



Appeal Decision

Site visit made on 25 June 2024

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 8th July 2024

Appeal Ref: APP/W3520/W/24/3337813

Folly Cottage, 2 Rose Lane, Elmswell, Suffolk IP30 9EB

- 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 S Bixby against the decision of Mid Suffolk District Council.
 - The application Ref is DC/23/03170.
 - The development proposed is severance of garden and erection of 1 No. two storey detached dwelling with associated parking (amended scheme under refusal notice reference DC/22/02447).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Babergh and Mid Suffolk Joint Local Plan- Part 1 (LP1) was adopted in November 2023, after the Council's decision on the planning application subject to this appeal. The Council's appeal statement identifies that policies referred to on its decision notice have been superseded and identifies that Policy LP24 of LP1 is now relevant to the appeal. The appellant has had the opportunity to comment on the new policy. Accordingly, I shall consider Policy LP24 in my decision.
3. The Government published a revised National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been significantly amended. Therefore, I am satisfied that there is no requirement to seek further submissions on the revised Framework and that no party's interests have been prejudiced by my taking this approach. I will refer to the revised paragraph numbers in my decision.

Main Issues

4. The main issues are:
 - whether the proposal would provide satisfactory living conditions for future occupiers of the proposed dwelling and the occupiers of Folly Cottage, with regard to the amount of outdoor amenity space;
 - the effect of the proposal on the living conditions of the occupiers of Eastbury with regard to privacy; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Outdoor amenity space

5. At present, Folly Cottage is served by a reasonably sized garden. The proposed dwelling would be sited on the side garden, which would reduce the private garden space serving the occupiers of Folly Cottage to a small area to the rear of the existing dwelling.
6. Taking into account the single storey rear extension present at Folly Cottage which is located along the full width of the property, the separation between the rear elevation of the dwelling and the rear boundary fence would be limited. In my view the private garden space retained would be insufficient to serve the occupiers of the dwelling.
7. The rear garden space associated with the proposed dwelling would be slightly deeper than that proposed for the existing dwelling but would still be relatively constrained in area, when considering it would serve a 3 bedroom family sized dwelling.
8. I am referred to two other dwellings granted permission by the Council on Rose Lane. I accept that the rear garden space for the existing and proposed dwellings appear similar in terms of area and depth to that of the property named Dom Agaty, located on the opposite side of the lane. However, the other dwelling that is yet to be built, whilst it would be similar in terms of the depth in one part of the garden, the rear boundary line appears to be at an angle meaning that most of the garden would be of a greater depth. It also appears that it would have a larger rear garden in terms of the overall area due to the width of the plot.
9. The circumstances of Dom Agaty appears to be an exception along Rose Lane, in terms of the garden space provided, with the prevailing characteristic being more spacious garden areas. To my mind, the presence of a limited number of dwellings with smaller garden areas elsewhere should not justify the provision of inadequate garden spaces in this case.
10. I therefore find that the proposal would fail to provide sufficiently sized outdoor amenity space for the occupiers of the existing dwelling and the future occupiers of the proposed dwelling. It would therefore not provide satisfactory living conditions. The proposal would be contrary to Policy LP24 of LP1 which seeks, amongst other things, that proposals shall provide appropriate long-term design principles and measures in terms of garden space.

Privacy

11. To the southwest of the appeal site is a two storey detached dwelling set within a large plot referred to as Eastbury. Due to the limited separation distance proposed to the rear boundary, the two bedroom windows at first floor level in the rear elevation of the proposed dwelling would provide direct views across the adjacent private garden area, towards the neighbouring dwelling.
12. Whilst a degree of mutual overlooking is expected in a residential area, the proposal would result in an additional dwelling which would have a close relationship with the boundary of Eastbury. It would create an unacceptable degree of overlooking which would result in the erosion of the level of privacy currently enjoyed by the occupiers of Eastbury.

