
Appeal Decision

Site visit made on 7 August 2017

by Zoe Raygen Dip URP MRTPI

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

Decision date: 22nd August 2017

Appeal Ref: APP/V0510/W/17/3170400

Ashfield House, 20 High Street, Stetchworth CB8 9TJ

- 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 & Mrs P Mahoney against the decision of East Cambridgeshire District Council.
 - The application Ref 16/01341/OUT, dated 6 October 2016, was refused by notice dated 9 December 2016.
 - The development proposed is outline application (with all matters reserved except access) for the erection of 3 No dwellings with associated access, parking and gardens.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr & Mrs P Mahoney against East Cambridgeshire District Council. This application is the subject of a separate Decision.

Procedural matters

3. The appeal is in outline form with all matters reserved for future consideration apart from access. I shall determine the appeal on that basis. A layout plan has been submitted which I have treated as indicative only.
4. It has been brought to my attention that an application to fell Ash tree ref 0602, referred to by the Council in its reason for refusal three, has been approved by the Council (17/00602/TPO). A condition is attached to the permission requiring a replacement tree to be planted to the south east of the ash tree to be felled. I noted on site that the tree has already been removed. Nevertheless, photographic evidence within the appellant's Arboricultural Report: Review of TPO and Impact of Development 2017 (AR 2017) shows the tree in situ.
5. The appellant has submitted drawing TPO1 to show an alternate position of a tree to replace ash tree 0602. I am satisfied that the Council has had the opportunity to make comment on the location of the tree. As the alteration to the location of the tree is minor I am satisfied that interested parties would not be prejudiced if I were to take drawing TPO1 into account in the determination of the appeal. I have proceeded accordingly.

Main Issues

6. The main issues are:

- The effect of the proposal on the living conditions of the occupiers of 20 High Street with particular regard to privacy, noise and disturbance
- Whether or not the site represents a suitable site for housing with particular regard to its accessibility
- The effect of the proposal on the character and appearance of the area, including the effect on protected trees

Reasons

Living conditions

7. No 20 is a detached house set back from the road. It has an entrance and clear glazed windows to its front elevation. Currently, as the house is at the end of a road forming a no through route, traffic movements past it are likely to be minimal. As a result, associated noise and disturbance from vehicular traffic is likely to be limited creating a quiet environment. I noted on my site visit that ambient noise levels in the vicinity were low.
8. The proposed access road would be very close to the front elevation of No 20 and, in particular, a ground floor, clear glazed window to a habitable room. The new drive would provide access to three dwellings. While I have found that the proposal is within walking distance of some facilities, I have also concluded that it is likely that residents would be reliant on the car for some of their journeys. As a result, it is likely that traffic and pedestrian movements would be significantly above those existing.
9. Even though there would be only three houses, the proposal would introduce vehicle and pedestrian movements in very close proximity to the habitable room window. Furthermore, such activity would be in an area where none currently exists. As a result, there would be a material increase in noise and disturbance to the occupiers of No 20 and potential loss of privacy.
10. I note that it is the intention of the appellant to provide planting in the area between the driveway and the window. Nonetheless, even if I accept the figure supplied by the appellant that the road would be 3.3 metres from the window, it would still be very close, and planting would not be sufficient to lessen the significant undue harm caused by the increased, noise and disturbance on the quiet enjoyment of the occupiers of their habitable room. Moreover, it is also likely that lights from vehicles would be directed towards the window when entering the access from the High Street.
11. The landscaping may overcome any loss of privacy due to the proximity of the cars and pedestrians to the window. However, to achieve such mitigation, it is probable that the planting would need to be of a density and height that would, because of its closeness to the window, cause material harm to the outlook of the occupiers from the window.
12. The appellant states that alterations will be made to No 20 under permitted development rights. However, the alterations shown on drawing P05 do little to address the harm I have identified above. Instead they introduce a further window to the front elevation serving a room, which although further away

from the road would also be potentially subject to increased noise and disturbance.

13. For the reasons above the proposal would be harmful to the living conditions of the occupiers of 20 High Street with particular regard to noise and disturbance. The proposal would therefore be contrary to Policies ENV1 and ENV2 of the LP. These require, amongst other things, that development does not have a significantly detrimental effect on the residential amenity of nearby occupiers and a positive and complementary relationship with existing development.

