

Appeal Decision

Site visit made on 30 January 2017

by S D Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17th February 2017

Appeal Ref: APP/H0520/W/16/3163322

Land at and to the rear of 36 Breach Road, Grafham, Cambridgeshire, PE28 0BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr B Fletcher against the decision of Huntingdonshire District Council.
 - The application Ref 16/01106/OUT, dated 23 May 2016, was refused by notice dated 17 August 2016.
 - The development proposed is erection of dwelling with improved access to Breach Road.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling with improved access to Breach Road on land at, and to the rear of, 36 Breach Road, Grafham, Cambridgeshire, PE28 0BA in accordance with the terms of the application Ref 16/01106/OUT, dated 23 May 2016, and subject to the following conditions:
 - 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
 - 2) Any reserved matters application shall include details of proposed visibility splays and the layout of parking and turning area for vehicles in accordance with Plans F-264P dated July 2016.
 - 3) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
 - 4) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
 - 5) The development hereby permitted shall be carried out in accordance with the following plans: location plan; site survey and tree survey.

Application for Costs

2. An application for costs was made by Mr B Fletcher against Huntingdonshire District Council. This application is the subject of a separate Decision.
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Procedural Matters

3. The planning application was submitted in outline. Illustrative plans showing one way in which the site could be developed have been submitted. All matters are reserved for consideration at a later stage. However, plans showing the provision of visibility splays have been submitted to address highway concerns and I have considered the appeal on this basis.

Main Issue

4. I consider the main issue for this appeal to be whether the site is an appropriate location for a dwelling taking particular account of the character and appearance of the area.

Reasons

5. Planning applications and appeals should be determined in accordance with the development plan unless material considerations indicate otherwise¹. The development plan comprises the Saved Policies of the Huntingdonshire Local Plan 1995 and the Local Plan alteration 2002 (which for ease I will refer jointly to as the LP) and the Huntingdonshire Core Strategy 2009 (CS). These policies are of some age but for the purposes of this appeal are broadly consistent with the National Planning Policy Framework (the Framework) in respect of seeking to protect the countryside from development except in certain specified circumstances. Paragraphs 14 and 49 of the Framework and Policy CS1 of the CS contain a presumption in favour of sustainable development. In accordance with Paragraph 215 of the Framework appropriate weight can also be given to the emerging Draft Huntingdonshire Local Plan to 2036: Stage 3 (the emerging LP) according to the degree of consistency with the Framework.
6. Grafham is identified in the development plan as a Smaller Settlement. Although there are limited services in the village a wider range of facilities is available in the nearby Key Service Centre of Buckden and in Peterborough. There is a limited bus service. Although most occupiers of the proposed dwelling would rely on the private car the development plan provides for minor scale growth located within the built up area of Smaller Settlements². This is reflected in the emerging LP³.
7. Part of the appeal site lies outside the environmental limit to Grafham as defined in Policy H23 and the Proposals Map of the LP. Paragraph 5.15 of the CS, which supports Policies CS1, CS2 and CS3, and Policy LP11 of the emerging LP set out a criteria based approach to assessing whether a site lies within the built-up area of a settlement. This is more consistent with the principles of the Framework than the map based approach of the LP. The parties do not agree as to whether the appeal site lies within the built-up area or not.
8. No 36 Breach Road is sited on the village side of the entrance to Grafham village as indicated by the 30 mph speed limit and the associated traffic calming measures. The appeal site is part of the garden of No 36. The illustrative plans show the proposed dwelling sited behind the house at No 36

¹ Section 38 of the Planning and Compulsory Purchase Act 2004

² Policies H23 and En17 of the LP; Policies CS1 and CS3 of the CS

³ Policies LP10, LP11 and LP26 of the emerging LP

- with its garage demolished to enable a shared access for the existing and proposed dwelling.
9. Paragraph 5.15 of the CS and Policy LP11 of the emerging LP exclude gardens and other undeveloped land in the curtilage of a building on the edge of a settlement where the land relates more to the surrounding countryside than to the built up area of the settlement. There are open fields to the north of the appeal site.
 10. A thick tall hedge, even when free of leaves, provides a very strong screen which divides the village from the adjacent fields. This hedge marks the side boundary of No 36. The hedge continues in a straight line along the rear boundaries of gardens of properties on Cedar Close. Some of the buildings in the village can be glimpsed from Grafham Road between trees behind the hedge. This character south of the hedge is in very marked contrast to the undeveloped open character of the agricultural fields to the north. The character of the appeal site itself is that of residential garden.
 11. For the above reasons I conclude that the appeal site relates more to the built up area of the settlement than to the surrounding countryside and that the proposed dwelling would not be isolated. Accordingly it is not necessary to identify the essential need that would be required to justify a dwelling in the countryside under Policy En17 of the LP and Policy LP26 of the emerging LP. For the above reasons I conclude that the proposal would not conflict with Policies H23 and En17 of the LP; Policies CS1 and CS3 of the CS; Policies LP10, LP11 and LP26 of the emerging LP or those principles of the Framework that seek to restrict development in the countryside.
 12. Breach Road is predominantly residential in character with properties having a direct frontage to it. There is development in depth along Cedar Close/Meadowground. Most but not all nearby properties have direct highway frontages. The building line facing Breach Road is relatively uniform but the sizes, style and design of properties varies so there is no single definable character to the existing development.
 13. The proposed dwelling would be behind No 36 with a restricted highway frontage. Tandem development would be out of character to some extent with the prevailing linear urban grain along Breach Road where most of the nearby properties have a direct frontage to Breach Road at least as wide as the front of the dwelling within that plot. However, there are other properties such as those at the end of The Wyvern which front onto shared private drives. Moreover, a dwelling behind No 36 would have a similar appearance of a building amongst trees and hedges as other buildings in the village.
 14. Policies H32, H33, H34 and H35 of the LP seek to prevent unsympathetic tandem development and loss of trees resulting from the sub-division of gardens. These Policies accord with Paragraph 53 of the Framework which says that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens.
 15. As No 36 occupies a large plot, curtilages of sufficient size and sympathetic form would be provided for both the existing and proposed dwellings; parking and access would be provided for both properties; and trees on the site could be retained. Accordingly I conclude the proposal would not result in inappropriate development of a residential garden.

