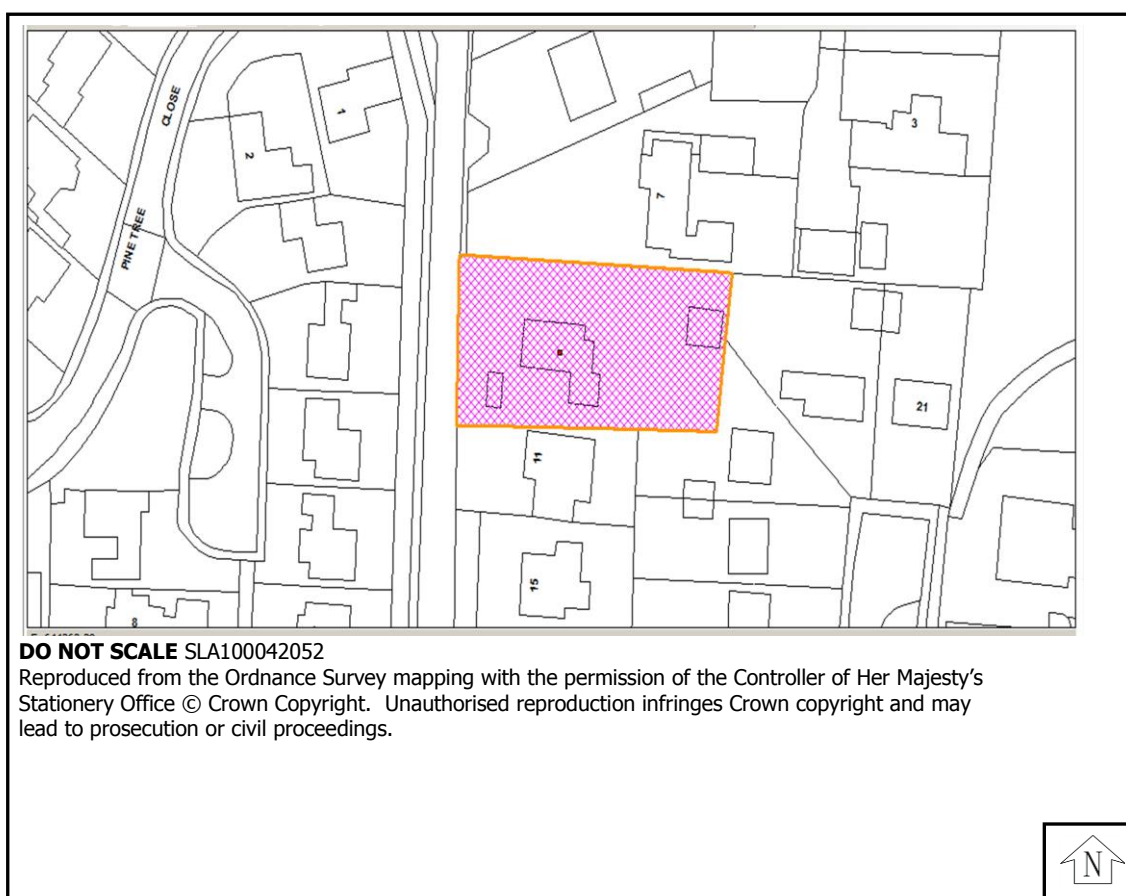


PLANNING COMMITTEE – 17 JULY 2018**APPLICATION NO** DC/18/1465/FUL**LOCATION**9 Garden Lane
Worlingham
NR34 7SB**EXPIRY DATE** 15 July 2018**APPLICATION TYPE** Full Application**APPLICANT** Sprake Developments (East Anglia) Ltd**PARISH** Worlingham**PROPOSAL** Demolition of bungalow and replacement with 2 no. Bungalows with garaging**1 SUMMARY**

- 1.01 This proposal is a variation on a scheme reported in February 2017 to members (DC/16/4457/FUL). It is considered broadly acceptable and retains the attractive tree currently on site. The proposal has been called in as a result of objection from a neighbour whose land is set below the level of the proposal site.

