason for refusal concerns the effect of the development on European designated habitats and lack of a financial contribution towards mitigation measures. The requisite contribution has now been paid and I shall not therefore consider this as a main issue.

Main Issue

4. The Council states that it has no objection to the proposed conversion of the listed building. The main issue in the appeal is the effect of the development on the setting of the listed building.

¹ Ref. DC/18/1675/LBC

Reasons

Character and Appearance

5. The listed building is a former farmhouse. The central part of the building is of timber frame construction with a thatched roof and is stated in the list description as dating from the early 18th century. This was extended in the early 19th century with the addition of a wing with a Georgian façade facing towards Aldeburgh Road. There is a later wing on the other side, stated in the list description as dating from the 20th century. This forms a separate dwelling. Adjoining that wing there is a single storey range of outbuildings running back from the road frontage.
6. To the east there are further former outbuildings and a barn which have been converted to residential use. There are paddocks to the east and south of this group of buildings, and a garden area to the rear of the listed building which was historically a garden and orchard. A tree belt runs along Red House Lane to the west of the building and there is a further tree belt which extends south from the building within its garden.
7. Together these spaces and landscape features form the remnants of the historic setting of the listed building. The area north of Red House Lane was developed for housing during the 20th century. In recent years areas to the south, east and west of the buildings have been similarly developed.
8. Red House and its adjoining farm buildings were historically an isolated group of buildings in the open countryside and were functionally associated with the surrounding farmland. However, the function of the building as a farmhouse ceased some time ago. The significance of the building in association with its historic setting can be appreciated from the remaining open land to the rear although that setting has been encroached upon by modern housing development which surrounds the property.
9. The two tree belts which run south and west from the building form part of the historic setting and frame views of the Georgian façade of the 19th century wing. The significance of that part of the setting has been reduced by the adjacent housing development off Cornflower Close which blocks views of the listed building from Aldeburgh Road. The proposed development would not affect that part of the setting and the tree belts would be retained.
10. The new dwellings would be to the rear of the existing single storey outbuilding which is proposed to be converted. This historically formed part of the orchard, but I saw on my visit that it is now open and largely devoid of trees, in contrast to the remainder of the site which has a wooded character. This part of the site has also been fenced with temporary fencing and forms a paddock. For these reasons the character of the area proposed for new development differs from that of the remainder of the site. Notwithstanding this, the proposal would clearly erode part of the remaining open setting to the rear of the listed building.
11. The single storey rear outbuilding also separates the area to be developed from the listed building. Because of this intervening building, the new dwellings would not be seen directly in association with the listed building but would

- rather be some distance away from it and partially screened from view from some areas immediately to the rear of the listed building.
12. Their design and the materials proposed to be used would be consistent with the character of the former agricultural buildings to the east of the site. They would be in keeping with the former agricultural character of the site and would not detract from the setting in this respect.
 13. Although the proposed access drive would traverse the garden, I do not find this aspect of the development to be unduly intrusive because it would be mainly surfaced with gravel, of limited width and would avoid the existing trees. The layout plan shows that there would be a minimum amount of new boundary treatments. A wall would enclose the proposed garden area adjacent to the 19th century wing but its design including its central gate would be consistent with the formality of the Georgian façade.
 14. For these reasons I find that, although the development would erode the setting of the listed building it has been sensitively designed in order to minimise harm to the setting. The majority of the former garden and orchard to the rear of the listed building would remain open in character. On this basis the harm to the setting of the listed building would be less than substantial. I nevertheless give great weight to that harm.
 15. The alterations to the listed building would be minimal consisting of blocking of existing door openings and formation of new openings. I see no reason to disagree with the Council's view that the proposed conversion of the existing buildings to four dwellings would not be harmful to the heritage asset and that this would be preserved.
 16. There would be social and economic benefits from the proposed additional dwellings. New housing would be provided in a sustainable location with good access to services and facilities. Employment would be provided during construction and the expenditure of future occupiers would benefit the local economy. These public benefits together attract significant weight.
 17. The proposed conversion scheme would provide three dwellings within the listed building and a fourth in the adjoining outbuilding. It would make more efficient use of the listed building and would provide investment in the building. The layout of the building lends itself to conversion to three dwellings with minimal alteration. The proposal would in my view be beneficial in terms of optimising use of the building in comparison to the *status quo*. This would be of benefit in ensuring the long term preservation of the building. I give great weight to this benefit.
 18. Together the significant and great weights that I give to the public benefits outweigh the great weight that I have given to the harm.
 19. For the above reasons the proposed development would accord with Policy SCLP11.3 of the Local Plan² which requires conservation and enhancement of the historic environment in accordance with national policy.
 20. The proposal would also accord with Policy SCLP11.4 which supports development affecting the setting of listed buildings that demonstrates an understanding of the significance of the building and its setting, assesses

