



Appeal Decision

Site visit made on 15 October 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2024

Appeal Ref: APP/D3505/W/24/3339083

The Green, The Street, Raydon, Suffolk IP7 5LW

- 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 Keith Lovering against the decision of Babergh District Council.
 - The application Ref is DC/23/01345.
 - The development proposed is erection of 1no. dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration of very significant weight, the weight I give to the changes in the draft Framework is limited given that no final document has been published and it is subject to potential change in the future.
3. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party. Consequently, in reaching my decision I have therefore had regard to the Framework published in December 2023.
4. The submitted drawing titled 'Proposed Block Plan and Street Scene'¹ does not show the proposed rear dormer. However, the submitted drawings titled 'First Floor Plan'; 'Roof Plan'; 'Basic Sections'; 'Front & Rear Elevations' and 'Side Elevations'² all clearly show the positioning of the proposed rear dormer. Both the main parties, as well as interested parties, have made reference to this rear dormer, and thus its omission from the 'Proposed Block Plan and Street Scene' drawing has not prejudiced any party. I have therefore determined this appeal on the basis that a rear dormer is proposed as shown and detailed on the above mentioned drawings.

Background and Main Issues

5. Whilst not included as a reason for refusal on the decision notice, the submitted appeal documents, including a consultee response, detail that the appeal site lies within the Zone of Influence (ZoI) of the Stour and Orwell

¹ DWG NO. 22-053-101 G

² DWG NOS. 22-053 FF Rev K; 22-053 R Rev K; 22-053 SEC Rev K; 22-053 E1 Rev K and 22-053 E2 Rev K.

Estuaries Special Protection Area (SPA) and Ramsar Site. These are European sites protected under the Conservation of Habitats and Species Regulations 2017 (the Regulations). The appellant has had an opportunity to comment on the implications of these European Sites in respect of the appeal scheme.

6. Consequently, the main issues are the effect of the proposed development on:
- the integrity of protected European Sites;
 - the character and appearance of the surrounding area; and
 - the living conditions of the occupiers of Tarbins, with regard to privacy.

Reasons

European Sites

7. Policy SP09 of the Babergh and Mid Suffolk Joint Local Plan – Part 1 (2023) (JLP) is referenced in both the Council's Officer Report and the Council's Statement of Case, a copy of this policy has also been provided as part of the appeal documents.
8. Policy SP09 states that development will be required to support and contribute to the conservation, enhancement and management of the natural environment, including biodiversity. This policy also requires development proposals to make appropriate contributions through legal agreements towards management projects and/or monitoring of visitor pressure and urban effects on Habitats Sites, and be compliant with the HRA Recreational Disturbance and Avoidance Mitigation Strategy.
9. As detailed above, the appeal site lies within the ZoI of the Stour and Orwell Estuaries SPA and Ramsar sites. Both estuaries are tidal, shallow and relatively sheltered, with the Orwell Estuary being narrower and more linear in comparison to the wider Stour Estuary.
10. Invertebrate-rich mudflats flank the edges of both estuaries, regularly being covered and uncovered by the tide. The Stour Estuary has more extensive mudflats due to the wider and more intertidal channel, whereas the mudflats of the Orwell Estuary are more linear in nature.
11. These designated sites hinterlands include large areas of arable agricultural land, as well as several major urban areas, and the sites are primarily designated to protect internationally important breeding and non-breeding birds, and their coastal habitats. The qualifying species and features of these estuaries are: *dark-bellied brent goose, northern pintail, pied avocet, grey plover, red knot, dunlin, black-tailed godwit, common redshank, and waterbird assemblage*.
12. The conservation objectives of the SPA and Ramsar sites aim to ensure that the integrity of the sites are maintained or restored. These include maintaining or restoring the extent, distribution, structure, function and supporting processes of the habitats; and the population and distribution of each of the qualifying features within the sites. There is a threat to their integrity from public access and disturbance, including from recreational activities such as walking, dog walking and water sports.
13. The relevant local authorities, with the support of Natural England, have developed the Suffolk Coast Recreational Disturbance Avoidance and Mitigation

Strategy (RAMS) which provides a mechanism for the competent authority to comply with their responsibilities to protect habitats and species in accordance with the Regulations.

