



Appeal Decision

Site visit made on 11 October 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 October 2022

Appeal Ref: APP/X3540/W/21/3286196

9 Glebe Close, Lowestoft NR32 4NU

- 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 Russell Ritchie against the decision of East Suffolk Council.
 - The application Ref DC/21/3570/FUL, dated 26 July 2021, was refused by notice dated 17 September 2021.
 - The development proposed is erection of two detached single storey dwellings and all associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site has a relatively extensive planning history with various applications for planning permission having been refused¹ and granted² by the Council, one of which involved a dismissed appeal. However, of those decisions referred to, there are only two where the parties have provided me with a decision notice and associated plans and that are therefore capable of being afforded weight as material considerations for this appeal. Most recently, on 13 July 2022, after this appeal was submitted, the Council granted planning permission under application reference DC/21/5044/FUL for 'Construction of two detached dwellings and all associated works' (hereafter referred to as the 'Fallback Scheme').
3. Given the remaining period for implementation of this permission and the clear intent of the appellant, which is signalled by the planning history of the site, I consider that there is a realistic prospect of the Fallback Scheme being implemented. It is therefore a material consideration in the determination of this appeal. The implications of this are discussed further in relation to 'other matters'

Main Issues

4. The main issues are:
 - The effect of the proposed development on the integrity of a European Site.
 - The effect of the proposed development on the character and appearance of the area.

¹ Council refs: DC/19/2051/FUL and DC/21/3570/FUL

² Council refs: DC/20/1359/FUL, DC/21/0709/FUL and DC/21/5044/FUL

- The effect of the proposed development on the living conditions of the occupiers of 8 and 9 Glebe Close, with particular regard to noise and disturbance
- Whether the proposed development would provide a suitable standard of residential accommodation for future occupiers, with particular regard to outlook (Plot 2) and the amount and quality of outside space proposed (Plot 1).

Reasons

European Sites

5. The appeal site is located within the Zone of Influence (ZOI) of the Benacre to Easton Bavents Special Protection Area (SPA). The Conservation of Habitats and Species Regulations 2017 as amended (Habitats Regulations) require that permission may only be granted after having ascertained that the development will not affect the integrity of the European site.
6. Benacre to Easton Bavents SPA is situated on the east coast of Suffolk and extends southwards from Kessingland to Southwold. Habitats include semi-natural woodland, shingle, tall fen vegetation, dunes, grassland, saltmarsh and coastal lagoons. These habitats support an assemblage of breeding and wintering birds.
7. In general terms, adverse effects to this area may arise from additional recreational pressure, which is likely to occur the more dwellings are located nearby to it. Given the small scale of the proposal, when considered alone, it would be unlikely to have significant effects on the SPA. However, the increased recreational pressure arising from two new dwellings, in combination with other development within the ZOI, would be likely to have a significant effect on habitats and areas protected under this designation.
8. In order to mitigate these effects, the Council require contributions from qualifying developments towards the Suffolk Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). The appellant has provided evidence, in the form of a receipt, to indicate that a payment has already been made towards the RAMS. I appreciate that the Council seems content with this approach. Nonetheless, I am the competent authority as the decision-maker and as such, it is necessary to undertake an appropriate assessment.
9. I understand that the payment was made by the appellant to the Council in good faith. However, in the absence of a sufficiently robust mechanism to satisfactorily show whether, and exactly how and when, the 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. Indeed, certainty that appropriate mitigation will be enacted is necessary, given the statutory protection which is given to the aforementioned site.
10. As such, I cannot conclude that likely significant effects to the ecological integrity of the SPA would not occur. In the absence of a planning obligation or other legal agreement therefore, the appeal scheme would conflict with Local

Plan³ Policy WLP8.34 which requires developers to make financial contributions towards mitigation measures in relation to the effect of development on SPAs.

11. 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.

