



Appeal Decision

Site visit made on 6 June 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2023

Appeal Ref: APP/W3520/W/22/3295609

The Spinney, Bullen Lane, Bramford IP8 4JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Jackaman against the decision of Mid Suffolk District Council.
 - The application Ref DC/21/06463, dated 29 November 2021, was refused by notice dated 25 January 2022.
 - The development is described as “proposed residential development and associated works”.
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Decision

1. The appeal is allowed and planning permission is granted for a proposed residential development and associated works at The Spinney, Bullen Lane, Bramford IP8 4JH in accordance with the terms of the application, Ref DC/21/06463, dated 29 November 2021, subject to the conditions in the schedule to this decision below.

Procedural Matters

2. Outline planning permission is sought with access, layout and scale considered at this stage. Drawing 2003.10D includes details of the appearance of the front elevation of the proposed dwellings, a matter which is reserved for future consideration. I have therefore treated the drawing as illustrative in this regard and I have determined the appeal on this basis.
3. The appeal site is located within the Zone of Influence ('the ZoI') of the Stour and Orwell Estuaries Special Protection Area/Ramsar site ('the SPA'). The Council, in their appeal statement, confirmed the appellant has paid the financial contribution towards the Recreational disturbance Avoidance and Mitigation Strategy, and a receipt has been provided. The Council therefore has stated that the second reason for refusal has been addressed. However, as I am the competent authority, it is incumbent upon me to consider whether the proposal would be likely to have a significant effect on the integrity of the SPA and therefore it is necessary for me to consider this matter as a main issue.

Main Issues

4. The main issues are the effect of the proposed development on:
 - a) the living conditions of the occupiers of neighbouring properties, with particular regard to privacy, noise and disturbance; and
 - b) the integrity of the SPA.

Reasons

Living Conditions of the Occupiers of Neighbouring Properties

5. The appeal site comprises a detached single storey dwelling set within a sizable plot that is bounded by Bullen Lane to the north, Angel Road to the east, the B1113 to the west, and 1, 2 and 3 Orchard Road to the south. The existing dwelling's front elevation faces towards Bullen Lane, while a driveway and parking area is accessed from Angel Road. It is proposed to retain the existing dwelling and construct two dwellings between its side elevation and the B1113. The dwellings would utilise the existing access onto Angel Road and an internal access road would be constructed along the southern and western sides of the existing dwelling.
6. The layout and scale of the proposed dwellings is considered at this stage. However, appearance is reserved for subsequent approval and therefore the positioning of fenestration and the internal layout of the proposed dwellings is not known at this stage. The information before me suggests that both dwellings would have a similar L-shaped layout with an eaves height of approximately 2.6m and a ridge height of approximately 6m. Therefore, they would likely comprise a bungalow or dormer bungalow.
7. The proposed dwellings could have fenestration that would directly face windows within the existing dwelling and its resulting private amenity space and could overlook 1 and 2 Orchard Road. However, potential issues regarding overlooking could be overcome by boundary treatments of a suitable height and design, the internal configuration of the proposed dwellings, and the positioning of windows, which would be reserved for future consideration under the matters of 'appearance' and 'landscaping'.
8. The proposed dwelling on plot 1 would be within proximity of one of the existing dwelling's side windows. However, the limited scale of the proposed dwelling together with an appropriate roof design and boundary treatment could ensure that the proposal would not result in a significant overbearing effect on this window, even if it was built on the existing higher ground level.
9. The proposed internal access road would wrap around the resulting southern and western boundaries of the existing dwelling but would be separated by private amenity space. The existing dwelling has some windows in its rear elevation however, they are either obscure glazed or serve rooms that would be less frequently used and therefore would unlikely be adversely affected by the vehicle movements associated with the proposal. Furthermore, vehicle movements along the western side of the existing dwelling would be limited to those associated with plot 2 and consequently would be limited. While the existing dwelling would be surrounded by roads to all four sides, Bullen Lane is a dead end for motorised vehicles and Angel Road is a residential street providing access to two cul-de-sacs. Therefore, vehicle movements along these roads would also not be significant.
10. The number of vehicle movements along the rear boundaries of 1, 2 and 3 Orchard Road would increase. However, at the time of my site visit, the B1113 carried a high volume of vehicles which produced a constant background noise which the existing dwellings are already exposed to. Furthermore, 1 Orchard Road is currently subjected to the vehicle movements associated with the parking area of the existing dwelling. Also, the windows at No 1, 2 and 3 are

set away from the appeal site's boundary whereby substantial boundary treatments exist that would help to dissipate vehicle noise.

11. For these reasons, I am not persuaded that noise and disturbance from vehicle movements associated with the proposed development would be unacceptably harmful to the living conditions of the occupiers of these dwellings.
12. In reference to the first main issue, the proposed development would not adversely affect the living conditions of the occupiers of neighbouring properties, with particular regard to privacy, noise and disturbance. It would therefore comply with Policies SB2 and H16 of the Mid Suffolk Council Core Strategy Development Plan Document, adopted 2008 ('the CS') which, amongst other things, seek to permit development unless the privacy and amenity of neighbouring properties would be adversely affected. It would also comply with paragraph 130 of the National Planning Policy Framework ('the Framework') that seeks to create places with a high standard of amenity for existing users.
13. The Council has also referenced Policy GP1 of the CS in their first reason for refusal. However, this policy does not deal with the effect of proposals on the living conditions of the occupiers of neighbouring properties. It is therefore not applicable to this main issue.

