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## Appeal Decision

Site visit made on 7 January 2020

**by William Cooper BA (Hons) MA CMLI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23<sup>rd</sup> March 2020**

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**Appeal Ref: APP/X3540/W/19/3235216**

**9 Glebe Close, Lowestoft, NR32 4NU**

- 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 Russell Ritchie against the decision of East Suffolk Council.
  - The application Ref: DC/19/2051/FUL, dated 20 May 2019 was refused by notice dated 2 July 2019.
  - The development proposed is erection of detached residential bungalow and all associated works.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are the effect of the proposed development on:
  - European designated habitats
  - The character and appearance of the area
  - The living conditions of neighbouring occupiers, with particular regard to noise and disturbance, and
  - The living conditions of future occupiers.

### Reasons

#### *European designated habitats*

3. The appeal site falls within the 13km zone of influence for the following European protected sites: the Benacre to Easton Bavents Special Protection Area (SPA) and the Sandlings SPA.
4. In connection with the appeal, the appellant has submitted an undated and unsigned (and thus unexecuted) Unilateral Undertaking (UU). The UU is intended to obligate the appellant to make a contribution of £321.22 towards the operation of Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) initiatives. As the submitted UU has not been fully executed it does not contain binding obligations.
5. In the light of the UU's deficiencies I consider the mitigation required to safeguard the SPAs' integrity would be unavailable. As there would be no

appropriate mechanism to mitigate the development's effects on the SPAs, I can only conclude that the development would unacceptably harm the SPAs. The absence of mitigation gives rise to the potential for the SPAs to be harmed, resulting in conflict with Policies SP14 and DM27(i) of the LP1, which together seek to protect designated habitats sites.

6. In the absence of suitable mitigation for the development's effects on the SPAs, I consider the requirements of The Conservation of Habitats and Species Regulations 2017 cannot be discharged. That is because insufficient information is available to me to undertake a Habitats Regulations Assessment for the effect of this development, in combination with others, on the SPAs.

*Character and appearance of the area*

7. The appeal site is within the garden of the bungalow at No.9 Glebe Close. Glebe Close is a cul-de-sac located within a residential 'block' of land which is delineated by Gunton Church Lane, Clover Way, Gunton St Peter's Avenue and the A47 Yarmouth Road. The block, including Glebe Close, is characterised by a mix of two-storey dwellings and bungalows, with a noticeable prevalence of off-street parking and spacious front gardens within residences in the area. Within this block, a spacious green 'U' exists, which comprises the combined rear garden space of dwellings in the area. Based on the aerial view, the rear gardens towards the eastern part of the block are particularly spacious. The above factors, in combination, contribute to a relative sense of spaciousness in the area.
8. Within the above context, the following factors would help to assimilate the proposed dwelling within its site and area: the somewhat individual nature of the appeal site, given its location off the head of the cul-de-sac in a relatively large rear garden within Glebe Close, towards the centre of the block and the green 'U'; the relative visual containment of the site provided by intervening trees and garden boundaries in the neighbourhood; and the lower-rise, single-storey profile of the proposed bungalow.
9. I note the Council's view that the proposal would sit awkwardly within its plot and undermine the spacious 'ethos' of the area. However, whilst the spaciousness and verdancy of the rear garden of No. 9 would be reduced, the host property's remaining front and rear garden areas would not be significantly out of scale and character within Glebe Close. Furthermore, the spacious and verdant character of the bulk of the green 'U' would be retained. As such, the somewhat bespoke footprint of the proposed bungalow would integrate satisfactorily on the plot, which is of somewhat individual character and configuration.
10. Trees in the front and rear garden, including an established cedar type tree to the rear, would be removed to accommodate the proposed development. Whilst this is not ideal, the impacts would be relatively localised, and replacement trees and other wildlife-friendly planting could be provided through a landscape scheme. The latter, along with an arboricultural method statement to protect retained trees on and overhanging the site, could be secured by planning condition.
11. Taking the above together, I conclude that the proposed development would not harm the character and appearance of the area. As such, it would not conflict with Policies WLP8.29, WLP8.32 and WLP8.33 of the Waveney Local

Plan (2019) (WLP, which together seek to ensure that seeks to ensure that development complements local character.

*Living conditions of neighbouring occupiers*

12. Access to the proposed dwelling and its off-street parking would run adjacent to the side of the host bungalow and the side boundary of neighbouring dwelling No 8 Glebe Close. The proposed access would be approximately 4.5m wide, and there is a separation gap between the side boundary wall and some of the southern elevation of the building at No 8.
13. Vehicles and pedestrians accessing the proposed dwelling would create some noise in the space between the bungalows at Nos 8 and 9. However, the scale of vehicle movement would be limited by the scale of proposed single-unit development. The impact would be offset to some extent by removal of car parking from beside the northern elevation of the host bungalow. The side boundary wall would help to contain the effects. Within the suburban area around the site, it is not unusual for areas of driveway down the side of dwellings to be used for parking residents' cars and accessing garages. Moreover, the front door of the proposed dwelling would be more than 30m from the bungalow at No 8.
14. The above factors together lead me to find that the increase in vehicle and pedestrian movement and reduction in tranquillity between Nos 8 and 9 Glebe Close would not be significantly detrimental to neighbouring occupiers' enjoyment of their dwellings, in respect of noise and disturbance.
15. I note neighbours' concerns about a number of matters regarding their privacy and outlook, which go beyond the scope of the reasons for refusal. Given the following, I do not find harm in these respects: the single-storey nature of the proposed dwelling; the separation between the proposed building and dwellings on neighbouring sites; and the relative visual containment of the appeal site.
16. To conclude, the proposal would not significantly affect the living conditions of neighbours. As such, it would not conflict with Policies WLP8.29 and WLP8.33 of the WLP. Together, the policies seek to ensure that development safeguards the living conditions of residents.

*Living conditions of future occupiers*

17. The Council states that the proposal would have an unacceptable impact on the amenity of future occupiers. However, I find that no substantive evidence leads me to such a conclusion, in relation to living conditions of future occupiers of the proposed dwelling. Therefore, the proposal would not lead to demonstrable harm in this respect, and would not conflict with Policies WLP8.29 and WLP8.33 of the WLP, which seek to safeguard living conditions of residents.

**Other Matters**

18. The appellant cites backland development on another site in Lowestoft. Nevertheless, the proposal has its own setting and circumstances, and, as such, I assess it on its own merits.
19. I note residents' concerns about intensification of traffic and highway safety on and around Glebe Close. Nevertheless, I saw during my site visit that Glebe Close is a relatively quiet cul-de-sac in traffic terms, albeit at a 'snapshot' in

time. Moreover, given the modest scale of the proposed development and its provision for off-street parking, a significant increase in on-street traffic volume and manoeuvring is not anticipated. As such, I find that the proposal would not harm highway safety.

20. Resident concerns about disturbance from construction works could be addressed by a construction phase management plan, which could be secured by planning condition.
21. The proposal would provide additional living accommodation, and associated socio-economic activity during and after construction. The combined benefit would be limited by the modest scale of proposed development.

### **Planning Balance and Conclusion**

22. The absence of harm identified in respect of character, appearance and living conditions are neutral factors which do not weigh in favour of the proposal. The identified harm in respect of protected habitats would outweigh the modest benefit. For the reasons given above, I conclude that the appeal should be dismissed.

*William Cooper*

INSPECTOR