Character and Appearance

12. The appeal site comprises land to the rear of 9 Glebe Close (No 9). Glebe Close is a cul-de-sac which contains residential properties of varying design. Most of the existing properties on Glebe Close are detached and set within relatively spacious plots. Those at the end of the cul-de-sac, including No 9 are single storey. The evidence before me indicates that the site currently comprises a residential garden associated with No 9. The appeal site is not clearly visible from public land, although it is surrounded by residential development on all sides.
13. The existing site comprises of a residential garden, which is very large in comparison to neighbouring gardens and in this regard is uncharacteristic of the surrounding area. The appellant has provided evidence to indicate that the density of the development would be lower than that of surrounding dwellings and that the plot sizes would also be comparable. There is no substantive evidence before me which contradicts this. Indeed, my own observations during the site visit indicate that the appeal site, given its extensive size, is capable of adequately accommodating the proposed development, such that it would not appear as cramped when viewed from the surrounding area.
14. The Council has described the character of the area as 'open'. However, whilst there are several large residential gardens in the vicinity, the prevailing character of the area is not predominantly free from development. In any case, the single storey scale of the proposed dwellings would further limit their visual impact, such that they would not significantly impinge on any sense of openness in this regard. In addition, only limited views of the dwellings would be possible from Glebe Close, such that there would not be a harmful urbanising impact in this regard.
15. For these reasons, the proposed development would not be harmful to the character and appearance of the area and it would therefore comply with Local Plan Policies WLP8.29 and WLP8.33. These policies seek, amongst other things, to safeguard visual amenity and ensure high quality design.
16. The proposal would also comply with the provisions of Framework 130, insofar as it requires development to respect local character.

Living conditions

17. The proposed development includes the extension of the existing vehicular access to the side of No 9, adjacent to 8 Glebe Close (No 8). Part of No 9 would be demolished in order to facilitate the widening of the access. Whilst the access would be in close proximity to these neighbouring dwellings, this relationship would not be particularly unusual for a residential area. Indeed, despite their spacious plots, similar access arrangements are prevalent throughout Glebe Close, with driveways adjacent to neighbouring properties.

³ Waveney Local Plan – Adopted March 2019

18. Furthermore, it is unlikely that there would be a large number of vehicular movements associated with the small number of dwellings proposed. The noise levels likely to emanate from those movements would be commensurate with what one might expect in a residential area. As such, even taking into account the orientation of neighbouring windows at No 8 and the potential for additional windows at No 9 (post-demolition), I do not consider that there would be any unacceptable impact on the living conditions of the occupiers of these neighbouring properties.
19. For these reasons the proposed development would comply with Local Plan Policies WLP8.29 and WLP8.33, which seek in part to safeguard the living conditions of neighbouring residents.
20. The proposed development would also comply with Framework Paragraph 130, which also seeks in part to safeguard living conditions.

Standard of Accommodation

21. Both dwellings would provide an adequate amount and quality of private outside space. Whilst the dwellings would be large in comparison to the outside space provided, there would still be reasonably large areas of private outside space surrounding the dwellings. Furthermore, private outside space need not necessarily be located to the rear of the proposed dwellings and boundary treatments could be controlled by planning condition.
22. The windows of the dwelling proposed on Plot 2 would be in close proximity to the neighbouring boundaries to the north and east. However, the boundary treatments to these sides are of a small scale. As a result, the outlook from these windows would not be significantly constrained.
23. For these reasons, the proposed development would provide an adequate standard of accommodation to future occupiers. It would therefore comply with Local Plan Policies WLP8.29 and WLP8.33, which seek in part to ensure acceptable living conditions.
24. The proposed development would also comply with Framework Paragraph 130, which also seeks in part to provide a high standard of amenity to future users.

Other Matters

25. I note that there is some support from a neighbouring resident. However, this support is not a consideration which outweighs the harm which would be caused by the development, particularly given the statutory importance of this harm.
26. Numerous objections were made by third parties. However, given that I am dismissing this appeal, it is not necessary to consider these matters in further detail.
27. Planning permission was granted for the Fallback Scheme after the submission of this appeal. This approved development includes two dwellings in slightly different locations to those proposed under this appeal. The site area is also slightly larger. The Fallback Scheme is a material consideration. However, under Regulation 63 of the Habitats Regulations, as the competent authority, I may only agree to the plan or project after having ascertained that it will not adversely affect the integrity of the European site. The fact that there is a

realistic prospect of an identical quantum of development coming forwards on the appeal site under the fallback scheme does not circumvent or outweigh this statutory requirement.

28. The proposed development would provide a net increase of two dwellings. There would be social and economic benefits as a result. These would arise from the increase in the housing stock, increased population to support local services and temporary support for construction jobs. However, given the small scale of the proposed development, these benefits would be of moderate weight and they would not outweigh the harm to the integrity of the SPA, particularly given its statutory importance.

Conclusion

29. The proposed development would not result in harm to the character and appearance of the surrounding area. Neither would it result in harm to the living conditions of neighbouring occupiers. It would also provide a suitable standard of living accommodation for future occupiers.
30. However, the absence of harm in these regards does not outweigh the level of harm which would be caused to the integrity of the SPA. As a result, the proposed development would conflict with the development plan taken as a whole. There are no material considerations of sufficient weight which warrant a decision other than in accordance with the development plan. The appeal is therefore dismissed.

Luke Simpson

INSPECTOR