2 SITE DESCRIPTION

- 2.01 This site on Garden Lane is occupied by a circa 1950 bungalow, now partly demolished. The level of the site is considerably raised in relation to the highway by around 1.5m.

There is a large tree on the north side of the site adjacent to number 7 Garden Lane. While number 11 Garden Lane and other local property is at the same approximate level as number 9, number 7 is set lower and not significantly higher than the highway such that there is a 1.2 to 1.5m bank between the plots. This plot is atypically large for the area. The plot containing number 7 is even larger and is set a long way back from the highway whereas 11 is set forward to almost the same approximate line as the original number 9 (now partially demolished). This means that there is a stepping back of the street-scene from the highway in this location, justifying the tandem development proposed.

3 PROPOSAL

- 3.01 This is a revised application for two number 3 bedroom bungalows
- 3.02 This application is varied in relation to that previously in that the rear plot is rotated allowing the garaging and the front plot to be pulled back into the site removing the street-scene and amenity impact issues for number 11. The second plot is much closer to the north boundary with number 7 than previous proposals and the owner of that property has raised objection to loss of light, to both the front room and the solar panels and that the retention of the large attractive tree close to his boundary keeps his concerns of shading and falling branch harms alive, in a way that would have been addressed by removal. The existing corrugated garage to the front will be removed.

4 CONSULTATIONS/COMMENTS

Neighbour consultation/representations

- 4.01 7 Garden Lane: Précised: The fence on the North boundary given the 1.5 to 1.8m level change between 7 and 9 and the less than 1.5 m distance from the border of number 9 and the South facing window will harm outlook and light. The previous permission conditioned a low wall on the boundary. The North East corner of plot 2 is close to my property and will take light from the solar panels. The bungalow need to be positioned as far south on the plot as possible. I will be removing the North West boundary conifers on my land shortly. The tree should be removed as there are cracks in my house and the soakaways are blocked by roots. Branches can break off.

Consultees

Parish Council

- 4.02 Due to the topography of the land and the requested location of the new property within the site, there would be an adverse effect on the amenity of the neighbouring property and we would suggest that WDC therefore seek to refuse the application. The Council were concerned about the differing height levels / topography of the area which would cause loss of light for the neighbouring property and the proposed 6ft fence would also block much light for the neighbour.
- 4.03 **WDC Environmental Health - Contaminated Land:** The applicant has submitted a Land Contamination Questionnaire together with an internet environmental search, neither of which provide any reasons to suspect that contamination is present or needs to be considered any further. As such, on the basis of the information submitted, it would appear that the site is suitable for the proposed use. However, I would advise the LPA to apply a planning condition requiring the reporting of any potential contamination encountered during construction, such as:

"In the event that contamination is found or suspected at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of the contamination on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

Where remediation is necessary a detailed remediation scheme must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme must be carried out in accordance with its terms. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority."

Suffolk County - Highways Department

- 4.04 The County Council as Highway Authority recommends conditions also noting the garages are too small to be counted as parking spaces when set against adopted guidance.
- 4.05 Conditions requested are that access has an entrance width of 4.5m and be available for use before any other works take place, that gradients are limited in severity, as shown in the submitted drawings. A bound material for a minimum distance of 5 metres from the edge of the metalled carriageway, in accordance with details previously submitted to and approved is needed. Given the slope, the means to prevent rainwater run off is needed to be conditioned too.
- 4.06 Further details of the areas to be provided for the manoeuvring and parking of vehicles including secure cycle storage need to be prior agreed by condition and vision splays established.