² East Suffolk Council Suffolk Coastal Local Plan (2020)

impact on significance, does not harm the character of the building and is of an appropriate design.

21. For these reasons I conclude on the main issue that the development would result in limited harm to the setting of the listed building, but that that harm would be outweighed by the public benefits of the development.

Habitats Regulations

22. The site is within a Zone of Influence, as identified in the Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) for a number of European designated sites, these being: the Minsmere-Walberswick Special Protection Area (SPA) and Ramsar site, the Minsmere to Walberswick Heath and Marshes Special Area of Conservation (SAC), the Alde-Ore Estuary SPA and Ramsar site, the Alde-Ore and Butley Estuaries SAC, the Orfordness-Shingle Street SAC and the Sandlings SPA.
23. The Habitats Regulations Assessment undertaken for the Local Plan established that new residential development within the Zone of Influence would, in combination be likely to adversely affect the integrity of the designated sites due to increased recreational pressure on those sites.
24. Under the RAMS financial contributions are required from new residential development which are used to fund strategic mitigation measures. The appellant has paid the requisite contribution. On the basis that mitigation measures are secured, the development would not adversely affect the integrity of the designated sites.

Other Matters

25. I have had regard to all other matters raised, including concerns about the use of proposed parking spaces off the access drive and potential for disturbance and loss of privacy to adjacent occupiers, and a proposed pedestrian access to an adjacent private drive. Those matters do not alter my conclusions on the main issue.

Conditions

26. With the exceptions as noted below, I have imposed the conditions suggested by the Council with some minor alterations to ensure that they meet the tests set out in the National Planning Policy Framework (the Framework). I have also ensured that conditions that are required to be discharged before development commences are avoided where possible, in accordance with the Framework. The appellant has agreed the pre-commencement conditions.
27. A condition requiring the development to be carried out in accordance with the approved plans is necessary to ensure certainty. It is necessary for the local planning authority to approve details of external materials and landscaping to ensure the appearance of the development is acceptable.
28. A number of conditions are included to require full details of the means of access, visibility splays, surface water drainage and parking facilities. Those conditions are necessary in the interest of highway safety. Details of facilities for storage of refuse bins are also necessary to ensure the adequate functioning of the access arrangements and to ensure that these facilities are otherwise of satisfactory design.

29. Conditions are included which require the measures that are set out in the submitted ecological reports to be carried out and to require a suitable lighting design both of which are necessary to protect biodiversity.
30. I have not imposed the suggested condition restricting clearance of the site during the bird breeding season as to do so would duplicate separate legislative control as well as measures that are included in the ecological reports.
31. The Preliminary Ecological Appraisal recommends the provision of an Environmental Management Plan to contractors which would incorporate measures designed to ensure that habitats are not adversely affected during construction. This would be sufficient to safeguard ecological receptors, and the suggested condition requiring reasonable avoidance measures for those receptors would not be necessary.
32. Neither would a condition requiring either a licence or a statement from the relevant body that one is not required be necessary, because the licensing scheme provides protection of species and there is no need to duplicate this provision.
33. It is necessary to require works to be carried out in accordance with the arboricultural report to ensure that the trees and hedges which are to be retained are safeguarded and replaced where necessary and that the retained trees and hedges are not removed. Conditions with these requirements are necessary in the interest of the character and appearance of the area.
34. A construction method statement is necessary in order to safeguard the living conditions of nearby residents, and in the interests of highway safety and ecological and tree protection.
35. The site has archaeological potential and for this reason conditions requiring archaeological investigation and recording are necessary.
36. A Preliminary Risk Assessment which is dated December 2017 was previously submitted to the Council, but the Environmental Health Officer advises that because of the length of time that has since passed, this may require updating. Consequently, I have imposed the recommended conditions requiring investigation for potential contamination and details of any necessary remedial measures. These conditions are necessary to ensure the development is safe for its future occupiers.

