

Appeal Decision

Site visit made on 26 July 2022

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 August 2022.

Appeal Ref: APP/F3545/W/21/3288025

Land rear of 42-45 York Road, Bury St Edmunds, Suffolk IP33 3EG

- 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 P Gilbey against the decision of West Suffolk Council.
 - The application Ref DC/21/1091/FUL, dated 17 May 2021, was refused by notice dated 30 July 2021.
 - The development proposed is 'erection of 1no. single storey dwelling (following demolition of existing outbuildings) utilising existing vehicular access [following DC/18/2326/FUL]'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council refers in its appeal statement to additional information provided by the appellants with regard to biodiversity net gain. It indicates that subject to a condition to secure a biodiversity enhancement strategy the proposal is compliant with relevant development plan policies. As such, while this matter formed part of the reason for refusal, I have not considered it in this appeal decision.

Main Issues

3. The main issues are whether the proposed dwelling would preserve or enhance the character or appearance of the Bury St Edmunds Victoria Street Conservation Area in which the appeal site is located; and the effect of the proposal on hedgehog habitat.

Reasons

Bury St Edmunds Victoria Street Conservation Area

4. The Bury St Edmunds Victoria Street Conservation Area comprises predominantly residential streets laid out from the mid-19th century, with two storey terraced properties, villas and semi-detached dwellings set on consistent building lines fronting the streets. The back-to-back gardens and open land to the rear of properties on York Road and Queens Road are spacious and verdant
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- and, therefore, they make a positive contribution to the conservation area's character and appearance.
5. The appeal site is an area of largely open land to the rear of the terraced dwellings on the south side of York Road. It is partly overgrown and includes several outbuildings that have fallen into disrepair. Access is via an existing track off York Road that runs between Nos 45 and 46, which also provides access to some nearby properties with parking to the rear.
 6. The appellants contend that as the appeal site is not in use as garden land the proposal would not prejudice any elements identified as important characteristics in the Character Appraisal for the area. However, despite the existing structures, the character and appearance of the site in this location is akin to those of neighbouring gardens. As such, together with the neighbouring open garden land, it makes a positive contribution to the conservation area.
 7. The proposal involves the removal of the existing structures on the site and their replacement with a single storey dwelling. I acknowledge that the design, materials and position of the dwelling are intended to reduce its profile and visibility in the backland location. However, it would have a greater footprint and presence than the buildings typically found in the rear gardens, including those already on the site, which are smaller outbuildings. The overall extent of the built form and residential use, with parking, lighting and associated domestic paraphernalia, would make this an uncharacteristic form of development in the predominantly open, verdant setting.
 8. The majority of the appeal site is not readily visible from the street frontage, despite the access drive running between the established dwellings. The new dwelling would, however, be prominent in views from the rear of neighbouring dwellings and their gardens. While visibility is not a determinative issue with regard to the effects of development in a conservation area, such views of the dwelling would nonetheless serve to highlight the uncharacteristic built form and use in this setting, behind the established layout of dwellings.
 9. A comparison is drawn between the appeal proposal and the larger residential development that exists nearby to the rear of properties on Queens Road. I note, however, that the site was entirely hardstanding and contained substantial garage blocks. Consequently, there are clear differences with the appeal site, which has more in common with the neighbouring gardens. Moreover, the existence of this development in an uncharacteristic location should not be considered as a precedent for a further similar type of development, which as found above would serve harmfully to erode the character and appearance of the conservation area.
 10. Therefore, for these reasons, I find that the proposal fails to preserve the character and appearance of the Bury St Edmunds Victoria Street Conservation Area. The National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation¹. Based on the above findings, I consider the harm to be less than

¹ Paragraph 199.

substantial in this instance, but nevertheless of considerable importance and weight.

11. Under such circumstances, the Framework advises that this harm should be weighed against the public benefits of the proposal². Therefore, I have had regard to the benefits put forward by the appellants. The removal of the largely dilapidated structures would provide some limited benefits to the appearance of the conservation area, but the existence of these less substantial, unused buildings is not comparable to the degree of harm found above with regard to a new dwelling in this location. I accept that the proposal would provide an additional dwelling on a small site in a sustainable location, but this is insufficient basis to overcome the harm to the conservation area that would occur. As such, these matters do not outweigh the harm that has been found.
12. Therefore, for the above reasons, I conclude that the proposed dwelling would not preserve the character and appearance of the Bury St Edmunds Victoria Street Conservation Area. Consequently, the proposal is contrary to the following development plan policies: Policy DM17 of the Council's Joint Development Management Policies Document (2015), which concerns the effects of development in conservation areas; Policy DM2 of the same document which amongst other matters also addresses development in conservations areas; and Policy CS3 of the St Edmundsbury Core Strategy (2010), which requires that development proposals must create and contribute to a high quality environment. The proposal is also contrary to section 16 of the Framework concerning the historic environment.
13. In reaching this conclusion I am particularly mindful of the statutory requirement that in exercising planning functions in conservation areas special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area³.

Hedgehog Habitat

14. The main and interested parties agree that the appeal site is used by hedgehogs, notably at the boundaries which provide connections to neighbouring gardens. Hedgehogs are listed as a species of principal importance for the conservation of biodiversity in accordance with the provisions of Section 41 of the Natural Environment and Rural Communities Act 2006. Consequently, Policy DM11 of the Joint Development Management Policies Document is relevant as this concerns the effects of development on protected species.
15. The appellants propose a mitigation strategy for the continued use of the site by hedgehogs. Measures include hedgehog 'links', retaining a metre wide wildlife strip, sensitive lighting, enhanced boundary vegetation and installation of three log piles at the corners of the site. I have had full regard to the concerns raised by the Council and interested parties about the adequacy and likely permanence of these measures, as well as the wider effects of the development on use of the site as habitat for hedgehogs. However, I note also that the Council's professional ecology advisor has assessed the mitigation

² Paragraph 202.

³ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

strategy and recommends that the measures should be secured and implemented in full through a condition.

16. The suggested condition also includes the provision to appoint an appropriately competent person to provide on-site ecological expertise during construction. Therefore, with such a condition in place, securing both the mitigation measures and oversight of construction, I conclude that the proposal would not have an unacceptably harmful effect on hedgehog habitat. Consequently, there is no conflict with Policy DM11, which includes the provision to use planning conditions to achieve appropriate mitigation to ensure that any potential harm is kept to a minimum.

Other Matters

17. I have had regard to all the representations made by interested parties and the appellants' comments on these. There are no additional matters raised in relation to the main issues in this appeal that would lead me to reach a different overall conclusion.
18. Matters raised about land ownership and access rights over the appeal site are not within the scope of this appeal, which is concerned with the planning merits of the proposed development.

Conclusion

19. I have found in the appellants' favour with regard to one main issue, concerning the effect of the proposal on hedgehog habitat. However, this does not outweigh the fact that the proposed dwelling would not preserve the character and appearance of the Bury St Edmunds Victoria Street Conservation Area and the consequential conflict with relevant development plan policies. 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