13. I note the reference to two other dwellings granted permission by the Council on Rose Lane with more limited rear garden depths, but neither appear to have the same relationship with neighbouring residential properties to the rear and are therefore not comparable in this regard.
14. I therefore find that the proposal would have an unacceptable harmful effect upon the living conditions of the occupiers of Eastbury, with particular regard to privacy. The proposal would be contrary to Policy LP24 of LP1 which seeks, amongst other things, that proposals shall protect the amenity of occupiers and surrounding uses by avoiding development that overlooks.

Character and appearance

15. The appeal site comprises the side garden of Folly Cottage, a two storey semi-detached property located on Rose Lane. Other than the church hall on the opposite side of the road to the appeal site, Rose Lane is residential in character and contains a mixture of dwelling types which are generally detached and either single storey or two storey. Folly Cottage and the adjoining property appear to be the only semi-detached dwellings along this section of Rose Lane. The appellant asserts that the appeal site is not in proximity to a conservation area or any listed buildings.
16. A common feature of the layout of built form along Rose Lane is the relatively wide frontages that properties have on to the Lane. The existing dwellings are constructed of a mixture of materials including buff brick, red brick, render, some with timber cladding detailing and various types of roof tile. Two existing dwellings, Rose Cottage and Cedarwood, have gable ends facing the road. Parking areas are generally located to the side of dwellings along the first part of Rose Lane where two storey dwellings are more prevalent, with varying setbacks from the road. The wide frontages and the layout allow for a spaciousness which contributes positively to the character and appearance of the area.
17. The proposed dwelling would be set back in line with the front building line of Folly Cottage and as a result would be set further back than the neighbouring dwelling to the southwest and would not be significantly taller than either adjacent dwelling, which would limit its prominence visually. However, the proposed dwelling would be located on a comparatively narrow plot that would not be in keeping with the width of plots in the area.
18. The front elevation would appear balanced in isolation and the gable end facing the road would appear in keeping with other dwellings along the lane, nevertheless, its width would appear narrower than other detached dwellings in the area. Whilst I acknowledge that there would be a degree of separation to built form on adjacent plots, there would only be very limited separation between the proposed two storey built form and the side boundaries of the plot in which it would be sited. The limited width of the plot would be more noticeable given the majority of the space to the front of the proposed dwelling would be for parking.
19. In combination, these factors mean that the proposal would appear as a cramped form of development at odds with the more spacious character of the area and it would result in an incongruous addition to the street scene. The use of materials in keeping with the area would not overcome this harm.

20. I am referred to two dwellings along Rose Lane which have been granted permission by the Council, one of which had been built at the time of my site visit. Both were wider plots than in the case of the appeal site before me and are therefore not directly comparable in terms of the effect on the character and appearance of the area.
21. I therefore find that the proposal would be harmful to the character and appearance of the area. It would be contrary to Policy LP24 of LP1 which seeks, amongst other things, that proposals respond to and safeguard existing character.

Other Matters

22. The appellant refers to the appeal site as being a brownfield site, however in my view, it would not meet the definition set out in the Framework which excludes land in built-up areas such as residential gardens.
23. The appellant asserts that the appeal site is located within the settlement boundary, in close proximity to existing services within the village and that future occupiers would be able to access public transport. It is also stated that the dwelling would provide a modern and efficient home with good accessibility, which would exceed current building regulation requirements and that an electric vehicle charging point would be provided. None of these considerations outweigh the harm that I have identified above.
24. It is also identified that a landscaping scheme would be designed to help compliment the setting of the proposal, that adequate cycle storage would be provided, that protected species are unlikely to be affected and that a sensitive lighting scheme would be provided. Even if I were to agree, a lack of harm in these respects would weigh neither for, nor against the proposal.

Conclusion

25. The proposal conflicts with the development plan as a whole, and there are no material considerations that indicate that I should take a decision other than in accordance with it. The appeal is therefore dismissed.

G Dring

INSPECTOR