



Appeal Decision

Site visits made on 20 December 2023

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 8 January 2024

Appeal Ref: APP/X3540/W/23/3318779

29 High Road East, Suffolk, Felixstowe IP11 9JS

- 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 Algonquin Ltd against the decision of East Suffolk Council.
 - The application Ref DC/22/2547/OUT, dated 22 June 2022, was refused by notice dated 22 December 2022.
 - The development proposed is the demolition of two flats, construction of two houses and two bungalows, new access with existing access stopped up.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In accordance with the application form, outline planning permission is sought with all matters reserved. I have determined the appeal on this basis and any plans identifying a layout have been considered as indicative only.
3. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by my taking this approach.

Main Issues

4. The main issues are the effect of the proposed development on: the character and appearance of the area; the living conditions of neighbouring occupiers with particular regard to noise; the living conditions of future occupiers with regard to privacy; and bats.

Reasons

Character and Appearance

5. The appeal site is a two storey property comprising two flats along with a detached garage building, set within a long rear garden on the northern side of High Road East. The surrounding area is notably residential in nature and, although a range of property styles exist in the immediate vicinity, this side of High Road East is defined primarily by sizeable dwellings fronting the street and set within long plots with ample rear amenity space largely free from significant vertical built form. Although the height, flattened nature and external design of the appeal property differs from its immediate neighbours, due to its

placement in the site, overall dimensions and long, undeveloped rear garden it contributes positively to the immediate area.

6. The proposal would result in the demolition of the buildings currently at site, and the erection of one pair of semi-detached two storey dwellings and two bungalows. The proposed site layout shows the semi-detached properties fronting the street, with the bungalows set back towards the rear of the site. While this is indicative due to the outline nature of the application, any variation of the proposal would necessitate the sub-division of the site into four plots and an element of backland development.
7. Policy SCLP5.7 of the East Suffolk Council Suffolk Coastal Local Plan 2020 (the Local Plan) states that residential development within existing gardens will be supported in certain circumstances, including where the scale, design and materials would not result in harm to the street scene or character of the area and the proposal is well related in scale and design to adjacent properties, including the design of curtilage areas.
8. In the case of the proposal, the siting of dwellings set back from the highway towards the rear of the site would be incongruous in the immediate context, where dwellings largely front the street, clearly visible and experienced from High Road East. Even acknowledging that the backland development could comprise bungalow dwellings of a reduced height, they would remain notable additions of permanent built form. Due to their placement towards the rear of the site, they would fail to respect the predominant pattern of development along this side of High Road East, harming the character of the area.
9. Even acknowledging the reduced depth of the plot at No. 31 High Road East and the notably smaller garden spaces of properties lining the southern side of High Road East and in surrounding streets, the predominant pattern of development along this northern side of High Road East remains properties set in sizeable plots with particularly long, rear gardens. The subdivision of the site to accommodate four dwellings would result in four separate plots of notably smaller dimensions, resulting in the site appearing unduly cramped and contrived in context. Even if the amount of external spaces provided at each property were to comply with required amenity space dimensions, the smaller gardens would still appear unduly restricted in the context of neighbouring development along this side of the street, such that the smaller curtilages proposed would not be well related to adjacent properties.
10. The appellant has referred to other examples of backland development permitted in the area, including further along High Road East that was allowed at appeal. Nevertheless, it remains that backland development in smaller plots is not a common or defining characteristic of the immediate grouping of properties among which the appeal site is located. Each application is decided on its own site-specific merits and reference to development elsewhere carries little weight. In this case it does not alter my findings that the proposal would fail to reflect or respect the immediate surrounding character and appearance.
11. For the reasons given, the proposal would result in significant adverse harm to the character and appearance of the area. As such, it would fail to comply with Policies SCLP5.7; SCLP10.4; and SCLP11.1 of the Local Plan insofar as they seek to ensure high quality design that is informed by local landscape character and that development in back gardens should not harm the character of the area.

