



Appeal Decision

Site visit made on 26 September 2024

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th October 2024

Appeal Ref: APP/X3540/W/23/3331555

Backlands, Purdis Farm Lane, Ipswich, Suffolk IP3 8UF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr P Hallum against the decision of East Suffolk Council.
 - The application Ref is DC/23/0858/OUT.
 - The development proposed is new dwelling with associated outbuildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application sought outline planning permission with all matters reserved. I have determined the appeal as such, and any details in relation to the reserved matters have been considered on an illustrative basis.
3. The description provided in the planning application form refers to the proposal being a re-submission. I have removed this reference in the banner heading above, given it does not relate to an act of development.
4. An update to the National Planning Policy Framework (the Framework) has been published since the determination of the planning application. However, other than paragraph numbering, there are no material changes relevant to the substance of the appeal.

Main Issues

The main issues are:

- whether the proposed development would have an acceptable effect on the living conditions of the occupiers of the neighbouring properties of The Herons and Linksway, in relation to noise, disturbance and outlook; and
- whether the site location plan adequately identifies all land necessary to carry out the proposed development.

Reasons

Living conditions

5. The appeal site is a large plot located behind the detached dwellings of By-Ways and The Herons. In the event of the appeal being allowed, the precise location and design of the dwelling would be secured through future reserved matters applications. However, the submitted plans illustrate that the access

to the site would be via the existing access track between the detached bungalows of The Herons and Linksway. During my visit, I was able to drive into the site using this track, which is relatively narrow and able to accommodate only a single car at a time, although it widens slightly towards the rear.

6. Although I do not have floor plans for the neighbouring properties, I observed that the side elevations of both dwellings sit close to the access track and feature windows that appear to serve habitable rooms. While the windows of Linksway are largely screened from the track by a tall, close-boarded fence, the boundary with The Herons is marked by a lower timber rail fence, leaving its side-facing windows mostly unobstructed.
7. While the neighbouring dwellings do currently experience some activity related to the appeal site, the nature of the site and my observations at my visit indicate that such activity is minimal. The proposed development would intensify the use of the access track, likely resulting in frequent vehicle movements by residents, visitors and deliveries to the new dwelling.
8. Given the proximity of the windows of The Herons to the access track, these movements and vehicle headlights would likely have a negative visual impact on the living conditions of its occupants, disrupting the quiet living environment they currently enjoy. Additionally, despite the existing fence at Linksway providing some visual screening, noise and disturbance associated with vehicle engines and movements would likely have an adverse effect on the living conditions of both adjacent properties.
9. Although details are illustrative at this stage, it is suggested that the installation of solid fencing to the eastern boundary of The Herons could mitigate some of these effects. However, while the side-facing windows of Linksway already have limited outlook, the installation of close-boarded fencing adjacent to The Herons would significantly restrict its outlook, to the detriment of the living conditions of its occupiers.
10. The appellant has referenced the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO), suggesting that a fence of up to 2 metres could be erected along the western boundary of the access track to screen the windows of The Herons. While I have no evidence to suggest this could not be done, I also have no evidence, such as a lawful development certificate, to confirm that it could. My assessment, therefore, is primarily based on my site observations, and the provisions of the GPDO do not alter my previous findings.
11. The appellant also argues that resurfacing the access track with bound material would significantly reduce the noise generated by traffic movements when compared to the existing gravel surface. While I acknowledge that a bound surface could generate less noise, this does not change my earlier findings concerning the overall effects on neighbours' living conditions.
12. I have also considered the appeal decisions cited by the appellant, but the details provided do not convince me that these cases are sufficiently comparable to the current proposal to lead me to alter my previous findings. In any event, I must determine this appeal on its individual merits, as I have done above.

13. For the reasons given above, I therefore conclude that the proposal would harm the living conditions of the occupiers of The Herons and Linksway in terms of noise, disturbance, and, in the case of The Herons, outlook. It would therefore conflict with Policies SCLP5.7 and SCLP11.2 of the Suffolk Coastal Local Plan, Adopted 23 December 2020 (the SCLP), which collectively seek, in relation to this issue, that proposals avoid significant harm to residential amenity of occupants of either existing or proposed dwellings. It would also conflict with the relevant provisions of the Framework, which have similar aims.

Site location plan

14. The Planning Practice Guidance (the PPG) sets out that a site location plan should show the application site edged clearly with a red line. It should include all land necessary to carry out the proposed development, such as land required for access to the site from a public highway.
15. Common law has established that a highway is a defined route over which the public can pass and repass without hindrance or charge. In the absence of any contrary statutory definition, a privately-owned or maintained or an unmaintained way may be a highway if the public can use it without force, secrecy, or permission.
16. Section 336 of the Town and Country Planning Act 1990 (the TCPA90) provides that, for the purposes of the TCPA90, 'highway' has the same meaning as in Section 328 of the Highways Act 1980 where, except where the context requires, 'highway' means the whole or any part of a highway other than a ferry or waterway.
17. The red line boundary on the submitted site location plan extends to the edge of Purdis Farm Lane. While both main parties acknowledge that Purdis Farm Lane is privately owned, I have not been provided with substantive evidence regarding the ownership status or the responsibilities associated with it. During my visit, I observed several signs referring to Purdis Farm Lane as a private road, stating that vehicles were only permitted for residential access. However, I also noted signage indicating that it is a public footpath, and I note references in the evidence to its regular use by walkers and cyclists.
18. Given the above, I have no substantive evidence before me that Purdis Farm Lane is not a highway for the purposes of the TCPA90. Based on the available evidence, I therefore conclude that the site location plan adequately identifies all land necessary to carry out the development proposed. Notwithstanding my conclusions on other issues, the submitted site location plan would therefore accord with the relevant provisions of the Framework.

Other Matters

19. The proposal would provide a new dwelling and would make efficient use of the land, providing a small but meaningful contribution to housing stock and aligning with the government's objective to boost the supply of homes, as set out in the Framework. Whilst these benefits offer some weight in favour of the proposal, they do not outweigh the previously identified harm resulting from conflict with the development plan.
20. The site lies within the Zone of Influence of one or more European Sites comprising the Suffolk Coast Recreation Disturbance Avoidance and Mitigation

Strategy (RAMS). A financial contribution has been made in line with the RAMS tariff, which the Council considers would adequately mitigate the additional recreational pressure on the European Sites arising through the proposed development. In the event that I was minded to allow the appeal, it would have been necessary to consider this matter within an appropriate assessment. However, because I am dismissing the appeal for other reasons, I have not done so.

Conclusion

21. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, to lead me to a decision other than in accordance with the plan. For these reasons, I therefore conclude that the appeal should be dismissed.

P Storey

INSPECTOR