14. As the competent decision-making authority under the Regulations, it is my duty to undertake an appropriate assessment to determine with certainty whether appropriate measures could be put in place to avoid or mitigate any likely significant adverse effects, with the aim being to maintain or restore, at favourable conservation status, the natural habitats and species of the European Sites.
15. In this regard, it is likely that occupants of the proposed dwelling could visit the SPA and Ramsar sites, resulting in increased recreational activity that could disturb the protected habitats and birds within the sites. Therefore, the development, alone and in combination with other development, would be likely to have significant adverse effects on the integrity and conservation objectives of the sites.
16. The RAMS identifies and costs the measures necessary to mitigate recreational and leisure impacts and confirms how they will be funded from residential development. It applies a tariff-based contribution to all residential development within the ZoI to mitigate 'in-combination' recreational effects of development on the integrity of the European Sites.
17. The RAMS sets out that a contribution³ of £142.27 per dwelling is required and the Council submissions, along with a consultee response, draw my attention to the requirement for this contribution to be paid towards visitor management measures, in line with the RAMS.
18. However, a completed planning obligation has not been provided with the appeal. Furthermore, the appellant's submissions make no reference to this contribution being paid under Section 111 of the Local Government Act 1972, as also permitted by the RAMS. Nor indeed do the appellant's submissions make any specific reference to the RAMS contribution; provide confirmation that they agree the RAMS contribution is required; or express willingness to make arrangements for this contribution to be paid.
19. In view of all the above, in the absence of evidence that this RAMS contribution has been paid, or any mechanism provided to secure this contribution, I cannot be certain, as required by the Regulations, that the recreational impacts of the proposed development on the nature conservation interests of the European Sites, and adverse effects to their integrity, would be effectively mitigated.
20. As a result, and in accordance with the precautionary principle and my duty under the Regulations I conclude that an adverse effect on the integrity of the European Habitat Sites cannot be ruled out. No alternative solutions, imperative reasons of overriding public interest, or other compensatory measures have been presented. The appeal proposal would therefore conflict with Policy SP09 of the JLP where it requires development to support and contribute to the conservation, enhancement and management of the natural environment, including biodiversity; and where it requires development proposals to make appropriate contributions through legal agreements towards management projects and/or monitoring of visitor pressure and urban

³ As of 19 April 2024

effects on Habitats Sites and be compliant with the HRA Recreational Disturbance and Avoidance Mitigation Strategy.

21. The proposal would also conflict with paragraphs 180 (a) and 186 (a) of the Framework, which require decisions to protect sites of biodiversity value in a manner consistent with their statutory status, and if significant harm to biodiversity cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Character and appearance

22. The appeal relates to the side garden area situated to the northeast of the dwelling known as The Green, located within a row of residential properties fronting onto The Street, within the built-up area boundary of Raydon. The appeal site is currently screened from views from the highway of The Street to the front by a mature boundary hedge.
23. Directly to the northeast of the appeal site is the dwelling known as Tarbins, and this is a Grade II listed building. On the opposite side of the highway are residential dwellings and the land to the rear of the appeal site is used as paddock land.
24. Within the immediate vicinity of the appeal site, the residential properties either side are both detached and single-storey to eaves level, although it would appear that both properties have additional living accommodation within their roof space.
25. The surrounding area is predominantly residential in nature, characterised by a wide variety of house types, styles, ages, scales, architectural design and material finishes, including detached, semi-detached, short terraced rows and bungalows. Furthermore, in respect of the grain of development, I note that there is also significant variety in plot sizes, and the ratio of built development within these plots also varies throughout the area. This wide variety in house designs and styles, along with the varying plots sizes, provides visual interest to the area and positively contributes to the character and appearance of the village as a whole.
26. Whilst I acknowledge the plot size for the proposed dwelling would be smaller than those of the dwellings directly either side, all plot and garden sizes do not have to be the same. Furthermore, the proposed dwelling would itself be smaller and the ratio of built development in comparison to the plot size would not be out of keeping with the varying ratios found within the wider area.
27. Moreover, the appeal plot as a whole, and the width of its frontage onto The Street, would not be smaller or more constrained than a number of other plots I saw fronting on to this highway within the village. I therefore find that the proposed plot size, and the ratio of built development within, would represent a fair balance between the differing grains of development I observed within this village.
28. The proposed layout would also provide space around the dwelling. When viewed from the front the gap between the front corner of the proposed dwelling and the front corner of the neighbouring property at Tarbins would be visually sufficient in width to provide a clear separation between the buildings. I note the gap on the other side to the dwelling at The Green would be narrower, however there are various examples of similar sized gaps between buildings within the area.

