



Appeal Decision

Site visit made on 10 January 2023

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2023

Appeal Ref: APP/X3540/W/21/3285489

24 The Josselyns, Trimley St. Mary IP11 0XW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Hardy against East Suffolk Council.
 - The application Ref DC/21/3352/FUL, is dated 13 July 2021.
 - The development proposed is demolition of existing extension and erection of 1No. semi-detached two-storey dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing extension and erection of 1No. semi-detached two-storey dwelling at 24 The Josselyns, Trimley St. Mary IP11 0XW, in accordance with the terms of the application, Ref DC/21/3352/FUL, dated 13 July 2021, and the plans submitted with it, subject to the conditions in the schedule below.

Preliminary Matters

2. The application follows the granting of outline planning permission for a similar proposed dwelling¹. However, a change in the extent of the site boundary prevented the proposed development being progressed through the submission of reserved matters. Therefore, while I have had regard to this planning history, the appeal concerns a fresh application for full planning permission and I have considered it on that basis.
3. During consideration of the appeal, the appellant and the Council have both confirmed that a financial contribution has been made in respect of the proposed development, in relation to mitigation of likely significant effects on Habitats Sites². I return to this matter below.

Background and Main Issues

4. The Council did not issue a decision within the prescribed period or within an agreed extension of time period. The appellant exercised their right to appeal against the failure of the Council, as the local planning authority, to determine the application.
5. The Council's statement of case states that, had they reached a decision, planning permission would have been refused for two reasons: the effect on the occupiers of neighbouring properties at the rear having regard to privacy,

¹ Ref DC/18/3956/OUT, granted 22 February 2019

² Sites protected under the Conservation of Habitats and Species Regulations 2017

and absence of evidence in relation to the effect of the proposed development on Habitats Sites. On that basis, the main issues are:

- the effect of the proposal on the living conditions of occupiers of neighbouring properties, with particular regard to privacy at 8 Great Field, and
- the effect on the integrity of Suffolk Coastal Habitats Sites.

Reasons

Living Conditions

6. The appeal site currently contains a two-storey dwelling with a single storey side extension, on a corner plot at the end of The Josselyns. At the front, the site faces the side elevation and rear garden of a pair of semi-detached bungalows, from which it is separated only by a narrow footpath. To the rear is another footpath, beyond which is a terrace of two storey dwellings and a shared car parking area. These front a parallel cul-de-sac known as Great Field.
7. The proposed dwelling would introduce first floor windows within a part of the site where these do not currently exist. However, there are first floor windows on the front and rear elevations of the existing dwelling and also on the rear elevations of properties fronting Great Field.
8. The existing first floor windows on surrounding properties already overlook neighbouring rear elevations and back gardens. As far as I could determine during my site visit, most of them are not obscure glazed, nor are they otherwise designed to prevent views between the properties. The degree of separation is typical of what is a relatively modern housing estate, where some degree of inter-visibility between properties is the norm.
9. The dwelling at 8 Great Field is less directly overlooked than its neighbours and the proposed dwelling would be set slightly closer to this adjacent property than the existing dwelling. However, the relationship between the proposed dwelling and the rear of 8 Great Field would remain comparable to the generally established relationship between properties in this part of The Josselyns and Great Field. On that basis, I conclude that an acceptable standard of privacy would be maintained.
10. While relocation of one of the proposed rear windows would potentially provide a higher standard of privacy, that is not the proposal which is before me. In any case the proposed development is acceptable without this amendment. A condition requiring obscure glazing at the rear would similarly not be justified, since I have concluded that an acceptable standard of privacy would be maintained. Such a requirement would also undermine the quality of the accommodation in the rear-facing rooms, which are proposed to be used as bedrooms.
11. For the above reasons, I conclude that the proposed development would not harm the living conditions of occupiers of neighbouring properties, with regard to privacy at 8 Great Field. It does not therefore conflict with policies SCLP5.7 or SCLP11.2 of the Suffolk Coastal Local Plan adopted 2020 (SCLP), or with relevant paragraphs in the National Planning Policy Framework (the Framework). These policies, amongst other things, require that development

will not significantly harm the residential amenity of existing occupiers, including in relation to privacy.