Conclusion

37. For the reasons given I conclude that the appeal should be allowed.

Nick Palmer

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3423 11A, 3423 14, 3423 15E, 3423 16A, and 3423 17A.
- 3) No development shall take place above slab level until details of the roof, wall materials and finishes to be used have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No part of the development shall commence until details of the proposed access (including the position of any gates to be erected and visibility splays provided) have been submitted to and approved in writing by the local planning authority. The approved access shall be laid out and constructed in its entirety prior to any other part of the development taking place, or the occupation of the development. It shall be retained thereafter in its approved form.
- 5) No development shall commence until details have been submitted to and approved in writing by the local planning authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.
- 6) Before the access is first used, visibility splays shall be provided as shown on plan no. 3423 15E and shall be retained thereafter in the approved form. Notwithstanding the provisions of Part 2, Class A of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order, with or without modification), no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the area of the visibility splays.
- 7) Details of the areas to be provided for the loading, unloading, manoeuvring and parking of vehicles, including secure cycle storage and electric vehicle infrastructure, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.
- 8) Details of the areas to be provided for storage of refuse/recycling bins shall be submitted to the local planning authority for approval in writing before the use is commenced. The approved areas shall be provided in their entirety before the development is brought into use and shall be retained thereafter and used for no other purpose.
- 9) The development shall be carried out in accordance with the ecological avoidance, mitigation, compensation and enhancement measures identified within the Preliminary Ecological Appraisal (Huckle Ecology, March 2018) and the Ecological Impact Assessment and Bat Survey Report (Huckle Ecology, December 2019).

- 10) Prior to occupation, a lighting design strategy for biodiversity for the site shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- a. identify those areas/features on site that are particularly sensitive for biodiversity likely to be impacted by lighting and where disturbance is likely in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example for foraging; and
 - b. show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy and shall be maintained thereafter in accordance with the strategy. No other external lighting shall be installed.

- 11) The development shall be carried out in accordance with the recommendations of the Arboricultural Impact Assessment and Preliminary Method Statements document by Tree Planning Solutions (Arboricultural Consultancy) dated 6 August 2019.
- 12) No development shall commence, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- a. the proposed route for access to the site by plant, operatives and delivery vehicles;
 - b. loading and unloading of plant and materials;
 - c. storage of plant and materials and location of staff buildings used in the construction of the development;
 - d. materials/plant delivery times;
 - e. construction times;
 - f. parking for construction workers and visitors;
 - g. wheel washing facilities;
 - h. measures to control the emission of dust and dirt during construction; and
 - i. a scheme for recycling/disposing of waste resulting from demolition and construction works.
- 13) No development shall take place until the implementation of a programme of archaeological work has been secured, in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The scheme of

investigation shall include an assessment of significance and research questions; and:

- a. the programme and methodology of site investigation and recording;
- b. the programme for post investigation assessment;
- c. provision to be made for analysis of the site investigation and recording;
- d. provision to be made for publication and dissemination of the analysis and records of the site investigation;
- e. provision to be made for archive deposition of the analysis and records of the site investigation; and
- f. nomination of a competent person or persons/organisation to undertake the works set out within the written scheme of investigation.

The site investigation shall be completed prior to development, or in such other phased arrangement as approved in writing by the local planning authority.

