



Appeal Decision

Site visit made on 13 February 2024

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th March 2024

Appeal Ref: APP/X3540/W/23/3323835

840 Foxhall Road, Ipswich IP4 5TP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs R Bussey against the decision of East Suffolk Council.
 - The application Ref DC/22/4737/FUL, dated 30 November 2022, was refused by notice dated 21 April 2023.
 - The development proposed is a single storey dwelling utilising existing garage and vehicular entrance already in existence.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Government published on 19 December 2023 a revised version of the National Planning Policy Framework (the Framework). Whilst this made certain revisions to aspects of national planning policy, the provisions in respect of the main issues in this case are largely unchanged. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework from the parties, and that no party would be disadvantaged by such a course of action.
3. The Council's third reason for refusal concerns the effect of the proposal on the Stour and Orwell Estuaries Special Protected Area (SPA) and the Deben Estuary SPA. During the appeal, the Council no longer relied upon this reason as the appellant made a financial contribution to mitigate against the proposal's effects. As I am dismissing this appeal for other reasons there is no need for me, as the competent authority, to undertake an Appropriate Assessment or to consider this matter further as it would not affect my overall conclusion.

Main Issues

4. The main issues are the effect of the proposal on a) the character and appearance of the area, and b) the living conditions of occupiers at 2A Brookhill Way, with particular regard to outlook.

Reasons

Character and appearance

5. The appeal site forms part of the rear garden of 840 Foxhall Road, which extends to a garage that is accessed from Brookhill Way. Properties in the locality tend to front highways and are set within commensurate plots.

6. The proposal would result in a severance of No 840's rear garden and the erection of a detached bungalow. The dwelling would occupy a noticeably set back position with no road frontage. It would therefore fail to reflect the surrounding context and the prevalent pattern of development in that it would result in undesirable and inappropriate back-land development in an area where properties predominantly have strong road frontages.
7. It's incongruous and inappropriate siting, along with the introduction of a significant mass which fills much of the width of the resultant plot and would be within close proximity to a tight-knit cluster of adjacent built form, would cause the proposal to appear cramped and contrived. It would detract from the large rear gardens of properties on Foxhall Way and thus fail to complement or respond positively towards the spacious characteristics of this part of the area.
8. I acknowledge the substantial outbuilding at the adjacent property however I have not been provided with any details of this development thus I am uncertain whether planning permission was granted or whether it was carried out under permitted development rights. It seems to me that this is an outbuilding associated with the host property fronting Foxhall Road, rather than a dwelling, thus it is not directly comparable. Moreover, based on my observations, it is clearly out of context with the established pattern of development in the locality and does not justify the appeal proposal.
9. I also note the other examples of backland, self-contained dwellings in the locality which the appellant has drawn my attention to. Again, very limited details are before me for each example. I cannot therefore ascertain their history or whether they are directly comparable to the appeal proposal.
10. Moreover, these examples are limited in number and do not therefore demonstrate that this type of built form is part of the intrinsic character of the area. For the reasons given, the proposal would be a clear departure from the established layout.
11. Although the example at 105 Arundel Way may have been built in the rear garden of the neighbouring property, it has a clear frontage onto an established street, similar to 2A Brookhill Way. As such, these examples are not of direct relevance.
12. Accordingly, the proposal would harm the character and appearance of the area and would conflict with policies SCLP5.7, SCLP10.4 and SCLP11.1 of the East Suffolk Council, Suffolk Coastal Local Plan (September 2020) (the SCLP) and Policy RSA 9 of the Rushmere St Andrew Neighbourhood Plan 2018-2036 (made June 2023). Together, whilst varying slightly in their wording, these policies aim for developments which respond to and retain local context and layout so as not to result in harm to local character.
13. The proposal would also fail to accord with the guidance at paragraphs 72 and 135 of the Framework which together provide support for resisting inappropriate development of residential gardens, where development would cause harm to the local area, and seek to ensure that developments are sympathetic to local character.

Living conditions

14. The proposed dwelling would be set away from the lawned part of the garden at No 2A, and existing hedging along this part of the site would somewhat

obscure it. However, it remains that the proposal would be within very close proximity to a part of No 2A's garden which, based on my observations, also appears to be well used by its occupiers. It would also be close to and within direct view of habitable room windows and a conservatory room. The proposal's stepped, L-shaped design and roof pitch which would fall away from the shared boundary would fail to address its dominant presence to this part of No 2A's garden and property.

15. I acknowledge there is an existing outbuilding at the appeal site close to the shared boundary with No 2A. However, it is of a limited size and scale and does not appear as an intrusive feature. To the contrary, the proposal would have a substantial footprint and mass.
16. My attention has been drawn to permitted development (PD) rights which allow for a large outbuilding to be erected in this part of the rear garden of the appeal site. However, it seems to me that the overall massing of the proposal would be more, albeit only slightly, than that allowed under PD. Namely, the proposed dwelling would have a higher ridgeline and thus dominant presence of the roofscape which, together with its large footprint, would have a greater impact.
17. Moreover, the PD rights relied upon by the appellant relate to an outbuilding which is subject to it being for a purpose incidental to the enjoyment of the dwellinghouse. Given that the appeal development seeks to provide a single storey dwelling for existing occupiers, a matter which I shall return to below, I consider it unlikely that PD rights would be utilised. Thus, the presence of PD rights in this instance does not represent a realistic fallback.
18. Consequently, the proposal would harm the living conditions of occupiers at No 2A by reason of being overbearing to their outlook. It therefore conflicts with policies SCLP5.7 and SCLP11.2 of the SCLP which, along with paragraph 135 of the Framework, seek to ensure that developments do not result in an unacceptable loss of amenity for existing occupants.

Other Matter

19. I have carefully considered the assertion that the proposal would create a single storey home to allow the appellants to live together in future years without the need for external care. I have therefore had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's age.
20. Whilst I acknowledge the personal circumstances in this case, I note that the space to the side and rear of 840 Foxhall Road is of a substantial size. I am therefore unconvinced that the host property could not be appropriately adapted to achieve the aim of providing single level accommodation. A refusal of planning permission is therefore a proportionate and necessary response to the legitimate aim of ensuring that the character and appearance of the area and the living conditions of neighbouring occupiers can be reasonably safeguarded.

Balance and Conclusion

21. The proposal would make a contribution to local housing stock and provide a single storey dwelling which, notwithstanding the comments above regarding the aspirations for the future occupiers of the proposal, may be of benefit to a range of occupiers. Economic benefits would arise during construction and on subsequent occupation. Given the small scale of the proposal, limited weight is afforded to these benefits.
22. Conversely, the proposal would harm the character and appearance of the area and the living conditions of neighbouring occupiers. This harm leads to the proposal conflicting with the development plan as a whole and there are no other considerations of sufficient weight which indicate that a decision should be made other than in accordance with it. Therefore, the appeal should be dismissed.

H Ellison
INSPECTOR