Suffolk Coastal Habitats Sites

12. The appeal site lies within an identified 13km Zone of Influence of two Habitats Sites: the Debden Estuary Special Protection Area (SPA)/Ramsar Site and the Stour and Orwell Estuaries SPA/Ramsar Site. These are among several Suffolk Coastal Habitats Sites, comprising coastal, heath and estuary sites which are internationally recognised for their value as habitat for several rare and vulnerable plant, animal and bird species, including migratory wading birds. They have been identified by Natural England as being vulnerable to harm as a result of recreational disturbance, which may include trampling of vegetation and disturbance of wildlife, including nesting birds, by people and domestic pets. There are specific risks to flocks of migratory wading birds, who may become unable to store enough energy for long migrations, if disturbed by recreational activity in the vicinity of their feeding grounds.
13. The appeal proposal would result in a net increase of one new dwelling, with an associated increase in local residents living within the Zone of Influence. This would be likely, in turn, to increase recreational pressure upon the Habitats Sites. It is therefore likely that the proposal, both alone and in combination with other development, would adversely affect the integrity of the Habitats Sites identified above. As such, it is necessary for me, as the competent authority, to conduct an appropriate assessment in relation to the effect of granting permission on the integrity of the Habitats Sites.
14. The affected Habitats Sites are covered by the Recreational Disturbance Avoidance and Mitigation Strategy³ (RAMS), prepared collaboratively by relevant local planning authorities in conjunction with nature conservation organisations including Natural England. This sets out a strategy for the avoidance and mitigation of recreational disturbance through measures such as site management, visitor education and diversion of activity away from the most vulnerable locations. Arrangements are in place for financial contributions to be sought in relation to proposed residential development, with an appropriate mechanism to secure their expenditure on delivery of avoidance and mitigation measures as set out in the RAMS.
15. The required financial contribution and payment mechanism is set out in the East Suffolk RAMS Supplementary Planning Document adopted May 2021. Subsequent to the submission of this appeal, both parties have confirmed that the required financial contribution has been paid. The Council has confirmed receipt of both the financial contribution and the associated documentation, comprising an undertaking under Section 111 of the Local Government Act 1972. This has been updated to enable a payment made in respect of the unimplemented outline planning permission ref DC/18/3956/OUT to be transferred to the appeal proposal. I am furthermore satisfied based on the evidence before me that appropriate arrangements are in place to secure ring-fencing of the funds for expenditure on mitigation as set out in the RAMS.
16. Natural England has been consulted as part of this appropriate assessment and has confirmed that the above financial contribution would appropriately

³ 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

mitigate the likely adverse effects on the integrity of the relevant Habitats Sites. Consequently, I am satisfied that, with the mitigation measures in place, the proposal would not adversely affect the integrity of Habitats Sites, either alone or in combination with other development.

17. The development would therefore comply with the Conservation of Habitats and Species Regulations 2017. It would also accord with policies SCLP10.1 and SCLP10.2 of the SCLP and with relevant paragraphs of the Framework. These policies, amongst other things, require that new development is supported by evidence demonstrating that any associated impacts on Habitats Sites, including in-combination effects, are appropriately mitigated.

Other Matters

18. Although the Council has confirmed that it considers the proposed access and parking arrangements to be acceptable, I have taken account of issues raised by the Highways Authority and Parish Council in this regard.
19. There is no evidence that the proposed number of parking spaces would fall short of any adopted standards or be otherwise unacceptable. The parking layout would not allow for turning within the site. However, several existing driveways along The Josselyns similarly lack turning facilities. Therefore, reversing movements across pavements are a well-established feature of vehicle movements within the cul-de-sac and pedestrians could be expected to be alert to the associated risks.
20. Given the site's corner location, vehicle speeds are likely to be slow, both along the carriageway and at the point of access. As such, the nature of the traffic conditions and layout mean that the proposed development would not cause any material deterioration in highway safety.
21. The short section of public footpath alongside the access is currently overgrown and access into the adjacent field is obstructed. Therefore, the small number of additional vehicle movements would not prejudice any existing use of this public right of way. There would not be any encroachment onto the public right of way and any future measures to bring it back into effective use could be designed to take account of the relationship with the adjacent access.
22. Although relocation of a street lamp is proposed, the application does not clearly confirm whether this is within the application site or on adjoining land. The lamp post in question is slender and would not significantly obstruct visibility, either in its current position or as relocated. Therefore, relocation or otherwise of the street lamp does not affect my conclusions in relation to the effect on highway safety.
23. Provision for refuse storage is indicated on the proposed site plan and would not obstruct access or parking arrangements. Although no cycle storage is shown, the existing dwelling has a garage and the proposed dwelling would have an enclosed rear garden. Therefore both dwellings could readily accommodate secure cycle storage, if required. The small porch roof over the existing front door would not prevent parking within the areas of hardstanding shown on the proposed plans.
24. Since the appeal site is currently in single ownership, agreement of appropriate access arrangements across the neighbouring driveway would appear

achievable and in any event this would be a private matter between the parties concerned.

