



Appeal Decision

Site visit made on 10 November 2022

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Appeal Ref: APP/X3540/W/21/3282582

1 Burnt House Lane, Kirton IP10 0PZ

- 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 Harper of RH & SM Properties Ltd against the decision of East Suffolk Council.
 - The application Ref DC/21/1603/FUL, dated 25 March 2021, was refused by notice dated 30 July 2021.
 - The development proposed is the erection of 1 no. dwelling and garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to outlook, noise and disturbance; and
 - whether sufficient information is available to assess the impact of the proposed development on trees.

Reasons

3. The appeal site comprises an irregular-shaped and elongated parcel of land accessed between No 1 Burnt House Lane (No 1) and No 34 Bucklesham Road (No 34). There is a variety in the design and style of surrounding properties, which are located on a ribbon pattern of development. Except for Rivett Close, a small cul-de-sac to the rear of the appeal site, dwellings in the immediate area are typically set back from the road with open frontages and large narrow rear gardens, which makes a positive contribution to the openness of the area. I saw how the long rear gardens, which contain a mixture of low boundary fences, hedges, shrubs and trees, provide an open and verdant appearance along the rear of this undisturbed section of Burnt House Lane and Bucklesham Road.
4. The proposed scheme would be accessed from an opening to be created off Bucklesham Road. The dwelling and garage would be set back from the road whereby it would not be highly visible with the streetscene and would sit comfortably within the site being set in from existing boundaries of nearby properties with sufficient garden space to avoid appearing cramped.

5. However, it would nonetheless introduce a dwelling which does not reflect the established pattern and grain of development which is of dwellings with long linear gardens set back from the road. As a result of its backland position down a long narrow driveway, the introduction of the dwelling and garage would appear as an incongruous addition within the surrounding area that would be out of keeping with the prevailing spacious low-density character of the area.
6. The central area of the appeal site is unmanaged grassland. Trees, hedges and shrubs are found both within the outer edge of the appeal site and outside the site boundary within neighbouring gardens. From my observations, the trees and vegetation within the rear of the appeal site offer little in terms of amenity value. Notwithstanding this, mature trees and other vegetation are located to the front of the appeal site adjacent to Bucklesham Road, including in the gardens of properties at No 1 and No 34. These trees and shrubs provide amenity value within the streetscene by providing a green break between the built development at the junction.
7. In light of the above, I conclude that the proposed development would significantly harm the character and appearance of the area, contrary to Policies SCLP5.7, SCLP11.1 and SCLP10.4 of the Suffolk Coastal Local Plan (LP). These policies, amongst other things, seek to ensure new development, maintains existing green infrastructure, protects or enhances the features and character of the area and responds to local context and the form of surrounding buildings. The proposal would also conflict with the provisions of the National Planning Policy Framework (the Framework), which seeks to ensure that development is sympathetic to local character.

Living conditions

8. The Council raises concerns due to harm to outlook, and whilst the proposed development would be partially visible from the rears of 34 and 36 Bucklesham Road, it would be separated by a sufficient distance to ensure that no existing windows or gardens would be adversely affected through the introduction of a new dwelling in this location whereby any impacts from the proposed house and garage would be minimal.
9. The proposed vehicular access between No 1 Burnt House Lane and No 34 Bucklesham Road would not be typical in design terms of what is evident nearby, with driveways located to the immediate front of nearby dwellings. Nevertheless, a close relationship between vehicle movements in close proximity to houses and gardens would not be particularly unusual for a residential area.
10. Furthermore, it is unlikely that there would be a large number of vehicular movements associated with the single dwelling proposed. The noise and vibration 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 and gardens at No 1 Burnt House Lane and No 34 Bucklesham Road, I do not consider that there would be any unacceptable impact on the living conditions of the occupiers of these neighbouring properties through noise or other nuisance.
11. For these reasons, the proposed development would not further conflict with LP Policy SCLP5.7 and would also comply with Policy SCLP11.2, which seek in part to prevent harm to outlook and prevent significant harm to residential amenity

of existing occupiers. The proposed development would also comply with Paragraph 130 of the Framework, which seeks a high standard of amenity for existing users.

Trees

12. As I have set out above, there are mature trees on and adjacent to the appeal site access. The Appellant has also provided plans that establish which trees are to be removed and retained as part of the proposed scheme, which I have considered within my reasoning. Additionally, I acknowledge that these trees are not protected by a tree preservation order, and no further information was requested by the Council or comments received by the Council's Trees Officer. However, these trees are relatively mature and tall and add to the verdant character of the wider area and consideration of the impacts upon them is clearly set out in development plan policies.
13. From the evidence before me, the Appellant has not provided information upon which an assessment of the effect of the proposal on trees could be reasonably assessed. Without robust arboricultural evidence, I cannot be confident that development could be carried out in this location without adversely affecting these trees, and there is little to demonstrate that potential harm or unnecessary loss of trees could be effectively mitigated.
14. Given this uncertainty and that it relates to the access of the dwelling, which is fundamental to the development proposed, I am not satisfied that it would in this case, be appropriate to defer consideration of this matter to a planning condition.
15. Accordingly, I am unable to conclude that the proposal would not result in the unnecessary removal or harm the health or condition of these trees. I find that the proposal would conflict with Policies SCLP5.7, SCLP10.4 and SCLP11.1 of the LP which broadly seeks the protection and retention of trees. It would also conflict with paragraph 131 of the National Planning Policy Framework which seeks the retention of existing trees wherever possible.

Other Matters

16. The development would offer potential benefits in terms of providing 1 new dwelling to the Council's housing stock. It would also have economic benefits through employment opportunities during the construction phase of the development, and spending in the local area by future occupants. I have attached some weight to these factors. However, given the small scale of the development, the weight attributable to these matters is limited and is not sufficient to outweigh the harm that I have identified and the conflict with the policies I have referred to.
17. The appeal site is within the recreational disturbance Zone of Influence for Stour and Orwell Estuaries SPA/Ramsar and Deben Estuary SPA/Ramsar in which proposals including a net gain in residential development have the potential to give rise to significant effects (either alone, or in combination with other proposals). I note the Appellant has made a payment, which has satisfied the Council that there would be no adverse effects on the integrity of the SPA/Ramsar. As the appeal is dismissed for other reasons it is not necessary in this instance to undertake an appropriate assessment to consider the effect on the SPA/Ramsar.

18. I acknowledge the appellant's comments in relation to the 'presumption in favour of sustainable development'. However, I find the development plan is up-to-date, and there are no conflicts with the Framework. Accordingly, I have based my finding on the development plan as there are no material considerations that indicate otherwise.
19. I note the concerns of neighbouring residents in relation to their loss of view should the appeal succeed. However, it is not the role of the planning system to protect private views. Furthermore, no compelling evidence has been presented to demonstrate there would be an impact on protected species should the appeal succeed.

Conclusion

20. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
21. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

A Hickey

INSPECTOR