
Appeal Decisions

Site visit made on 15 February 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2022

Appeal A Ref: APP/X3540/W/21/3278799

3 Ivy Cottages, The Street, Darsham IP17 3QA

- 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 R Neobard (TTO (Suffolk) Limited) against the decision of East Suffolk Council.
 - The application Ref DC/20/4990/FUL, dated 7 December 2020, was refused by notice dated 19 February 2021.
 - The development proposed is Proposed new build dwelling.
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Appeal B Ref: APP/X3540/W/21/3278816

3 Ivy Cottages, The Street, Darsham, Suffolk IP17 3QA

- 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 Rob Neobard (Neobards Limited) against the decision of East Suffolk Council.
 - The application Ref DC/20/4739/FUL, dated 21 November 2020, was refused by notice dated 19 February 2021.
 - The development proposed is Proposed new build dwelling
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Decision

1. Both appeals are dismissed.

Applications for costs

2. Two applications for costs were made (for both Appeal A and B), by Mr Robert Neobard against East Suffolk Council. These applications are the subject of a separate decision.

Preliminary Matters

3. The appeal sites are adjacent to each other, but they overlap in the location of the proposed driveway. I have considered each proposal on its individual merits. However, to avoid duplication, I have dealt with the two schemes together, except where otherwise indicated.
4. The appeal sites have an extensive planning history including Council and appeal decisions pertaining to single dwellings to the side and rear of No.3. Some of these decisions are particularly relevant to this current appeal. On 28 August 2020¹ the Council granted full planning permission for a single detached dwelling to the rear of No.3. An appeal was also allowed on 22 September 2020² granting outline planning permission for a single detached dwelling to

¹ Council reference: DC/20/1731/FUL

² PINS Reference: APP/X3540/W/20/3253049

the side of No.3. Most recently, on 30 June 2021³, an appeal was allowed, granting outline planning permission for a single dwelling attached to No.3.

5. There is no evidence before me to indicate that reserved matters have been approved in respect of the outline planning permissions granted. In addition, it is not clear whether the planning conditions have been discharged on any of the aforementioned consents. However, given that there is a significant period of time remaining to do so in each case and given the appellant's clear intention (as evidenced by this appeal) to progress with development on the appeal site, I consider that all of these consents have a realistic prospect of being implemented. Therefore, whilst they could not all be implemented together, they do represent different fallback positions. These fallback positions are material in the consideration of this appeal.
6. The main parties have had opportunity to comment on the revised National Planning Policy Framework 2021 (the Framework) and I have had regard to it in this decision.

Main Issues

7. Appeal A:

- The effect of the proposed development on the character and appearance of the area.

8. Appeal B:

- The effect of the proposed development on the living conditions of the occupiers of the neighbouring property, 'Two Hoots', with particular regard to noise and disturbance.

9. Both appeals:

- The effect of the proposed development on highway safety with particular regard to the proposed vehicular access; and
- The effect of the proposed development on Special Protection Areas (SPA), Ramsar Sites and Special Areas of Conservation (SAC).

Reasons

Character and Appearance

10. The appeal site comprises part of the existing side and rear garden of No. 3. This property is part of an existing row of three small terraced properties which have a relatively traditional appearance. The wider surrounding area comprises residential development in a wide range of architectural styles and different scales. For example, directly to the east of the site is a bungalow, whilst to the west is a detached two-storey dwelling. These two dwellings both have a more modern appearance than the row of terraced properties adjacent to the appeal site. In this regard there is very little uniformity in the scale or appearance of residential development in the surrounding area. There is some uniformity in layout, with the vast majority of dwellings along The Street orientated in a linear manner. However, a recently constructed residential development to the

³ PINS Reference: APP/X3540/W/21/3269034

west and north-west of the site includes development in depth, set back from the highway.

