
Appeal Decision

Site visit made on 27 March 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 11th April 2017

Appeal Ref: APP/D0515/W/16/3162116

41 Perry Road, Leverington, Cambridgeshire, PE13 5AE

- 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 P Petrou against the decision of Fenland District Council.
 - The application Ref F/YR16/0623/F, dated 18 July 2016, was refused by notice dated 5 September 2016.
 - The development proposed is erection of 4 x 2 bedroom 2 storey semi-detached dwellings with associated parking.
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Decision

1. The appeal is allowed and planning permission is granted for 4 x 2 bedroom 2-storey semi-detached dwellings with associated parking at 41 Perry Road, Leverington, Cambridgeshire, PE13 5AE in accordance with the terms of the application, Ref F/YR16/0623/F, dated 18 July 2016, subject to the conditions set out in the Schedule attached to this decision.

Main Issues

2. The main issues in this case are:
 - The effect four dwellings in this location would have on the character and appearance of the surrounding area;
 - Whether the housing proposed would be appropriately located in relation to flood risk.

Reasons

Character and appearance

3. The development plan comprises the Fenland Local Plan which was adopted in May 2014 (LP). Policy LP12 Part A(d) requires new development to be of a scale and in a location that is in keeping with the core shape and form of the settlement and should not harm its character or appearance. Policy LP16(d) also only permits development which, amongst other criteria, makes a positive contribution to the local distinctiveness and character of the area, enhances its local setting, responds to and improves the character of the local built environment and reinforces local identity having no adverse impact on the street scene.
 4. The site is a quite large area of land to the rear of a rather unattractive, flat roofed single-storey fish and chip shop, which fronts onto Perry Road. The character of the area is residential with frontage housing sited close to the
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road. Adjacent and to the north is a quite wide area of open space that runs between Perry Road and Richmond Way. The frontage housing on Richmond Way faces west and backs onto the rear gardens of the dwellings along Perry Road. The proposal is for two adjacent small semi-detached houses facing towards Perry Road, with small rear gardens and shared parking to the front, with access via an existing and improved entrance onto the street.

5. The Council has no objection to the principle of further housing in this location or to the intrinsic design, scale and arrangement of the two semi-detached pairs of two-bedroomed houses proposed. However, due to the position of the dwellings, which would be set significantly back from the established building line along Perry Road and between it and the opposite facing housing along Richmond Way, the Council considers the proposal out of character and incongruous.
6. However, the site provides adequate space for the four modestly-scaled houses, such that the development would be neither cramped nor incongruous in this regard. Whilst the scheme provides a short housing frontage set back from that prevailing along the street, the new homes would otherwise fit in with the general scale and character of the surrounding development and result in no material harm.
7. The existing fish and chip shop itself is rather unattractive but there would be no harm arising from the view of the proposed new dwellings to its rear. This proposal would make efficient use of a previously-developed site within an existing built-up residential area and the position of the dwellings would result in no material harm to its overall character or to that of the street-scene along Perry Road. Consequently, there would be no conflict with the aims of policies LP12 and LP16.

Flood risk

8. Part B of Policy LP14 addresses flood risk and drainage. It lists the various relevant technical studies that will inform planning decisions, including the Fenland Level 2 Strategic Flood Risk Assessment (Wisbech) of 2012 (SFRA). Policy LP 14(B) then states that development in flood risk areas will only be permitted having where necessary successfully completed a sequential and exception test, demonstrated an identified need would be met and secured flood risk management and safety measures through a site specific Flood Risk Assessment (FRA).
9. Flood Zone 3 areas as shown in the Environment Agency (EA) Flood Map indicate a high probability of flood risk. The proposal was accompanied by a FRA and this shows the appeal site, and adjacent parts of the village, to be within Flood Zone 3, with larger built-up parts of Leverington in Flood Zone 1 with a low probability of flooding.
10. Paragraph 100 of the National Planning Policy Framework (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. The national Planning Practice Guidance (PPG) deals with the approach to planning and flood risk in more detail. Policy LP 14(B) is consistent with the advice in the Framework and the PPG.

11. The starting point is the application of the Sequential Test, the aim of which, as set out in paragraph 101 of the Framework, is to steer new development to areas with the lowest probability of flooding. The Framework goes on to say that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.
12. The Council has found this proposal contrary to the Sequential Test required by Policy LP 14(B) as being within a high risk flood area where it has not been demonstrated that the development could not be delivered elsewhere in the settlement at lower risk of flooding. However, the appellant has referred to a recent appeal decision¹ nearby in Leverington in which the Inspector considered the Sequential Test to be met. This was because, whilst there were many Flood Zone 1 parts of Leverington where development might comply with flood risk policy, there needed to be evidence of these being reasonably available for the development proposed.
13. The Council has provided no evidence of reasonably available sites appropriate for the four houses proposed within the Flood Zone 1 part of the village, which persuades me the Sequential Test is satisfied. However, residential development is categorised as more vulnerable to flooding in the PPG and, where proposed in Flood Zone 3, approval depends on an Exception Test being met. As set out in paragraph 102 of the Framework, approval would depend on satisfying both parts of the Exception Test.
14. The first part of the Exception Test would be met as the wider sustainability benefits of the proposal, in providing new housing on previously-developed land within a settlement with reasonable access to services and facilities, would outweigh the flood risk as informed by the SFRA. In summary, the SFRA shows that the existing flood defences in this area, which the modelled EA Flood Zone maps do not account for, lower the appeal site flood risk to that equivalent of a Flood Zone 1 location.
15. The second part of the Exception Test would be met as the FRA shows that adequate flood warning measures exist in this area, the soakaway drainage would not increase flooding to neighbouring areas and the housing would be safe for residential occupation throughout its expected life-time. The evidence is that the North Level Internal Drainage Board maintains drainage such that the risk of flooding from local blockages would be low.
16. The proposal would meet both the Sequential and Exception tests and a general need for housing, with adequate flood risk management and safety measures being provided. The scheme would therefore not conflict with Policy LP14. The dwellings proposed are not shown by the evidence to put future occupants and property at higher risk of flooding. Consequently, there would be no conflict with Policy LP2 in respect of the health and wellbeing of residents.

Other Matters

17. The further concerns of interested parties have been considered. The proposed dwellings would be a sufficient distance from the dwellings in Richmond Way

¹ APP/D0515/W/15/3131562

not to result in any material loss of sunlight to the rear gardens of these neighbouring homes.

18. The site is private land, with no right of access onto it, and the proposal would not result in the loss of public open space and a play area for children. The on-site parking provision meets the Council's adopted standards and the proposed access onto Perry Road is acceptable to the local highway authority. There would be no material harm arising from this proposal in respect of the safety and convenience of highway users or in reducing or adding to the pressure upon existing on-street parking.
19. There is no evidence this proposal would have inadequate means of foul and surface water drainage. Some noise and disturbance from house building is inevitable and so this would not provide an adequate reason to prevent this development, neither would concerns over the future upkeep and appearance of the site.

Conditions

20. I have considered the Council's suggested conditions in the light of the Framework and the PPG and included or amended them where necessary. There are no exceptional circumstances which would justify a condition removing domestic permitted development rights or any indication of a gate to the access which would require this be governed by a condition.
21. In addition to the standard time limit for commencement, a condition is necessary in the interests of certainty to establish which plans the development should accord with, which should also include the details set out in the Design and Access Statement.
22. To provide adequate control over specific matters certain conditions must be met before the development is allowed to proceed. These are in respect of finished levels, in the interest of flood resilience, details of the new junction with the highway, to ensure this meets the local highway authority's specifications, agreement to a Construction Method Statement, in the interests of the living conditions of neighbouring occupiers, and agreement and implementation of a scheme of investigation, to record or protect any site archaeology.
23. To secure implementation of these matters, occupation of the dwellings would depend upon the prior provision of the landscaping, waste bin storage and car parking/turning space shown in the approved plans.

Conclusion

24. For the reasons set out, the four dwellings proposed in this location would cause no material harm to the character and appearance of the surrounding area and be appropriately located in relation to flood risk. As a consequence, having taken into consideration all other matters raised, I conclude that the appeal should be allowed.

Jonathan Price

INSPECTOR

Schedule of Conditions
Appeal Ref: APP/D0515/W/16/3162116
41 Perry Road, Leverington, Cambridgeshire PE13 5AE

- 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 Design and Access Statement prepared by L Bevans Associates Limited and the following approved plans: CH16/LBA/388/FP100 Rev. B, CH16/LBA/388/FP101, CH16/LBA/388/FP102.
- 3) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, 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.
- 4) No development shall take place until details of the junction between the proposed service road/footway and the highway shall have been submitted to and approved in writing by the local planning authority; and the development shall not be occupied until that junction has been constructed in accordance with the approved details. The junction shall thereafter be retained.
- 5) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel washing facilities;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 6) 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 dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. CH16/LBA/388/FP100 Rev. B for waste bin storage and for cars to be parked and to turn so that they may enter and leave the site in forward gear and the spaces shall thereafter be kept available at all times for those purposes.

- 8) No development shall take place until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:
- i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 9) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 8.

---End of Conditions---