5.0 PUBLICITY: None

- 6.0 SITE NOTICES :** The following site notices have been displayed:
 General Site Notice Reason for site notice: New Dwelling, Date posted 24.05.2018
 Expiry date 13.06.2018

7.0 RELATED APPLICATIONS

| Reference No | Proposal | Decision | Date |
|----------------|---------------------|----------|------|
| DC/16/4457/FUL | 2 no bungalows | approved | |
| DC/17/2913/FUL | 2 larger bungalows. | refused | |

8.0 PLANNING POLICY

CS02 High Quality and Sustainable Design (Adopted Core Strategy, January 2009)
DM02 Design Principles (Adopted Development Management Policies, January 2011)

9 PLANNING CONSIDERATIONS

- 9.1 Planning History: DC/16/4457/FUL had been approved for two modest bungalows after some negotiation given this constrained site. The site was sold to another developer and following this a scheme for two larger bungalows DC/17/2913/FUL was put forward but refused as it would have caused loss of outlook to 11 Garden Lane, and harm to the street-scene by virtue of elevated position and degree of forward projection and would have created a disproportionately small private garden for plot 1 in relation to its overall size.
- 9.2 Principle and Sustainable Development: The site is sustainably located within physical limits
- 9.3 Heritage Considerations: There are no designated or undesignated Heritage assets affected directly or indirectly by the proposal. The site is not in or adjacent to a conservation area.
- 9.4 Street-scene: The removal of the corrugated garage is considered a positive proposal and the slight forward placing of the plot 1 in relation to the original bungalow is of no significant material harm.
- 9.5 Residential Amenity: There are no significant windows (main habitable rooms) facing on number 11 the property to the south of the site, and this proposal moves the development footprint of unit 1 slightly further from the boundary, so that the projection forward has limited material impact on outlook and light for number 11. While there is limited garden space associated with plot 1, it is considered marginal but on balance appropriate for the property created.
- 9.6 To the north number 7 is set lower so there is concern to be addressed that amenity harm might occur, however this is considered not to be material, as the window facing south that will suffer increased shading from direct light will still be 4m from the proposed plot 2, which features a hipped roof design, so will continue to receive light from the sky vault and is, in addition a secondary light, there being a west facing front window of large proportion.
- 9.7 This neighbour (number 7) had asked for a condition, that given the boundary level change, no fence over 1m high should be placed on the neighbouring boundary (he intended this to be at the lower level rather than the top of the bank, and on this matter in particular hinges the call in). This was applied to the earlier consent and would still be effective in allowing light to fall on the frontage between the tree and plot 2, as such the condition is repeating here. Plot 2 bedroom 1 does feature a small narrow window (secondary window) on the north side which outlooks towards number 7. If a 1m fence is used to demark the boundary then views into the south facing side window of number 7 will be limited by the change in level. As such no significant privacy loss of privacy is considered to occur.

- 9.8 Plot 2 enjoys a more generous garden size than Plot 1. The neighbour (number 7) has further objected that the north boundary fence if at the top of the bank will be 1.5m at its bottom above his land and if a metre high will be 2.5m in effective height and therefore beyond the notions of reasonableness enshrined in the GPDO. It is also the case that because the bank is angled and the proposed metre high restricted fence would be some 3m from the south facing side window, the effect of this wall of greater height will be reduced in impact. A condition was agreed by members at committee in the previous case restricting the fencing height to 1m. The applicant has now produced a section through the relationship and a 1.4m high fence designed to offer reasonable privacy to number 7. One has to weigh therefore whether a lower fence offering slightly more light would be preferable to one that secured privacy. On balance officers consider it is considered reasonable to reapply the original condition for a 1m fence here. A fence of this height would in relative terms be 2.2m above number 7's ground floor level. The objecting neighbour has indicated that light is more important to him than privacy, and disputes the level survey, now saying the difference is 1.7m not 1.5m.
- 9.9 In the revised drawing 02b received 29th June 2018, plot 2 has been moved south by 2m so that the closest part of the proposed building is now 3.7m from the part of number 7 where the solar panels are located. In the original approved scheme this distance was to have been 5.5m, however with a hipped roof the degree of difference in overshadowing will be minimal. It is not clear from rather limited case law in this regard, how much material weight can be given to consideration of over-shading of solar panels in the planning consideration as it is not a standard amenity concern. Some material weight can be afforded to low carbon sustainable energy production.
- 9.10 Highway Safety and Parking Provision: Providing the driveways to both properties are shared in terms of legal access rights there appears to just be space for two vehicles on each plot, assuming the garage is used for that purpose. The garages are under the 3 x 7m set out by the County when assessing whether vehicle storage is likely to occur however this shortfall is small as they measure 2.8 x 6m, which abided by previously applied norms. It would be difficult to refuse on parking provision given too the proximity to schools, shops and bus services and a recent upheld local appeal decision relating to the absolute size of parking spaces.
- 9.11 The gradient of the drive is shown specified and spot levels plotted and the drive curves further from the tree than previous iterations of the scheme, so it is considered that the layout can be achieved without harm to the root spread of the sweet chestnut tree. If harm were to occur the fall back position of remedial planting would still exist. A condition therefore serving to reinforce this can be added.
- 9.12 Given the constrained site size and relationship to neighbours, permitted development rights for extension, roof extensions and roof-windows and sheds other than a small cycle storage shed behind the garages, should be imposed.
- 9.13 Flood Risk / SUDS/ Protected Aquifers: This proposal is in Flood Zone 1, the low risk zone and there is no record of localised surface water flooding. The site is not within a "source protection zone"

