



Appeal Decision

Site visit made on 15 March 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th July 2022

Appeal Ref: APP/X3540/W/21/3275958

19 Manning Road, Felixstowe IP11 2AY

- 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 N Uddin (Planet 25 Ltd) against the decision of East Suffolk Council.
 - The application Ref DC/21/0731/FUL, dated 3 February 2021, was refused by notice dated 20 April 2021.
 - The development proposed is demolition of workshop and replacement with 1no detached dwelling, alterations and extension to existing building to retain shop/office and provide 2no one bedroom first floor flats and 1no two bedroom dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of workshop and replacement with 1no detached dwelling, alterations and extension to existing building to retain shop/office and provide 2no one bedroom first floor flats and 1no two bedroom dwelling at 19 Manning Road, Felixstowe IP11 2AY in accordance with the terms of the application, Ref DC/21/0731/FUL, dated 3 February 2021, subject to the attached schedule of conditions.

Procedural Matters

2. The description contained in the banner heading above reflects that found on the Application Form, but I have omitted superfluous information that does not form part of the description of development.
3. The Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') transpose the Habitats Directive and the Birds Directive into English law. The aim of the Directives is to conserve key habitats and species across the European Union by creating and maintaining a network of sites known as the Natura 2000 network. They require competent authorities before granting consent for a plan or project, to carry out an 'Appropriate Assessment' in circumstances where the plan or project is likely to have a significant effect on a European site, alone or in-combination with other plans or projects.
4. The Officer Report identifies that the Council has carried out its own assessment in this regard but my determination of the appeal means I also have to undertake the same statutory duty. I have therefore dealt with this matter as a main issue and engaged with the main parties and Natural England accordingly as part of the appeal proceedings.

5. The Council granted planning permission¹ in April 2019 for the appeal building to be altered and extended to create four residential units and four shop/office units. The main parties agree that this development needed to be commenced by 30 April 2022. The Council has an as yet undetermined application for a certificate of lawfulness² submitted to it by the appellant on 12 April 2022 in order to determine whether a lawful start was made on the application prior to 30 April 2022. Based on the evidence before me, it was not necessary for me to consider whether the development is extant, which avoids this decision potentially fettering that application. Moreover, I have determined the appeal on the basis of the uses and development currently in situ.
6. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). The main parties have had the opportunity to comment upon the relevance of any revised content of the Framework and I have had regard to any comments in my decision.
7. The Decision Notice refers to Policy SCLP5.4 of the Suffolk Coastal Local Plan (Adopted September 2020) (LP) but this relates to new housing proposals in clusters in the countryside. The main parties agree that this should be Policy SCLP5.7, which relates to infill and garden development. I have therefore determined the appeal in accordance with that policy.

Main Issues

8. The main issues are:
 - whether the proposed development makes suitable provision for parking, and any associated effects on highway safety; and
 - the effect of the proposal on the integrity of the features of European nature conservation sites situated along the Suffolk coast.

Reasons

Provision and Effect of Parking

9. The appeal site concerns an L-shaped building at the corner of Manning Road and Holland Road, within a predominantly residential area of Felixstowe. The properties in the surrounding streets are arranged in long terraces close to the footpath, so there are very few opportunities for off-street parking. The spaces available on-street are not controlled by a residential parking scheme but some restrictions apply near to street corners.
10. The main part of the appeal building is of two storeys and fronts Holland Road. This includes a garage. The single storey range at its rear abuts the footway of Manning Road. The building accommodates a vacant electrical shop/office and adjoining workshop at ground floor, with a 4/5-bedroom flat above.
11. The proposal is for two 1-bedroom flats, two 2-bedroom dwellings, one with a separate study. The existing shop/office and garage would be retained, with the latter serving one of the dwellings. A further garage would be provided for the other dwelling. Given the existing residential context, the proposal would be an outlier in its immediate setting, as it would include off-street parking in

¹ Planning Reference: DC/18/4989/FUL.