29. Furthermore, the visual prominence of both the proposed dwelling and The Green on the street scene, and thus the visual impact of the narrower gap between them, would be reduced as a result of them both being single-storey in height to eaves level, as well as their set back from the highway.
30. As such, the proposed gaps between the appeal dwelling and both the properties either side would be sufficient, and would not result in a development that appears as either cramped or constrained, in the context of the appeal site and its surroundings.
31. In respect of the proposed vehicular parking to the front of the dwelling, predominantly vehicles parked within residential curtilages in the immediate vicinity of the appeal site were situated to the side of the dwelling. However, even when parked at the side these vehicles were still largely visible from public vantage points along the highway due to the open nature of the side driveways. Further afield within the village however, I witnessed a number of properties with car parking provision directly in front of the house.
32. Additionally, during my site visit I saw a number of cars parked on a section of land directly adjacent to the highway, in front of the nearby church. These cars were not screened by any vegetation and were prominently viewed from the highway, and were also clearly visible from the footway directly to the front of the appeal site. As such, vehicles parking in front of buildings, and being visible from the highway, is not an uncommon feature of the area.
33. Nevertheless, the submitted plans show that a significant proportion of the mature hedge that is currently situated along the front boundary would be retained, saved for a section that is to be removed to create the vehicular access. A new tree is also shown to be planted to replace the conifer tree that would be removed. I find the retention of this section of the hedgerow, and the planting of this new tree, to be important components of the appeal scheme as they would ensure that cars parked to the front of the proposed dwelling are adequately screened from view.
34. There is also opportunity for some further planting within the area to the front of the proposed dwelling and the materials to be used on the surfacing of the proposed parking area would also be an important factor to ensure that this area to the front of the dwelling shares an acceptable visual relationship with its surroundings. Further details of these hard and soft landscaping matters could be secured by a suitably worded planning condition should I be minded to allow the appeal.
35. Whilst some interested parties have raised concerns over the external appearance of the proposed dwelling, I note that negotiations and discussions have taken place between the main parties in respect of its design and appearance, resulting in the submission of amended plans. The Council's reason for refusal, and case in general, does not raise any objection in relation to the design and appearance of the proposed dwelling, other than in relation to the matters covered above. I also find the overall design and appearance of the proposal to be in keeping with the surroundings and therefore acceptable, subject to the imposition of a condition relating to the use of appropriate external materials.
36. In view of all the above, I find that the proposed development would share an acceptable relationship with the character and appearance of the area. I therefore find no conflict with JLP Policy LP24 where it requires, among other things, all

new development must be of high-quality design by responding to and safeguarding existing character and context; respond to the wider townscape; and be compatible/harmonious with its location and appropriate in terms of scale, mass, form, siting, design, materials, texture and colour in relation to the surrounding area.

37. The proposal would also accord with the provisions of the Framework where it seeks to ensure that development is sympathetic to local character, including the surrounding built environment and maintains a strong sense of place.

Living conditions

38. The proposed dwelling includes a rear dormer which would afford an elevated view towards part of the rear garden area of the neighbouring dwelling at Tarbins. The proposed dwelling is however set in from the shared boundary and the dormer would be set forward of the rear elevation of Tarbins and set considerably back from the eaves of the proposed dwelling. These factors all limit the level of overlooking from this dormer into the rear garden area of this neighbouring property.
39. Furthermore, it is not uncommon for sections of rear garden areas to experience some level of overlooking from upper floor windows within adjacent properties. In this regard I observed on site that the rear garden of Tarbins already experiences some level of overlooking, into a similar area of the garden that the proposed dormer would face, from an existing dormer window within a property situated directly to the north (rear).
40. I therefore conclude that the proposed development would not cause unacceptable harm to the living conditions of the neighbouring occupiers at Tarbins by way of overlooking and loss of privacy. The proposal therefore complies with JLP Policy LP24 where it seeks to ensure that development proposals protect the amenity of occupiers of surrounding uses from overlooking.