Integrity of the SPA

14. The appeal site lies within the 13km ZoI of the SPA. This is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended ('the Habitats Regulations'). The Habitats Regulations impose a duty on me, as the competent authority, to consider whether the proposal would be likely to have a significant effect on the integrity of the SPA, either alone or in combination with other plans and projects. In 2018, the Court of Justice of the European Union held that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the Framework of an Appropriate Assessment, rather than at the screening stage¹. This responsibility now falls to me as the competent authority.
15. Evidence shows that the SPA is under significant pressure from an increase in the level of public access for recreation, and disturbance of bird species, as a result of urban development. The proposed development has the potential to impact on the integrity of the SPA, through increased recreational disturbance. The increase in recreational pressure can lead to such issues as an increase in wildfires, damaging recreational uses, the introduction of incompatible plants and animals, nutrient enrichment, loss of vegetation and soil erosion. Accordingly, disturbance by humans and their pets, amongst other factors, can have an adverse effect on the SPA.
16. The proposal would result in an increase in two dwellings. There would be a likelihood of future occupiers visiting the SPA and therefore the proposed development would be likely to result in recreational disturbance to the bird populations. I therefore conclude that the proposal, particularly when combined with other development in the area, would have a significant effect on these

¹ People over Wind and Sweetman v Coillte Teoranta ECLI:EU:C:2018:244

habitat designations through increased disturbance arising from recreational activity.

17. The Habitats Regulations state that permission may only be granted after I have ascertained that the development will not affect the integrity of the SPA. As part of my assessment, I must therefore consider whether the impact of the development could be mitigated. The Council has been operating a strategy for the protection of the SPA, which is set out in the Habitats Regulations Assessment Recreational Disturbance Avoidance and Mitigation Strategy for Ipswich Borough, Babergh District, Mid Suffolk District and East Suffolk Councils – Technical Report (2019) ('the RAMS'). The RAMS identifies that mitigation could include the provision of wardens/rangers, signage, car park rationalisation and access/visitor management.
18. The appellant has paid £243.78 directly to the Council towards the RAMS to alleviate any adverse impacts of the development on the SPA for which a receipt has been submitted. The evidence before me suggests that at the time of payment, the appellant also completed a Section 111 form², as required by the RAMS. Therefore, the payment would be properly secured and I am able to give it full weight.
19. In respect of the second main issue, the proposal would not harm the integrity of the SPA and therefore complies with Policy 1 of the JCS and Policy DM4.4 of the LP, which together, amongst other things, seek to ensure the integrity of the SPA.

Conditions

20. The Council has provided a list of conditions which I have had regard to with respect to the tests for conditions set out within the Framework. I have undertaken some minor editing of the conditions proposed in the interests of precision and clarity. I have imposed standard conditions relating to the submission and timing of the reserved matters application and the commencement of development. I have specified the approved plans for the avoidance of doubt and in the interests of proper planning.
21. The conditions in respect of the construction of the approved access, its gradient, the material for the first 5m from the back edge of the highway, visibility splays, and means to prevent the discharge of surface water onto the highway are all necessary to ensure that the proposal would not have an adverse effect on highway safety. A condition in respect of the submission of a Biodiversity Enhancement Strategy is necessary to ensure the development achieves a net gain in biodiversity.

Conclusion

22. For the reasons given above and having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed.

A Berry

INSPECTOR

² Section 111 of the Local Government Act 1972

Schedule of Conditions

- 1) Details of the appearance and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans insofar as they relate to the matters sought permission at the outline stage:
 - 1:1250 Site Location Plan
 - 2003.10D Site Layout & Front Elevation as Proposed
- 5) Prior to development above slab level, the new vehicular access as shown on drawing 2003.10D shall be laid out and completed, in all respects, in accordance with drawing no. DM03 (Suffolk County Council's standard drawings for vehicular access); with an entrance width of 5 metres. The access shall therefore be retained in its approved form.
- 6) The gradient of the vehicular access hereby approved shall not be steeper than 1 in 20 for the first five metres measured from the nearside edge of the highway.
- 7) Prior to the first occupation of the development hereby permitted, the approved access onto the highway shall be surfaced with a bound material for a minimum distance of 5 metres from the edge of the metalled carriageway, in accordance with details which shall previously have been submitted to and approved in writing by the local planning authority. The approved bound material shall be retained thereafter.
- 8) Prior to the first use of the access hereby approved, visibility splays shall be provided as shown on approved drawing 2003.10D and thereafter retained and maintained in the specified form. Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no obstruction over 0.6m high shall be erected, constructed, planted or permitted to grow within the visibility splays.
- 9) Prior to the first occupation of the development hereby permitted, details shall be submitted to and approved in writing by the local planning authority showing the means to prevent the discharge of surface water from the development onto the highway. The approved scheme shall be carried out in its entirety prior to first use/occupation of the new dwellings hereby approved and shall be retained thereafter.
- 10) Prior to development above slab level, a Biodiversity Enhancement Strategy ('the BES') for protected and priority species shall be submitted

to and approved in writing by the local planning authority. The content of the BES shall include the following:

- a) purpose and conservation objectives for the proposed enhancement measures;
- b) detailed designs to achieve stated objectives;
- c) locations of proposed enhancement measures by appropriate maps and plans;
- d) persons responsible for implementing the enhancement measures; and
- e) Details of initial aftercare and long term-maintenance (where relevant).

The works shall be implemented in accordance with the approved details and shall be retained thereafter.

*****End of Conditions*****