² Planning Reference: DC/22/1476/CLE.

an area where such provision is scarce. Nevertheless, the Council's parking guidance³ (the Guidance) sets out that the development requires six spaces.

12. Although additional parking would need to be met on-street, I am mindful that the existing flat only has one space, in the garage accessed from Holland Road. Under the Guidance, as a new development, this would require three spaces. Were the commercial use of the whole of the ground floor to be reinstated it would also be likely to generate some on-street parking demand throughout the day for staff, clients, and customers.
13. Cycle storage would be provided as part of the proposal and the site is within walking and cycling distance of the shops, services, and facilities nearby and in the town centre. There would therefore be opportunities to travel by alternative sustainable modes of transport, which should be encouraged. I note that the Highway Authority arrived at a similar conclusion.
14. Concerns regarding the availability of on-street parking near to the site identified by the Council, Highway Authority and a resident are not supported by any substantive evidence, such as a thorough a parking survey to address parking demand during the day and throughout the week. Moreover, while my visit was only a snapshot, if there are parking pressures within the locality, these are unlikely to recede with the in situ uses and the extent of the demand for parking associated with the proposal is likely to be only marginally greater than for those uses.
15. The occupants / users of the proposed development would therefore be no more likely than those of in situ uses or residents of other properties to park indiscriminately within neighbouring streets, including in areas that remain marked with double yellow lines.
16. In light of the above, I conclude that the proposed development would make suitable provision for parking and would not have a harmful effect on highway safety. Hence, the proposal would not conflict with the aims for the design and standards of parking expressed in LP Policies SCLP5.7 and SCLP7.2, the Guidance, and paragraph 111 of the Framework.

European nature conservation sites

17. The appeal site falls within the recreational disturbance Zone of Influence for a number of European nature conservation sites situated along the Suffolk coast⁴. The Habitats Regulations Assessment Recreational Disturbance Avoidance and Mitigation Strategy for Ipswich Borough, Babergh District, Mid Suffolk District and East Suffolk Councils – Technical Report (May 2019) (RAMS) explains that the sites have been designated because they include habitats that support rare and colony nesting bird species, including Avocet, Grey Plover, Little Tern, European Nightjar, Redshank and Woodlark. Many of the species affected nest on or near the ground and are therefore very susceptible to disturbance from informal recreational use, including walking.
18. When following a precautionary approach, in combination with other plans and projects, the proposal would be likely to have a significant adverse effect on

³ Suffolk Guidance for Parking - Technical Guidance (Third Edition – May 2019).

⁴ Alde-Ore Estuary Special Protection Area (SPA) and Ramsar site; Deben Estuary SPA and Ramsar site; Orfordness-Shingle Street SAC; Sandlings SPA; and Stour and Orwell Estuaries SPA and Ramsar site (Suffolk side only).

these protected areas due to the additional recreational disturbance that could result given the location of the proposed development within the Zone of Influence. I am therefore required to undertake an 'Appropriate Assessment' of the effects of the development on the identified European sites.

19. The RAMS provides strategic measures to off-set the increased recreational disturbance on the European sites arising from residential growth in East Suffolk. It therefore sets out a tariff for financial contributions from new developments to fund strategic mitigation, including access management and monitoring at the European sites. This approach is also reiterated in the Council's own Supplementary Planning Document⁵ (SPD).
20. The appellant has completed a form provided by the Council which refers to Section 111 of the Local Government Act 1972, which provides for an upfront contribution of £365.67. This has already been paid to the Council towards the mitigation measures outlined in RAMS. Natural England confirm that this is a suitable arrangement, and it accords with the Council's SPD.
21. The Council has confirmed that each contribution is recorded on its Planning Obligations monitoring database and is ringfenced for the projects listed in RAMS. The Council also produces an Infrastructure Funding Statement prior to each year end, which details all contributions held, and project spend is allocated to specific contributions. With these points in mind, I am satisfied that there would be sufficient procedures in place to secure appropriate mitigation and ensure that it would be provided in a timely manner to accord with RAMS.
22. Consequently, I am satisfied that the proposed development, in combination with other projects and plans, would not result in the likelihood of any adverse effects upon the integrity of European sites protected under the Habitats Regulations. For this reason, the proposal would accord with the habitats and species protection criteria set out in LP Policy SCLP10.1.