- 9.14 The proposal does not significantly alter land permeability so no requirement for Sustainable Drainage (SUDs) requires imposition as the building regulations suffice for small plots with regard to the preference to drain to land.
- 9.15 Biodiversity and Geodiversity: This site is within domestic garden land where there is no record of protected flora or fauna.
- 9.16 Trees and hedgerows: There are no trees with Tree Preservation Orders in the vicinity of this site and no protected hedgerows, but there is a tree valuable in the street-scene now proposed as retained. The neighbour has requested removal, but this is not a material planning requirement and much of the tree and its canopy are within the site. Its retention removes the need for the mitigating planting agreed in the approved 2016 scheme, and it remains a fine street scene feature.
- 9.17 The neighbour expresses concerns that a falling branch could injure his grandchildren when visiting, but the tree canopy is largely outside his land and if this were a concern here by logical extension of principle all trees would have to be felled. Inspection by a tree surgeon is recommended to the applicant to protect against potential claims but this is a common law liability rather than planning matter. He also expresses concerns that roots are affecting his soakaway, it should be noted that these reported harms are common law matters rather than material to planning consideration and furthermore that removal of trees can alter soakage patterns adversely.
- 9.18 There are no Planning Considerations with regard to Housing Mix, Impacts upon Key Facility, impacts upon Sports and Play Space Provision, Tourism Considerations, Employment and Economic Considerations, Retail Considerations or Telecommunications.
- 9.19 The additional floor-space created will be subject to Community Infrastructure Levy liability. Given the partial demolition of the existing bungalow there may now be a greater liability.
- 9.20 The proposal falls within the scheme of delegation and although earlier versions were taken to committee, it is considered that this iteration does not raise further fundamental material issues that would require committee referral; however, the call-in creates a referral situation.

10 CONCLUSION

- 10.1 Approve with permitted rights constrained and highway and contamination conditions added together with the north boundary fence height restriction condition.

RECOMMENDATION

Approve with conditions below

1. The development hereby permitted shall be begun within a period of three years beginning with the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 as amended.

2. The development hereby permitted shall be constructed in all respects strictly in accordance with drawings 1999.3a, 4a, 5a, 6a and 8; received 6th April 2018 and 1999.2b and cross section both received 29th June 2018, for which permission is hereby granted or which are subsequently submitted to and approved in writing by the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.

Reason: To secure a properly planned development.

3. The access shall be completed in all respects in accordance with Drawing No. DM01; with an entrance width of 4.5m and be available for use before occupation. Thereafter it shall be retained in its approved form. At this time all other means of access within the frontage of the application site shall be permanently and effectively "stopped up" in a manner which previously shall have been approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety to ensure the approved layout is properly constructed and laid out and to avoid multiple accesses which would be detrimental to highway safety.