Conditions

25. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity and have omitted others.
26. I have imposed a condition requiring compliance with the approved plans as this provides certainty.
27. The proposed external materials are specified on the approved plans. While the proposed hardie plank boarding differs from the materials of the existing dwelling, the Council has raised no concerns in this regard and several nearby dwellings are similarly clad in contrasting boarding or painted render. Therefore, I have imposed a condition securing use of the proposed external materials, which would be in the interests of maintaining the character and appearance of the area.
28. Conditions to secure the implementation of access and parking arrangements are necessary to ensure that these essential elements of the development are available prior to occupation. I have omitted any reference to loading and unloading areas, since none are proposed. However, I have imposed a condition to secure provision of refuse and recycling facilities, clear of the highway and parking areas, to minimise potential conflict between these uses.
29. Provision for electric vehicle charging is consistent with Policy SCLP7.2 of the SCLP. Although this issue is also subject to requirements recently introduced within the Building Regulations, the development may be implemented before those requirements come into full effect. I have therefore imposed a condition requiring approval and provision of electric vehicle charging infrastructure, to comply with the development plan.
30. The Council's Environmental Protection Team recommended a condition to secure remediation of any unexpected ground contamination during the implementation of the development. Although I have been presented with little evidence to indicate that the land may be contaminated, I have imposed this condition on a precautionary basis, to maintain control over unforeseen sources of pollution. However, I have simplified the recommended wording to avoid fettering the Local Planning Authority's ability to consider any submitted details on their merits, in a manner proportionate to the likely extent and nature of any such contamination.
31. I am mindful that the Framework states that permitted development rights should not be restricted unless there is clear justification to do so. In this case, the front elevation of the proposed dwelling faces across the otherwise private rear garden of an adjacent bungalow. Although the proposed window layout would avoid overlooking that garden area, additional window openings permissible under permitted development rights could be more intrusive. Therefore, a restriction on additional front-facing first floor windows is necessary, in order to protect the privacy of occupiers of the adjacent bungalow and I have imposed a condition accordingly.

32. For the same reason, I have imposed a condition requiring that the proposed first floor bathroom window is obscure glazed with limited opening, noting that a similar condition was included on the previous outline permission.

Conclusion

33. For the above reasons, having had regard to the development plan as a whole, along with all other relevant material considerations, I conclude that the appeal should be allowed and planning permission granted, subject to the conditions set out in the schedule below.

Jane Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall not be carried out other than in complete accordance with approved drawings 153-011 Rev. E (Existing/proposed site plan & location plan) and 153-010 Rev. D (Proposed floor plans and elevations).
- 3) The materials and finishes shall be as indicated within the submitted application and thereafter retained as such.
- 4) Prior to the dwelling hereby permitted being first occupied, the vehicular access onto the highway shall be properly surfaced with a bound material for a minimum distance of 5 metres from the edge of the metalled carriageway, in accordance with details previously submitted to and approved in writing by the local planning authority.
- 5) The permitted use shall not commence until the areas within the site on drawing no. 153-011 Rev. E for the purposes of manoeuvring and parking of vehicles have been provided and thereafter those areas shall be retained and used for no other purposes.
- 6) The area to be provided for storage of Refuse/Recycling bins as shown on drawing no. 153-011 Rev. E shall be provided in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.
- 7) The use shall not commence until details of the infrastructure to be provided for electric vehicle charging has been submitted to and approved by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is first occupied and shall be retained thereafter and used for no other purpose.

- 8) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported in writing immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority before development resumes and development shall thereafter be carried out in accordance with the approved details.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification), no additional first floor windows shall be inserted in the front elevation of the dwelling hereby permitted apart from those shown on the approved plans.
- 10) The dwelling hereby permitted shall not be occupied until the first floor window in the front elevation has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

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