Other Matters

41. As mentioned earlier, the adjacent property at Tarbins is a Grade II listed building. To the southwest is the Grade II* listed Church of St Mary, which includes the Raydon War Memorial (Grade II listed) within its churchyard.
42. In determining this appeal, I therefore have a statutory duty, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the listed buildings or their setting or any features of special architectural or historic interest which they possess.
43. According to the listing description, the Tarbins dates back to the late 15th – early 16th Centuries, with later additions and alterations, including an extension to the rear which is not of special interest. Whilst now in residential use, the property was previously a Post Office and it therefore has historic significance as a result of its age, but also both historic and communal value deriving from its important role as a community facility.
44. Architecturally I observed that the building is attractive in design, with defining features consisting of its low eaves height and large roof scape, its prominent chimney stacks, two front dormers and its white rendered finish. Collectively

these attractive features, along with its siting close to the footway, result in this property being a prominent building on The Street.

45. As detailed earlier the proposed dwelling would provide a sufficient gap to the side elevation of Tarbins. Additionally, both the eaves and ridge height of the proposed dwelling would be similar to those of the neighbouring listed building, the proposed dwelling would be set further back from the highway and overall it would have a relatively simple and traditional design, with a chimney stack to the side. These factors all ensure that the proposed dwelling respects, and would not challenge, the adjacent listed building. I therefore find that the appeal proposal would not cause harm to the setting of the adjacent listed building known as Tarbins.
46. In respect of the Church of St Mary and the War Memorial, these are sited a sufficient distance from the appeal site and there are existing buildings situated on the land in-between. As such, and given the single-storey scale of the proposed dwelling, albeit with accommodation in the roof, the proposal would not impact upon, and would therefore preserve, the setting of these listed buildings. I also note that Historic England were consulted as part of the planning application and raised no objection on heritage grounds in respect of the proposed dwelling's relationship with the Church.
47. Consequently, I conclude that the appeal proposal would preserve the setting of these listed buildings, and their features of special architectural and historic interest.
48. Interested parties have raised concerns in respect of highway safety matters associated with the creation of a new vehicular access in this location. I note the Council has raised no objection in respect of highway safety matters and given my own observations on site I found that visibility at the proposed vehicular access point was adequate in both directions. Whilst reference has been made to a recent accident in the area, I have not been provided with the exact details of this or how it specifically relates to the appeal site. As such, there is limited substantive evidence before me that the appeal proposal would have an unacceptable impact upon highway safety. I note suggestions that access to the site should be obtained via sharing the existing access with the adjacent property, however it is for me to determine the appeal as submitted.
49. Comments have been made in respect of their being no need for more housing in the village and that the appeal site is not well served by bus or shops. The Council has not put forward a case that the appeal site is not a suitable location for the proposed development, and my attention has not been drawn to any conflict with the development plan's spatial strategy.
50. Concerns have been raised in respect of local infrastructure and the capacity of sewers to accommodate the additional demands of the appeal proposal. However, the scale of the development for one dwelling is limited and I have insufficient evidence before me that the existing infrastructure, including drainage and sewer capacity, cannot accommodate an extra dwelling in this location.
51. I note the comments in respect of the loss of wildlife and trees from the site, however the proposed development provides an opportunity to incorporate ecological mitigation and biodiversity enhancement measures, which could be secured by condition, should I be minded to allow the appeal.

Planning Balance and Conclusion

52. I have found that the proposal would share an acceptable relationship with the character and appearance of the area and would not unacceptably harm the living conditions of the neighbouring occupiers.
53. The proposal would also support the Government's objective of significantly boosting the supply of housing, including the provision of a smaller two-bedroom dwelling for which the appellant has demonstrated there is a local need. There would also be economic benefits arising from the construction of the development and ongoing economic benefits from future occupiers spend in the area. However, the extent of these benefits would be limited by the scale of the development for 1no. dwelling. Nevertheless, these are benefits which weigh in favour of the appeal scheme.
54. Notwithstanding this however, for the reasons given above, I cannot be satisfied that the proposed development would not cause harm to the integrity of designated European Habitats Sites, which is a decisive matter. It brings the proposal into conflict with the development plan as a whole, and there are no other material considerations, including the provisions of the Framework, to suggest the decision should be made other than in accordance with the development plan. Therefore, for this reason, the appeal is dismissed.

R Major

INSPECTOR