4. The gradient of the vehicular access shall not be steeper than 1 in 20 for the first five metres measured from the nearside edge of the adjacent metalled carriageway.

Reason: To ensure that vehicles can enter and leave the public highway in a safe manner.

5. The access driveway shall be constructed at a gradient not steeper than 1 in 8.

Reason: To ensure that vehicles can enter and leave the public highway in a safe manner.

6. Prior to the development hereby permitted being first occupied, the vehicular access onto the highway shall be properly surfaced with a bound material for a minimum distance of 5 metres from the edge of the metalled carriageway, in accordance with details previously submitted to and approved in writing by the local planning authority.

Reason: To secure appropriate improvements to the vehicular access in the interests of highway safety.

7. The vehicular access hereby permitted shall be a minimum width of 4.5 metres for a distance of 10 metres measured from the nearby edge of the carriageway.

Reason: To ensure vehicles can enter and leave the site in a safe manner.

8. Before the development is occupied a secure bicycle shed behind the garages of not less than 2 x 1.5m shall be provided unless otherwise agreed in writing by the local planning authority.

Reason: To provide this accommodation where the size of the garage provided is below that considered necessary to allow for vehicle storage.

9. Before the development is commenced details shall be submitted to and approved in writing by the Local Planning Authority showing the means to prevent the discharge of

surface water from the development onto the highway. The approved scheme shall be carried out in its entirety before the access is first used and shall be retained thereafter in its approved form.

Reason: To prevent hazards caused by flowing water or ice on the highway.

10. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) any means of frontage enclosure shall be set back 2.4 metres from the edge of the carriageway of the adjacent highway.

Reason: In the interests of highway safety, to avoid obstruction of the highway and provide a refuge for pedestrians.

11. In the event that contamination is found or suspected at any time when carrying out the approved development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of the contamination on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

Where remediation is necessary a detailed remediation scheme must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme must be carried out in accordance with its terms. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) (with or without modification), no building, structure, or erection of any kind of a height greater than 1m measured from ground level within the curtilage of this site, shall be placed or erected along the boundary on the north side adjacent to number 7 Garden Lane without the prior written consent of the Local Planning Authority.

Reason: To protect amenity of that neighbour from light loss in consideration of the level change.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 (or any order revoking and re-enacting that Order) (with or without modification), no building or structure permitted by Classes A (extensions or alterations), B (changes to the roof) or E (buildings or enclosures

within the curtilage of the house) of Schedule 2 Part 1 of the Order, other than the shed noted in condition 8 of this permission; shall be erected without the submission of a formal planning application and the granting of planning permission by the Local Planning Authority.

Reason: To secure a properly planned development.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, (or any order revoking and re-enacting that Order) (with or without modification), no windows, roof windows, roof-lights or dormer shall be constructed on any elevation of either plot 1 or 2 unless either obscure glazed and fixed shut or opening on restrictors allowing a maximum opening of 100mm or set with the lowest glazed part not less than 1700mm above the finished floor level of any room served by such window, roof window, roof light or dormer.

Reason: to preserve the amenity of adjacent property by way of privacy.

ADDITIONAL NOTES

1 Public Utility apparatus may be affected by this proposal. The appropriate utility service should be contacted to reach agreement on any necessary alterations which have to be carried out at the expense of the developer.

It is an OFFENCE to carry out works within the public highway, which includes a Public Right of Way, without the permission of the Highway Authority.

Any conditions which involve work within the limits of the public highway do not give the applicant permission to carry them out. Unless otherwise agreed in writing all works within the public highway shall be carried out by the County Council or its agents at the applicant's expense

2 The Local Planning Authority has assessed the proposal against all material considerations including planning policies and any comments that may have been received. The planning application has been approved in accordance with the objectives of the National Planning Policy Framework and local plan to promote the delivery of sustainable development and to approach decision taking in a positive way.

BACKGROUND INFORMATION:

See application ref: DC/18/1465/FUL at

www.eastsuffolk.gov.uk/public-access

CONTACT

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