- 14) No building shall be occupied until the site investigation and post investigation assessment have been completed, submitted to and approved in writing by the local planning authority, in accordance with the approved programme and provision has been made for analysis, publication and dissemination of results and archive deposition.
- 15) Prior to occupation, precise details of a scheme of landscape works, including tree and shrub planting, grass, earthworks and other operations as appropriate, at a scale of not less than 1:200 shall be submitted to and approved in writing by the local planning authority.
- 16) The approved scheme of landscape works shall be implemented not later than the first planting season following commencement of the development and shall thereafter be retained and maintained for a period of five years. Any plant material that is removed, dies or becomes seriously damaged or diseased within five years of planting shall be replaced within the first available planting season thereafter and shall be retained and maintained.
- 17) None of the trees or hedges shown to be retained on the approved plan shall be topped, lopped, pruned, uprooted, felled, wilfully damaged or in any other way destroyed or removed without the prior written consent of the local planning authority. Any tree or hedge that is removed, dies, is severely damaged or becomes seriously diseased within five years of the completion of the development shall be replaced during the first available planting season with a tree or hedge of a size and species which shall have previously been approved in writing by the local planning authority.
- 18) No development, including any construction, demolition, site clearance or removal of underground tanks or relic structures, shall take place until a site investigation including the following components has been submitted to and approved in writing by the local planning authority:
 - a. a desk study and site reconnaissance, including:

- a detailed appraisal of the history of the site;
 - an inspection and assessment of current site conditions;
 - an assessment of the potential types, quantities and locations of hazardous materials and contaminants considered to potentially exist on site;
 - a conceptual site model indicating sources, pathways and receptors; and
 - a preliminary assessment of the risks posed from contamination at the site to relevant receptors, including human health, ground waters, surface waters, ecological systems and property (both existing and proposed).
- b. Where deemed necessary following the desk study and site reconnaissance an intrusive investigation(s), including:
- the locations and nature of sampling points including logs with descriptions of the materials encountered and justification for the sampling strategy;
 - an explanation and justification for the analytical strategy;
 - a revised conceptual site model; and
 - a revised assessment of the risks posed from contamination at the site to relevant receptors, including human health, ground waters, surface waters, ecological systems and property (both existing and proposed).

All site investigations must be undertaken by a competent person and conform with current guidance and best practice including BS 10175:2011+A1:2013 and CLR11.

- 19) Where remediation is necessary, no development, including any construction, demolition, site clearance or removal of underground tanks or relic structures shall take place until a detailed remediation method statement (RMS) has been submitted to and approved in writing by the local planning authority. The RMS shall include, but shall not be limited to:
- details of all works to be undertaken including proposed methodologies, drawings and plans, materials, specifications and site management procedures;
 - an explanation, including justification, for the selection of the proposed remediation methodology(ies)
 - proposed remediation objectives and remediation criteria; and
 - proposals for validating the remediation and, where appropriate, for future maintenance and monitoring.

The RMS must be prepared by a competent person and conform to current guidance and best practice, including CLR11.

- 20) Where remediation is necessary, the approved RMS shall be completed in its entirety prior to any occupation or use of the development. The local planning authority shall be given written notification two weeks prior to the commencement of the remedial works.
- 21) Where remediation is necessary, a validation report shall be submitted to and approved in writing by the local planning authority prior to any occupation or use of the development. The validation report shall include, but shall not be limited to:
- results of sampling and monitoring carried out to demonstrate that the site remediation criteria have been met;
 - evidence that the approved RMS has been carried out competently, effectively and in its entirety; and
 - evidence that remediation has been effective and that, as a minimum, the site will not qualify as contaminated land as defined by Part 2A of the Environmental Protection Act 1990.
- 22) In the event that contamination which has not already been identified to the local planning authority is found or suspected on the site it shall be reported in writing immediately to the local planning authority. No further development, including any construction, demolition, site clearance, removal of underground tanks or relic structures shall take place until this condition has been complied with in its entirety.

An investigation and risk assessment shall be completed in accordance with a scheme which shall be submitted to and approved in writing by the local planning authority. The investigation and risk assessment shall be undertaken by competent persons and shall conform with prevailing guidance, including BS10175:2011+A1:2013 and CLR11, and a written report of the findings shall be submitted to and approved in writing by the local planning authority.

Where remediation is necessary a detailed remediation method statement (RMS) shall be submitted to and approved in writing by the local planning authority. The RMS shall include detailed methodologies for all works to be undertaken, site management procedures, proposed remediation objectives and remediation criteria. The approved RMS shall be carried out in its entirety and the local planning authority shall be given written notification two weeks prior to the commencement of the remedial works.

Following completion of the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority.