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## Appeal Decision

Site visit made on 19 October 2020

**by Jonathan Price BA(Hons) DMS DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 October 2020

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**Appeal Ref: APP/X3540/W/20/3244496**

**Land adjacent to Mallards, 5 St Mary's Way, Westerfield, Ipswich IP6 9BQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Gittins against the decision of East Suffolk Council.
  - The application Ref DC/19/3662/FUL, dated 18 September 2019, was refused by notice dated 28 November 2019.
  - The development proposed is the erection of 2 no. new dwellings (one detached chalet bungalow and one detached bungalow) with detached garages, and extension of vehicular access driveway.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 no. new dwellings (one detached chalet bungalow and one detached bungalow) with detached garages and extension of vehicular access driveway on land adjacent to Mallards, 5 St Mary's Way, Westerfield, Ipswich IP6 9BQ, in accordance with the terms of the application Ref DC/19/3662/FUL, dated 18 September 2019, subject to the conditions set out in the attached Schedule.

### Main Issue

2. Whether this would be an appropriate site for two dwellings, with particular regard to securing acceptable living conditions for existing and future occupiers in respect of privacy and outlook.

### Preliminary Matters

3. The Council adopted the Suffolk Coastal Local Plan (LP) on 23 September 2020. This covers the former Suffolk Coastal District, administered by the current East Suffolk Council. This newly adopted LP provides the policies relevant to my decision.
4. The appellant has made the payment sought by the Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy (Suffolk Coast RAMS), so as to satisfy the Habitats Regulations and enable me to carry out the necessary appropriate assessment, should the proposal be otherwise acceptable.

### Reasons

5. Westerfield lies within the countryside a short distance beyond the built-up edge of Ipswich. It is defined a small village in the settlement hierarchy provided by LP Policy SCLP3.2. St Mary's Way is a cul-de-sac located within this

village. The proposal is effectively to extend this to provide an additional residential plot to either side. The proposed dwellings would face each other across the lengthened road, occupying somewhat elevated land adjacent to the end properties at nos. 5 and 6. The site currently comprises the rear half of the back garden to no. 5 and a further undeveloped area which extends along the far side of no. 6 opposite.

6. LP Policy SCLP3.3 refers to the boundaries defined around settlements, outside of which land is defined as countryside. The settlement boundary for Westerfield here runs along the far side of no. 6 and continues across the back garden of no. 5 opposite. It then turns at a right angle to follow the rear boundaries of properties along Church Lane before extending out so as to encompass the not yet started five dwellings permitted on appeal<sup>1</sup> to the rear of The Mount, just to the east of St Mary's Way. The appeal site is thus outside this settlement boundary but forms part of an indent into this, between the rear of no. 5 and the five-dwelling commitment.
7. Outside of the defined settlement boundaries, LP Policy SCLP5.3 limits housing to specific categories acceptable in the countryside, none of which apply to this proposal. On this basis, the two dwellings would conflict with LP policy over where new housing is allowed. However, the Council's reason for refusal is not based on this policy conflict. It refers specifically to another earlier appeal decision over a proposal for five dwellings, but one that was dismissed and related to this site<sup>2</sup>. This dismissal was solely on the grounds of the scheme having an unacceptable impact on the living conditions of neighbouring occupiers, particularly those at no. 6 in terms of privacy and outlook.
8. Contrary to the Council's refusal reason, I consider that the reduction from five to two dwellings, both now orientated to face onto an extended cul-de-sac and laid out so as to reflect the present spacious grain of housing on St Mary's Way, would avoid any material harm to the living conditions of any existing occupiers. On an elevated site and occupying land that is presently vacant, the two dwellings would inevitably have a visual presence in the immediate neighbourhood. However, the plot 1 chalet would broadly follow the building line and orientation of the house at no. 6 and, without windows in the adjacent end elevation and set apart a reasonable distance, cause no mutual loss of privacy or any unduly overbearing impact on outlook. Despite the relative site levels, and due to the degree of separation of the proposed chalet and the scope for intervening planting, neither would there be any harmful degree of overlooking of the garden areas at no. 6. By the same token, the plot 1 chalet would provide acceptable living conditions for its future occupiers.
9. The appellants currently reside at no. 5, the rear elevation of which faces towards the side of the proposed plot 2 bungalow. However, with the intervening double garage, there would be no potential for window to window overlooking and the degree of separation would preserve reasonable living conditions for future occupiers of both. There would remain more than adequate back to back distances between the plot 2 bungalow and Carleford and Wentworth, dwellings fronting Church Lane with relatively long back gardens, so as to also preserve mutual privacy and acceptable living conditions.

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<sup>1</sup> Appeal reference APP/J3530/W/17/3167309

<sup>2</sup> Appeal reference APP/J3530/W/18/3200488

10. I can appreciate that many existing residents in this area would prefer the site to remain undeveloped. However, the scale, siting and design of the two dwellings would secure acceptable living conditions for both future occupiers and neighbouring households, including in respect of maintaining adequate privacy and outlook, such that there would be no conflict with LP Policy SCLP11.2 in respect of any harm to residential amenity.

### **Habitats Regulations Assessment**

11. I have had regard to the Suffolk Coast RAMS, and the underpinning Technical Report<sup>3</sup>. This aims to deliver the mitigation necessary to avoid significant adverse effects on the natural environment from the combined impacts of residential development anticipated in the adjacent parts of coastal Suffolk. This is to protect the European sites along the Suffolk coast from the impacts of increasing visitor pressure and to avoid any adverse effects on their integrity, so as to meet the requirements of the EU Habitats Directive.
12. This proposal is within the evidenced Zone B of Influence defined under the Suffolk Coast RAMS. In combination with other housing growth, this proposal would likely have a significant effect upon the Suffolk coast European sites, due to increased recreational disturbance from the added population. To address this, a financial contribution has been made by the appellants, based on a standard tariff for Zone B. I am satisfied that the level of further recreational disturbance resulting from the two dwellings would be effectively offset by the contributions made to these strategic mitigation measures. Having reviewed the evidence before me, I am able to ascertain that this proposal would not have an adverse effect on the integrity of the European sites along the Suffolk coast.

### **Balance and Conclusion**

13. I have had regard to further matters raised by interested parties, including the Parish Council, at both the application and appeal stages. Westerfield has made a significant contribution towards meeting overall housing supply through existing allocations and permissions and is now classified a small village. This limits further growth to small groups or infill within the settlement boundary. In this context, and despite the village having quite limited services, I find no material harm either in respect of the capacity to accommodate a further two dwellings or the lack of a need for these. Nor do I find adverse effects in respect of the character and appearance of the settlement, highway safety, drainage, land contamination or biodiversity.
14. With regard to the principle of the development, and the conflict with the recently adopted LP, I note the settlement boundary for this site remains unchanged from that defined previously. The earlier appeal decisions relating to this site and the land to the rear of The Mount were made in the context of a 'tilted balance', due to uncertainty over a five-year housing land supply situation that no longer exists. Nevertheless, the Inspector in dealing with the previous decision on this site found no harm in terms of accessibility to services and facilities or the effect on the character and appearance of the area. The sole reason for the dismissal of a scheme for five dwellings, over the harmful effects on residential living conditions, has been addressed in this substantially

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<sup>3</sup> Recreational Disturbance Avoidance & Mitigation Strategy for Ipswich Borough, Babergh District, Mid Suffolk District and East Suffolk Councils. Footprint Ecology 23 May 2019

reduced and re-designed scheme for just two dwellings. Given the relationship of the appeal site and that of the five dwellings approved to the rear of The Mount, the circumstances exist to countenance this small development rounding off the settlement boundary, without establishing any universally applicable precedent.

15. There would be modest social and economic benefits from two further dwellings, against which I have been unable to find any environmental or other significant harm. Taking into account my colleague's findings in the previous appeal relating to this site, I find on balance that the material considerations exist to indicate a decision other than in full accordance with the development plan.

### **Conditions**

16. I have considered the conditions suggested by the Council on the basis of paragraph 55 of the National Planning Policy Framework. This requires these be kept to a minimum and imposed only where necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. In addition to one setting the standard time period for commencement (1), a condition is necessary for certainty that specifies the plans that should be followed (2). For succinctness, I have included the arboricultural, risk assessment and ecological reports in this condition so as to apply the recommendations these make. Further to adhering to the risk assessment, a shorter condition necessary to address potential site contamination is appropriate (7).
17. To ensure satisfactory storage and presentation of refuse/recycling bins, a condition is needed addressing this (4). The various requirements sought over the completed access, parking and manoeuvring areas can be addressed in a single condition governing agreement to the full specifications of these elements, so as to secure satisfactory implementation of these (5). In the interests of the suitable appearance of the finished development, a condition is necessary requiring agreement to the facing materials used (3). To help the development blend into its surroundings, a condition requires agreement to and implementation of a landscaping scheme (6).
18. Subject to the conditions specified, and having had regard to all other matters raised, I conclude that the appeal be allowed.

*Jonathan Price*

Inspector

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/reports: PW1020-PL01 rev B; PW1020-PL02 rev D; PW1020-PL03 rev C; PW1020-PL04 rev B; PW1020-PL05 rev B; OAS/17/237/TS01 rev B; Arboricultural Implications Assessment and Preliminary Method Statement OAS/17-237-AR01 Rev B; Phase 1 – Desk Study and Preliminary Risk Assessment

3987,DS,DESK,PC,GF,28-05-19,V1; Ecological Appraisal by Liz Lord Ecology ref:1522.

- 3) No development shall commence above slab level until details of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to the occupation of the dwellings hereby permitted, the areas for storage and presentation of refuse/recycling bins shall be provided in accordance with details that shall have had the prior written approval of the local planning authority. These areas shall be retained thereafter for these purposes.
- 5) Prior to the occupation of the dwellings hereby permitted, the new vehicular access from St Mary's Way, and the respective parking and manoeuvring areas, shall have been provided in accordance with detailed specifications that shall have had the prior written approval of the local planning authority. These shall thereafter be retained for these purposes.
- 6) Within 3 months of commencement of development, details of a scheme of soft landscaping shall be submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 48 days of the report being completed and approved in writing by the local planning authority.

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