
Appeal Decision

Site visit made on 19 August 2025

by **A Phillips MPlan BA CertHE MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 September 2025

Appeal Ref: APP/F3545/W/25/3365917

Land rear of 89 York Road, Bury Saint Edmunds, Suffolk IP33 3EQ

- 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 Deborah Pooley against the decision of West Suffolk Council.
 - The application Ref is DC/24/1348/OUT.
 - The development proposed is outline consent for erection of two detached dwellings with gardens with access via Prince of Wales Close.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by West Suffolk Council against Deborah Pooley. This application is subject of a separate decision.

Preliminary Matters

3. The proposal is seeking outline consent for two dwellings, with all matters reserved apart from access. The access to the site is via Prince of Wales Close.
4. The appellant was given the opportunity to provide additional information regarding potential mechanisms to demonstrate the development as a self-build dwelling. This also links to the requirements of biodiversity net gain (BNG), as if the properties do not meet the requirements of a self-build then there is no exemption to BNG for this development.
5. I have used the site address from the appellant's appeal form, as this provides a clearer location of the site than the application form.
6. The West Suffolk Local Plan 2024-2041 July 2025 (Local Plan) has been adopted since the Council determined this development. I have considered the appeal against the policy requirements of the new Local Plan, which the appellant has had chance to comment on.

Main Issues

7. The main issues are:
 - the effect on the character and appearance of the local area, specifically Victoria Street Conservation Area.
 - the effect of the proposal on the ecology of the site.

- whether the proposal meets the definition of a self-build dwelling

Reasons

Character and appearance

8. The site is located within, though on the edge, of the Victoria Street Conservation Area. The significance of the Conservation Area is derived from the large amount of late Victorian and Edwardian semi-detached and terrace dwellings that define its character and appearance. In addition, York Road and Queen's Road are also defined by many dwellings having long gardens.

9. The duties contained in the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require special regard should be given preserving or enhancing the character or appearance of the Conservation Area.

10. From the historical evidence provided as part of this appeal and following my site visit, it is evident that a modest building stated as stables was on the site during the late Victorian and Edwardian eras though now only the remains of a building exist. The appellant states that the site is not garden land to any property on York Road and there is no evidence before me to demonstrate this assertion is incorrect. I also accept that there have been other buildings and uses on the site in the past.

11. Paragraph 125 of the National Planning Policy Framework 2024 (the Framework) states that 'give substantial weight to the value of using suitable brownfield land within settlements for homes'. However, firstly the requirements of the Act are a separate test that have priority and the Framework makes specific reference to the protection of heritage assets under Chapter 16. Secondly, the Framework excludes sites as previously developed if 'land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape'. The site is surrounded by mature hedgerows and trees, with most of the site now being a grassed area and the low level walls and base of a chimney stack of what remains of a building. On this basis, it is considered that most of the site has blended into the landscape.

12. With the site now being similar in both character and appearance, to the adjacent gardens it makes a positive contribution to the significance of the Conservation Area. The proposal is also not seeking to return the site to its historic use, for instance by proposing stables. The proposal of two dwellings would, therefore, not preserve the character and appearance of the Conservation Area.

13. It is also noted that 90 York Road is a relatively new dwelling. However, this dwelling was designed to be in keeping with the street scene and does not appear to have reduced the character of green spaces behind the dwellings along York Road.

14. With the proposed development being an outline application there is not sufficient information to demonstrate that the proposal would lead to an enhancement to the character and appearance of the Conservation Area.

15. Given the proposal is outline application there is not sufficient information on how visible the proposed dwellings would be or the proposed landscape scheme; though it is accepted that the proposal could be constructed without the need to remove existing trees. While trees in a Conservation Area are protected, there can be no guarantee on the length of time the trees would remain as they might become diseased, die and need

to be removed. Therefore, landscaping in itself cannot be relied upon to make unacceptable development acceptable.

16. Therefore, the proposal undermines the significance of qualities which are of importance to the Conservation Area. It follows that the proposal does not preserve or enhance the character and appearance of the Conservation Area. On this basis the proposal does conflict with the expectations of the Act.

17. In terms of the Framework for similar reasons, the proposal causes less than substantial harm to the significance of a designated heritage asset.

18. Paragraph 215 of the Framework states that in these circumstances this harm should be weighed against the public benefits of the proposal. The public benefit of the proposal is that it would provide two additional dwellings near services and facilities, which would also have the benefit of short term economic benefit during construction. The public benefits are not considered to outweigh the harm to the heritage asset.

19. I therefore conclude on this issue that the proposal would harm the character and appearance of the local area, including the Victoria Street Conservation Area. On this basis, the proposal does not comply with Policy LP9 of the Local Plan that seeks to ensure that development maintains or enhances the local area and not lead to the loss of open/green spaces that make a significant contribution to the character and appearance of a settlement. The proposal also does not meet the requirements of the Framework.

Ecology

20. The site is formed of trees, hedges, grass, remains of a building and a shed. The appellant's Biodiversity Checklist did not consider the site to be derelict land, brownfield site or rough grassland. However, it is my view that the site would constitute rough grassland and the shed is a wood cladded building. In addition, there are plenty of mature trees within the local area. Therefore, the proposal could have a significant impact upon biodiversity, including impacting on bats that are a protected species. In line with Government guidance it is unusual to condition a biodiversity survey, as the decision maker needs to consider the full impact of the development proposal on protected species before you can grant planning permission. On this basis, given that there is no material reason to go against standard advice, the potential harm to protected species weighs significantly against the development.

21. I therefore conclude on this issue that the proposal could detrimentally harm biodiversity. On this basis, the proposal does not comply with Policy LP13 of the Local Plan that requires all applications to be supported by appropriate level of information to prevent adverse impacts on protected species.

Self-build

22. The appellant and Council have put forward condition wording to control the self-build element. However, it is my judgment that neither suggested wording meet all the six tests for conditions as set out in the Framework, with specific reference to enforceability, and I do not see any amendment that would lead me to a different view. With no legal agreement to ensure the proposal comes forward as self-build plots, the potential benefit two self-build plots and fulfilling a demand in the district only holds limited weight.

23. With the proposal not meeting the definition of self-build dwellings, it is therefore not exempt from BNG. With no valid exemption, the proposal would be subject to the biodiversity gain condition and the minimum information requirements as detailed under Article 7 of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The failure to provide the necessary information to satisfy the biodiversity condition significantly weighs against the application.

Conclusion

24. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.

A Phillips

INSPECTOR