Living Conditions – Neighbouring Occupiers

12. Although the application is outline in nature with all matters reserved, submitted plans show a shared vehicle access along the boundary with No. 31 High Road East and an associated parking area. While this precise placement of the access and parking area are indicative only, it remains that such a vehicular access and parking to accommodate the four proposed dwellings would be required at the site.
13. I note that the area is residential in nature, with vehicular accesses and parking areas present at properties along the street, including driveways along boundaries with neighbouring properties. This is also the case at present at the site, with a driveway serving the two flats present at the property adjacent to No. 27 High Road East. I further note the potential for High Road East to be well used by passing cars.
14. Nevertheless, it remains that the proposal would increase the occupation of the site, changing from the current development of two flats to a development comprising four dwellings. This would introduce an additional two households at the site. As such, noise would arise from the comings and goings of four separate households each following their own routine.
15. While the location of the access and parking area would be a reserved matter, due to the nature and shape of the site it remains that this noise would likely occur in close proximity to boundaries with either No. 27 or No. 31 High Road East. In any event, even if set back from these boundaries it would be of a level over and above that to be expected on a site of this size within the area. It would result in undue disturbance arising from sources such as increased vehicular movements, engines starting and running, and car doors closing and slamming that would be readily experienced by immediate neighbours, impacting their living conditions.
16. For the reasons given, the proposal would result in significant adverse harm to the living conditions of neighbouring occupiers with regard to noise and disturbance. As such, it would fail to comply with Policies SCLP5.7 and SCLP11.2 of the Local Plan insofar as they seek to ensure that development does not harm the residential amenity of existing occupiers with regard to noise.

Bats

17. The application was supported by a Preliminary Environmental Assessment, which concluded that the dwelling on site had moderate potential for supporting roosting bats, citing possible gaps at lead flashing around the chimneys, lifted weatherboarding, and a cavity above windows creating potential roost features. The assessment recommended that further bat surveys were carried out to BCT guidelines, with specific reference to emergency and return to roost surveys.
18. While no further surveys were provided with the application, the appeal was accompanied by a second preliminary bat roost assessment, which the Council has had the opportunity to comment on. This made specific reference to having checked lead flashing, window frames and chimney areas and concluded that no further bat survey work was required.

19. However, even acknowledging the later assessment, it remains that the original assessment recommended further surveys took place, which have not been carried out by the appellant. The absence of such further surveys as recommended creates doubt as to whether the potential for the dwellings on site to support roosting bats and how this would be addressed has been fully explored.
20. For the reasons given, I therefore find that there is insufficient information submitted with the appeal to demonstrate the effect of the proposal on bats. This would fail to comply with Policy SCLP10.1 of the Local Plan insofar as it seeks to ensure development contributes positively towards biodiversity.

Living Conditions – Future Occupiers

21. The Council has raised concerns that dwellings developed towards the rear of the site could be overlooked by immediately adjacent properties on Lynwood Avenue to the north. I observed the position of the Lynwood Avenue properties relative to the site on my visit, which sit in close proximity to this boundary. However, I noted the current presence of screening due to planting on and near the boundary which would prevent any such overlooking.
22. Due to the outline nature of the application, the final design and layout of the proposal, including any landscaping, would be a reserved matter. On this basis, had the proposal been acceptable in all other aspects, I consider that any such potential effects on overlooking of the proposal could have been addressed at a later stage.
23. For the reasons given, the proposal would not result in significant adverse harm to the living conditions of future occupiers with regard to privacy. As such, it would comply with Policies SCLP5.7 and SCLP11.2 insofar as they seek to ensure that development does not harm the residential amenity of future occupiers with regard to privacy.

Other Matters

24. The appeal site falls within the recreational disturbance Zone of Influence for the following Habitats Sites: Sandlings SPA; Deben Estuary SPA/Ramsar; Alde-Ore Estuary SPA/Ramsar; Stour and Orwell Estuaries SPA/Ramsar; and Orfordness-Shingle Street SAC. There is no need for me to consider the implications upon these sites in this case as the proposal is unacceptable for other reasons as referred to above, but I note that a RAMS payment has been made by the appellant to the Council.
25. The proposal would provide for the efficient use of land, adding to the housing mix and supply of the area within a sustainable location in an established residential area. This is a benefit of the scheme but, due to the overall limited increase in housing provided, attracts moderate weight which would not outweigh the identified harm.
26. The main parties agree the proposal would not result in harm to the living conditions of occupiers of surrounding dwellings with regard to privacy. This is a lack of harm which is neutral in the planning balance.

Planning Balance and Conclusion

27. I have found that the proposal would cause harm to the character and appearance of the area and the living conditions of neighbouring occupiers with regard to noise and disturbance. I have also found that there is insufficient information to conclude that there would be no harm caused to bats by the proposal. I have found that the proposal would not cause harm to the living conditions of future occupiers with regard to privacy. This is an example of a lack of harm, which is neutral in the planning balance. Even when taken together with all other matters outlined above, this would not outweigh the harm identified.
28. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR