

Appeal Decision

Site visit made on 28 February 2017

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 23rd March 2017

Appeal Ref: APP/H0520/W/16/3163989

21-22 Langley Way, Hemingford Grey PE28 9DB

- 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 Terry and Debbie Stewart against the decision of Huntingdonshire District Council.
 - The application Ref 16/00386/FUL, dated 9 March 2016, was refused by notice dated 30 September 2016.
 - The development proposed is the construction of a new 'chalet' style bungalow on a plot formed of land between 21 and 22 Langley Way, Hemingford Grey.
-

Decision

1. The appeal is allowed and planning permission is granted for the construction of a new dwelling at 21-22 Langley Way, Hemingford Grey PE28 9DB in accordance with the terms of the application, Ref 16/00386/FUL, dated 9 March 2016, subject to the conditions set out in the Schedule to this decision.

Procedural Matters

2. The description of the development in the banner heading above is taken from the application form. I have omitted the superfluous reference to the appeal site and the merits of the proposal in the description in the formal decision above.
3. The proposal was amended following submission to the Council but prior to its determination. The changes, shown on amended plans, do not change the overall substance of the proposal and I am satisfied that no party would be prejudiced by my consideration of the amended scheme. I have, therefore, determined the appeal on that basis.

Main Issues

4. The main issues are:
 - Whether the proposal would preserve or enhance the character or appearance of The Hemingfords Conservation Area.
 - The effect of the proposal on the living conditions of the occupiers of neighbouring properties.
-

Reasons

The Hemingfords Conservation Area

5. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
6. The appeal site is located within The Hemingfords Conservation Area (HCA). The HCA largely comprises the settlements of Hemingford Abbots and Hemingford Grey. The significance of the HCA lies largely in the High Street of Hemingford Grey which is lined with historic buildings of various ages, predominantly built up to the edge of the highway. The historic core of the village is surrounded by late 20th century residential estates, such as the properties on Langley Way.
7. The appeal site currently comprises part of the side garden of 22 Langley Way and part of the rear garden of 21 Langley Way. The site contains a single storey detached garage associated with No 21. The immediate surroundings are characterised by a mix of 2 and 1.5 storey 20th century dwellings. Properties are set back from the road on large plots and with generous spacing between. The prevailing palette of materials is brick and tiles, with a common use of shallow pitched roofs throughout. As such, the street scene has a pleasant, sylvan character to which the appeal site makes a positive contribution. Nevertheless, the modern character of Langley Way makes a neutral contribution to the historical significance of the HCA.
8. It is proposed to remove the existing garage and construct a detached dwelling on the appeal site. The dwelling would be 1.5 storeys in height with the first floor living space contained within the roof space. It would have height of around 6.2m and the ridge of the dwelling would be at a similar level to the adjacent properties. As a consequence, the proposal would not result in an intrusive or overbearing feature within the street scene.
9. The proposed dwelling would have a pitched roof and front gable, reflecting several properties on Langley Way. Furthermore, it would utilise materials such as brick and render which are common within the street scene. The property would also maintain the established building line and would be set back from the road. In addition, the dwelling would sit centrally within the plot with significant gaps retained to the properties either side. As such, the proposal would positively respond to the open and sylvan character of the street scene.
10. I conclude, therefore, that the proposal would preserve the character and appearance of the Hemingfords Conservation Area. Consequently, the proposal would accord with Saved Policies EN5, EN6 and EN25 of the Huntingdonshire Local Plan Part One 1995 (LP) which state that development within conservation areas will be required to preserve or enhance their character or appearance, that high standards of design will be sought in conservation areas, and that new development will respect the scale, form, materials and design of established buildings in the locality. It would also accord with Paragraph 132 of the National Planning Policy Framework (the Framework) which states that great weight should be given to the conservation of designated heritage assets.

11. The proposal would also accord with Policies LP1, LP13 and LP31 of the Draft Huntingdonshire Local Plan to 2036, Stage 3 2013 (Draft LP) which seek to protect the historic environment and seek high quality design although the relatively early stage of the plan's preparation means I can only afford the draft policies limited weight.

Living Conditions

12. The appeal site currently comprises part of the gardens of 21 and 22 Langley Way. The proposed dwelling would be sited between the flank wall of No 22 and the rear of No 21. The dwelling would also share a boundary with 20 Langley Way and 9 The Thorpe.
13. No 21 is a two-storey detached dwelling which contains several windows in the rear of the property which serve habitable rooms. No 22 is a two-storey property with a large rear garden. The side elevation of the property contains a kitchen window at ground floor and a first floor bedroom window.
14. The first floor of the dwelling would be contained within the roof space which would pitch away from the side elevations of both No 21 and No 22. Moreover, the property would be offset from the rear boundary of No 21 by around 1.5m with a single storey element to the side broadly similar in scale and form to the existing garage. Furthermore, the proposed dwelling would not project beyond the side elevation of No 21 or the rear elevation of No 22 and would be offset from the boundary of the neighbouring garden of No 22 by around 2.4m. As a result, the proposal would not unduly affect the outlook from the neighbouring properties.
15. In addition, whilst the dwelling would be located to the east of No 21 and would likely result in some loss of natural light, this would be confined to the early morning and, given the height and positioning of the proposed dwelling would be unlikely to be significant. Furthermore, both of the windows in the side elevation of No 22 are secondary. Other than roof lights flush with the roof slope, there would be no windows in either side elevation of the dwelling. As a result, I am satisfied the proposal would not result in a significant loss of light or privacy for the occupiers of No 21 and No 22.
16. The rear garden of the proposed dwelling would adjoin that of No 20. The side and rear elevation of No 20 contain several windows, including a ground floor garden room extension. Nevertheless, the proposed dwelling would be at an oblique angle to No 20 and the dwelling would be set back a considerable distance from the shared boundaries. Moreover, it would be largely screened by fencing and vegetation and the glazing in the rear elevation would be set back into the eaves. As such, the proposal would not result in a loss of privacy or light for the occupiers of No 20 nor would it result in a poor quality outlook.
17. The rear garden of the proposed dwelling would also adjoin the garden of 9 The Thorpe. The property would be set back from the side boundary of the garden, would be largely screened by vegetation and would be a considerable distance from the rear of the property at a particularly oblique angle. It would not therefore result in a loss of privacy, light or outlook for the occupiers of the neighbouring property.
18. Concerns have been raised by the occupiers of the properties opposite, 1 and 2 Langley Way, regarding the potential for overlooking. However, I agree with

the Council that the intervening distances between the proposed dwelling and the properties opposite would be such that it would not result in harmful levels of overlooking nor would it unduly affect the outlook of those residents.

19. I conclude, therefore, that the proposal would not have a harmful effect on the living conditions of the occupiers of neighbouring properties with particular regard to outlook, light and privacy. As such, the proposal would accord with Saved Policy H31 of the LP which states that new dwelling will only be permitted where appropriate standards of privacy and amenity can be maintained. It would also accord with Policy LP15 of the Draft LP which seeks to secure a high standard of amenity and Paragraph 17 of the Framework which seeks to ensure a good standard of amenity for all existing and future occupiers of land and buildings.

Other Matters

20. A signed and completed S106 Unilateral Undertaking has been submitted by the appellant. It would secure financial contributions from the appellant of £73.65 towards the provision of wheeled bins for the development. The Huntingdonshire Developer Contributions SPD 2011 sets out the requirements and justification for Council to secure contributions towards appropriate householder waste storage containers on development sites. I therefore agree that a contribution would be necessary, directly related, and fairly and reasonable related in scale and kind to the proposed development, in accordance with Community Infrastructure Levy Regulation 122, and Paragraph 204 of the Framework.
21. I have considered the concerns of local residents and the Parish Council regarding the potential effect of the proposed parking arrangements on highway safety. However, the proposal would provide two off-street car parking spaces. Whilst there would be a loss of the garage for 21 Langley Way, that property would retain off-street parking to the front. Moreover, whilst I have considered the concerns of local residents regarding parking on Langley Way, no substantive evidence has been provided which demonstrates that the existing levels of on-street parking would be unduly exacerbated by traffic generation from the proposal. Indeed, I note that the Local Highway Authority has raised no objections to the proposal. As such, I am satisfied that the proposal would not unduly affect highway safety.
22. I note the concerns that the proposal could set a precedent for similar developments in the future. However, I have no compelling evidence to suggest that there are other sites with comparable characteristics. In any case, I have dealt with the appeal proposal on its own merits.
23. I have had regard to the concerns of the Campaign for the Protection of Rural England (CPRE). Paragraph 53 of the Framework states that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. In this instance, however, I have found that there would be no harm to the character or appearance of the HCA.
24. Local residents have made reference to Planning Policy Statement 3 (PPS3) in respect of development on garden land. However, PPS3 was replaced through

the publication of the Framework in 2012 and no longer forms Government Policy. I therefore afford it little weight.

25. Concerns have been raised regarding consistency and availability of the proposed plans and supporting documents. However, I have been provided with no substantive evidence to suggest that the plans or documents before me are in any way inaccurate or misrepresentative of the appeal proposal. I have considered this appeal on the basis of the plans which were before the Council and I see no reason to take a contrary approach. Moreover, concerns raised regarding the depiction of existing and proposed levels can be adequately addressed through a condition.
26. I note the concerns raised in respect of the original application procedures. However, no compelling evidence has been provided that any interested parties were prejudiced by the Council's handling of the original application and therefore I afford such concerns limited weight.
27. Representations have made regarding restrictive covenants in the area which would preclude the erection of a dwelling. However, any legal rights which may exist in those respects are a separate matter. As such, they are a consideration to which I can afford no more than very little weight.

Conditions

28. In addition to the standard time limit condition, a condition relating to the approved plans is necessary to provide certainty. A condition relating to materials is also necessary to preserve the character and appearance of the HCA, as is a condition relating to hard and soft landscape works. A condition relating to the existing and finished floor levels is necessary to protect the living conditions of neighbouring residents and the character and appearance of the HCA. A condition requiring details of available visibility splays is necessary in the interests of highway and pedestrian safety.
29. Paragraph 204 of the National Planning Policy Framework is clear that conditions should not be used to restrict permitted development rights unless there is clear justification for doing so. In the absence of any detailed justification from the Council, I do not consider a condition to restrict the erection of means of enclosure, the enlargement or extension of the dwelling or the erection of detached buildings within the appeal site are necessary.

Conclusion

30. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be allowed.

Jason Whitfield

INSPECTOR

SCHEDULE

- 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: (0-)100 Rev P3 Plans and Elevations, (0-)101 Rev P4 Site Plan As Proposed, (0-)102 Rev P3 Location Plan and Site Plan As Existing, (0-)1001 Rev P3 Site Plan as Proposed and Street Scene Visualisation 01.
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the dwelling 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) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with an agreed implementation programme.
- 6) No development shall commence until details of the available visibility splays have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

-----END OF SCHEDULE -----