16. For the above reasons on balance I conclude that, in principle, the siting of a dwelling behind No 36 would not affect the open countryside or be so incongruous a layout as to materially harm the character and appearance of the local area to the extent that would justify refusal on these grounds. The design of the dwelling is a matter for consideration at a later stage. I therefore conclude that the site is not an inappropriate location for a dwelling and that the proposal would not conflict with Policies En25 and HL5 of the LP; Policy CS1 of the CS; Policies LP1, LP13 and LP30 of the emerging LP or those principles of the Framework that seek to ensure developments respect the character and appearance of the area.

Other Matters

17. The appellant has provided a signed Unilateral Undertaking under s106 of the Town and Country Planning Act 1990 for the provision of a wheeled bin contribution to meet the requirements arising from the construction of a new dwelling. The amount of the contribution is appropriate to the proposed development and the provision of a contribution is supported by Policy CS10 of the CS. I conclude that the contribution is necessary and I have no evidence to suggest that it would not meet the tests set out in the Community Infrastructure Regulations 2010.
18. The appellant has suggested that the proposed development is capable of being a self-build plot which would be able to assist in meeting an identified demand in Huntingdonshire as envisaged in the Self-build and Custom Housebuilding Act 2015 and in the National Planning Practice Guidance⁴. Whilst this might be the case there appears to be no mechanism for securing it. Accordingly I give this consideration relatively little weight in my considerations.
19. The appeal proposal follows a previous refusal for a dwelling with a larger footprint planning Ref 15/02369/OUT. Concern has been expressed that allowing this appeal might result in future applications for a larger building particularly as the illustrative plans do not show a garage for either the proposed or existing dwelling. Third parties have also raised concerns that allowing the proposal would create a precedent for further development in gardens which could alter the nature of the village.
20. However, each planning proposal falls to be considered on its own merits. I have concluded that in this case the particular site characteristics indicate that no material harm would arise and the details of the proposed development are for future consideration. On this basis this appeal decision would not set a precedent for development on the site or elsewhere that did not satisfy planning policies and where material harm would arise.
21. I acknowledge that the appellant engaged in pre-application discussions with the Council, amended the proposal and that the officer report recommended that permission be granted. However, such matters do not go to the heart of the planning considerations in relation to the proposal. I have considered the appeal on the basis of the evidence before me and have reached my own conclusions in relation to the relevant material planning considerations.

⁴Paragraph: 014 Reference ID: 57-014-20160401 advises this may be a material consideration in decision-making.

22. My attention has been drawn to an appeal decision which allowed residential development at the Old Station 45 Breach Road Ref T/APP/H0520/A/99/1018395/P4. However, that appeal decision was issued on 26 April 1999 before the Local Plan alteration 2002, the CS, the emerging LP and the introduction of the Framework, and was in relation to a much larger proposal. Accordingly it has not significantly influenced my conclusions in relation to the appeal before me.
23. Schedule 2, Part 1, Class E of The Town and Country Planning (General Permitted Development)(England) Order 2015 provides for the construction of a building without the need for express planning permission for a purpose incidental to the enjoyment of a dwelling house subject to certain restrictions (the fall-back position). The appellant considers that such a building could have a greater impact on the character and appearance of the area. However, whilst this might be the case, I have seen no evidence that suggests it is likely that such a building would be constructed and such a building would not require sub-division of the plot, additional parking provision or a shared access. For these reasons I attach little weight to the fall-back position as a consideration in this appeal.
24. Nearby residents have raised concerns about the effect of the proposed development in relation to privacy, noise, disturbance and drainage. Whilst I acknowledge these concerns, such matters, including the height of the proposed dwelling and the position of windows, are for consideration at the detailed application stage. I note that the Council has raised no objections on these grounds and from the evidence and my observations during my site visit I see no reason to come to a different view.
25. I have concluded that the site is an appropriate location for a dwelling. The proposal would make efficient use of land and would make a small but positive contribution to the housing stock of the District whether or not the Council can identify a five year deliverable supply of housing land. There would be a small economic benefit arising from employment during construction and future occupiers could make a small contribution to the local economy and support the rural community. On this basis I conclude the proposal would amount to sustainable development in accordance with the development plan and the Framework.

Conclusion

26. For the combination of reasons set out above, and taking into account all other relevant matters raised, I conclude that the site is an appropriate location for a dwelling and the appeal should succeed.
27. I have considered the conditions suggested by the parties in the light of the Framework and the National Planning Practice Guidance. As well as the standard condition specifying the time limits for submission of reserved matters and commencement of development compliance with the approved plans is necessary to provide certainty. Although full details of the access will be for future consideration it is necessary that satisfactory provision is made for visibility splays in the interests of highway safety.

SDHarley

INSPECTOR