11. Whilst the proposed dwelling would be detached, in contrast to the nearby row of terraced properties, it would be of a similar height to these neighbouring dwellings. It would also comprise a relatively traditional appearance, which would assimilate well with these neighbouring properties. The proposed dwelling would include a fairly large projecting two-storey rear gable element, which would result in relatively long flank walls. However, given that there is so much variation in terms of the scale and design of properties in the surrounding area, the long flank walls would not be harmful to the surrounding character.
12. The residential properties in the surrounding area typically comprise terraced dwellings located on small plots or larger detached dwellings on more spacious plots. The proposed development represents a middle ground in this regard, as it would include a small detached dwelling on a relatively small plot. However, whilst some individual plots in the surrounding area are spacious, the overall layout of nearby development is fairly compact. As such, the proposed development would not be incongruous. Indeed, in 2020, an appeal was allowed for a similarly proportioned dwelling in a similar location to that currently proposed, albeit in that case the dwelling was sited slightly further away from the terraced properties.
13. For these reasons, the proposed development would be in keeping with the character and appearance of the surrounding area. As such, it would not conflict with Local Plan⁴ Policies SCLP5.7 and SCLP11.1, which both require that new development is in keeping with the character of the surrounding area.

Living Conditions

14. The scheme proposed under Appeal B includes three parking spaces to the rear of No.3, which would be served by a driveway located directly adjacent to the boundary with 'Two Hoots', the neighbouring property to the east. Given the small scale of the proposed development, there would likely be very few daily vehicular movements along this access. Furthermore, any noise or disturbance associated with the use of the proposed driveway would likely be typical of a residential area. Indeed, there are numerous examples of similar access arrangements within the surrounding area (for example numerous single storey dwellings to the east of the appeal site) where driveways are in close proximity to neighbouring boundaries.
15. In addition, the existing property at No.3 includes a driveway which is already in close proximity to the boundary with Two Hoots (albeit slightly further away than currently proposed). Given the limited number of vehicular movements that would likely occur as a result of the proposed development, the impact from noise and disturbance on the occupiers of this dwelling would not be much greater (and not any more harmful) than the existing situation.
16. For these reasons, the proposed development would not result in unacceptable harm to the living conditions of the occupiers of Two Hoots and it would therefore comply with Local Plan Policy SCLP11.2, which seeks in part to

⁴ East Suffolk Council – Suffolk Coastal Local Plan – Adopted 23 September 2020

ensure that new development does not have an unacceptable impact on neighbouring occupiers, with particular regard to noise and disturbance.

Highway Safety

17. Both the Appeal A and Appeal B proposals would utilise the existing access off The Street via a shared driveway. The Street is subject to a 30mph speed limit. However, it has an enclosed residential character and there are a large number of residential driveways along this section of highway. As such, vehicle speeds are likely to be lower than 30mph within the vicinity of the appeal sites. Furthermore, during my site visit I noted that there is good visibility from the existing access in each direction. Indeed, these conclusions are consistent with the findings of the Inspector in the most recent appeal decision, in 2021. In that case, the Inspector concluded that the use of the same access in respect of a proposed dwelling would not have an adverse impact on highway safety.
18. Suffolk County Council (the Highway Authority or HA) objected to both of the proposals on the basis that the visibility splays provided by the appellant would cross land within third party ownership. The HA outlined a requirement for visibility splays of 2.4m X 43m in each direction. The visibility splays provided by the appellant show that a very small section of the sight line would cross the adjacent driveways of the neighbouring properties to the east and west. Despite this, given the aforementioned highway characteristics, the good visibility from the proposed access and the small scale of the proposed development, I am satisfied that it would be very unlikely that the developments would lead to conflict between highway users.
19. The HA and Council refer to the intensification of the existing access which they suggest would arise if both of the appeal proposals were approved. However, since planning permission was refused an appeal has been allowed for a dwelling attached to No 3 Ivy Cottages⁵. As such, this dwelling could be implemented along with that approved to the rear of the site under Council application reference DC/20/1731/FUL. As a result, there is now a fallback position for two additional dwellings (as opposed to one), which could be implemented together, utilising the same access as would be utilised under the current appeal proposals. Therefore, notwithstanding that I have found that the access has good visibility, the appeal proposals, when considered together, would not involve any intensification of the access above that which would already be possible under the fallback schemes.
20. The access has good visibility in each direction and given the characteristics of the highway and the small scale of the proposed developments, neither scheme would lead to an adverse impact on highway safety. As such, the proposed developments would both comply with Framework Paragraph 109, which states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.