Other Matters

23. The appeal site is situated within the Felixstowe South Conservation Area (CA). I have therefore had regard to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that special attention be given to the desirability of preserving or enhancing the character or appearance of the CA. The site is at the centre of the CA, within a predominantly residential area. While the proposal would be prominent, the alterations to the building fronting Holland Road and the new detached dwelling in Manning Road would be of a scale, form and appearance that would be consistent with the existing buildings found in this part of the CA. The Council consider that the proposal would preserve the character and appearance of the CA and there is nothing before me that would lead me to a different conclusion.
24. Part of the appeal building would be used as a shop but, as I explained in the first main issue, this is an existing use. The success or otherwise of the shop in the future is therefore not a matter for my consideration.
25. The two-storey element of Unit 1 would be aligned parallel to Manning Road, roughly on a northeast-southwest axis, and incorporate a narrow span, similar to the existing workshop. While the proposed dwelling would be likely to result in some shading of the rear garden of 11 Manning Road, this would be for only

⁵ Recreational Disturbance Avoidance and Mitigation Strategy Supplementary Planning Document (May 2021).

part of the day. Similarly, the gap that would remain between the proposal and the solar panels on the roof and southwest-facing wall of No 11 means they are still likely to receive sunlight throughout most of the day. Despite my findings in the first main issue, it would be reasonable to minimise the impacts of the construction process for the proposed development through a construction method statement, particularly in relation to parking and deliveries and muck away lorries. This would be a reasonable approach given that construction would be for a temporary period only. For these reasons, the proposal would not result in significant harm to the living conditions of the occupiers of No 11, as required by LP Policy SCLP5.7(c).

Conditions

26. I have assessed the list of conditions supplied to me by the Council against the tests set out in the Framework and made amendments to their wording, where necessary, in the interests of clarity and precision.
27. In addition to the standard time limit for the appeal, in the interests of clarity I have specified the approved plans. In the interests of preserving the character and appearance of the CA, a condition for the materials of construction is necessary. For the reasons outlined above, I have included a condition in respect of construction methodology. A condition for flood proofing of the development is also required to minimise damage to the development in the event of flooding and enable a faster recovery once floodwaters have subsided.
28. The Council has suggested conditions for the photographic recording of the warehouse building and to secure details of cycle storage, but there is no discussion in either its Officer Report or Statement of Case as to the historic merits of the building. The proposed areas for cycle storage are also already shown on the application drawings. Inclusion of conditions for both these matters would therefore respectively be unreasonable and unnecessary.

Conclusion

29. For the reasons given above, I conclude that the appeal should succeed.

Paul Thompson

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1046-20-001B, 1046-20-002B, 1046-20-003A, 1046-20-004A, and the Site Location Plan (scale 1:1250).
- 3) No above ground construction shall take place on site until details of the external materials to be used in the construction of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall only be carried out in accordance with the approved details.

- 4) No above ground construction shall take place on site until, a scheme for the provision and implementation of flood proofing measures for the proposed development has been submitted to and approved in writing by the local planning authority. The scheme shall have regard to the CLG publication 'Improving the flood performance of new buildings: flood resilience construction'. The approved scheme shall be carried out prior to the development first being brought into use and retained as such thereafter.
- 5) No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - a. the parking of vehicles of site operatives and visitors;
 - b. loading and unloading of plant and materials;
 - c. storage of plant and materials used in constructing the development;
 - d. measures to control the emission of dust and dirt during construction, in relation to the functioning of the highway and neighbouring dwellings;
 - e. delivery and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

End of Schedule