Effect on SPA, Ramsar Sites and the SAC

21. The appeal sites are located within the zone of influence for a number of areas of ecological interest including Special Protection Areas (SPA), Ramsar Sites and Special Areas of Conservation (SAC). These include Alde-Ore Estuary (SPA and Ramsar), Benacre to Easton Bavents (SPA), Deben Estuary (SPA and

⁵ PINS Reference: APP/X3540/W/21/3269034

Ramsar), Minsmere-Walberswick (SPA, SAC and Ramsar), Orfordness-Shingle Street (SAC) and Sandlings (SPA). The Conservation of Habitats and Species Regulations 2017 as amended (Habitats Regulations) require that permission may only be granted after having ascertained that it will not affect the integrity of the European site.

22. In general terms, adverse effects to these areas may arise from additional recreational pressure, which is likely to occur the more dwellings are located nearby to them. The appeal proposals, which both include the provision of a new dwelling, would therefore likely have a significant effect on habitats and areas protected by these designations. In order to mitigate these effects, the Council require contributions from qualifying developments towards the Suffolk Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS).
23. The Council did not include this issue as a reason for refusal in respect of either Appeal A or Appeal B. The Officer Report in respect of both appeals indicates that a RAMS payment has not been made in respect of either of the appeal schemes. Instead, the Officer Reports state that previous payments made in relation to other planning permissions granted on the appeal sites (Council references: DC/20/1731/FUL and DC/20/0541/OUT) can be re-allocated to mitigate the impacts of the appeal schemes. I have not been provided with any evidence of such payments having been made either in relation to the appeal schemes or the aforementioned planning permissions. Furthermore, in the absence of a sufficiently robust mechanism to satisfactorily show how any monies paid by the appellant will be spent, such as a planning obligation in this case, I cannot be satisfied that the harm that would arise from the appeal scheme will be mitigated appropriately.
24. I accept that Inspectors who have previously allowed appeals in this location were satisfied that evidence of a RAMS payment was sufficient to mitigate harm. However, I do not know the precise circumstances in which these conclusions were reached. Furthermore, in those cases the evidence indicates that a RAMS payment had been made in relation to those schemes and evidenced by the appellant. That is not the case in respect of either Appeal A or Appeal B.
25. As such, I cannot conclude that likely significant effects to the ecological integrity of the above mentioned areas would not occur. Therefore, in the absence of a planning obligation or other legal agreement, the appeal schemes would both conflict with Local Plan Policy SCLP10.1, which in part seeks to protect SPAs, SACs and Ramsar Sites.
26. There would also be a conflict with Framework Paragraph 174a, which requires in part that planning decisions should protect sites of biodiversity value in a manner commensurate with their statutory status (in this case, sites afforded statutory protection under the Habitat Regulations).

Other Matters

27. Both the Appeal A and Appeal B proposals would result in the provision of an additional dwelling. There would be some social and economic benefits resulting from the increase in the housing stock. However, given the small scale of development in each case, these benefits would be limited and would not outweigh the harm caused by each development.

Conclusion

28. The Appeal A proposal would not result in any unacceptable harm to the character and appearance of the area. The Appeal B proposal would not be unacceptably harmful to the living conditions of the occupiers of 'Two Hoots'. Neither scheme would result in an adverse impact on highway safety.
29. However, there is insufficient information before me to demonstrate that the Appeal A and B proposals would protect the integrity and special interest of the SACs, Ramsar Sites and SPAs. Given the statutory protection afforded to these sites, this consideration weighs heavily against the proposals. As such, the proposed developments would conflict with the development plan taken as a whole and there are no material considerations (of sufficient weight) to indicate a decision other than in accordance with it. The appeals are therefore dismissed.

Luke Simpson

INSPECTOR