Location

14. The appeal site lies on the edge of the defined village envelope (DVE) of Stetchworth as defined on insert map 8.36 of the East Cambridgeshire Local Plan 2015 (LP). Policy GROWTH2 of the LP states that development beyond the DVE will be strictly controlled, having regard to the need to protect the countryside and the setting of towns and villages. Development is only permitted subject to it meeting one of a number of criteria, none of which apply in this instance.
15. As a result, the proposal would be contrary to the requirements of Policy GROWTH2. However, there is no dispute between the parties that the Council is unable to demonstrate a five year housing land supply which limits the weight I can give to the Council's housing supply policies. Paragraph 55 of the National Planning Policy Framework (the Framework) seeks to promote sustainable development in rural areas by the location of housing where it will enhance or maintain the vitality of rural communities and avoid isolated dwellings in the open countryside.
16. The site is located adjacent to the built up area of Stetchworth and therefore would not be physically isolated from built development. The village vision for Stetchworth within the LP describes the facilities within the village as being good including a church, public house, sports facilities, post office and shop. I saw that these would be within walking distance of the appeal site and therefore would provide some day to day requirements for future occupiers.
17. The village is close to Dullingham where there is a primary school (about 0.6 miles) and a railway station (about 1.9 miles). It is debateable, given the distances involved, whether the latter facilities are within walking distance of the site. There are footpaths available to both facilities and while the walk may be pleasant in the summer months, there may be more of a tendency to use the car in the winter or inclement weather. Furthermore, there would be few opportunities for local employment for future occupiers and in these respects there would be some reliance on the car. Nevertheless, I am mindful that paragraph 20 of the Framework acknowledges that opportunities to maximise transport solutions will vary from urban to rural areas. Furthermore I note that the bus service mostly operates at commuter times Monday to Saturday together with a midmorning bus service to Newmarket.
18. Therefore the appeal site is not in an isolated countryside location and there is, in this instance, at least some prospect that alternative modes of transport could be used for some journeys. Whilst the accessibility of the appeal site is less than ideal, it is not so poor that it has to be regarded as obviously inaccessible. Furthermore, given its proximity to some services it is likely to enhance or maintain the vitality of the rural community. I find no fundamental

conflict, therefore, with paragraphs 7, 20 and 55 of the Framework in this respect.

Character and appearance

19. Stetchworth is a small village set within the open countryside. Primarily, development is restricted to a linear form adjacent to the main roads through the village. However, there are a number of exceptions where houses are sited to the rear of that linear development extending the built form further into the countryside. The appeal site lies at the south west end of a small line of houses extending on a spur road from the High Street beyond the linear row of development alongside the main road. It is paddock land enclosed by a strongly defined row of hedges and trees and the boundaries of surrounding houses. As a result its undeveloped nature contributes to the rural character and appearance of the area outside of the DVE surrounding Stetchworth.
20. The access to the site would be taken from the road in front No 20. This part of the road forms a quiet area of the High Street with houses set back from the road. There are a number of trees in gardens and alongside the road which gives the street an open, verdant character and appearance. Furthermore, the grouping of trees at the end of the road adjacent to the appeal site marks the transition of the built environment to the open countryside. A number of the trees are protected by Tree Preservation Order E16/89 (TPO).
21. The proposal for three houses would extend built development further into the open countryside. However, the submitted indicative layout demonstrates that the houses could be provided so that they would extend a similar distance to the nearby development at The Beeches, a further line of houses extending beyond the linear pattern of development in the village. Furthermore, the relatively enclosed nature of the site by both the existing houses and the hedges and trees means that its contribution to the wider open countryside is limited. As a result, views from the surrounding countryside towards the houses would be restricted and, in any case, would be seen against the backdrop of the adjacent dwellings in the village.
22. The Council refer to the East Cambridgeshire Design Guide Supplementary Planning Document 2012 (SPD) which states that any form of backland development will only be acceptable if supported by a contextual analysis of the locality. The SPD defines backland development as one dwelling built behind another. In this respect I am not convinced that the proposal would constitute backland development in line with the Council's definition. The houses would be sited to the side of No 20 and would continue the pattern of development already exhibited along this part of the High Street. I acknowledge that the access road would be taken at a slight angle from the existing road, but not significantly so in the context of the existing development. In any case, the appellant included some contextual analysis of the proposal within the Planning, Design and Access Statement (PDAS). While not extensively detailed, the application is in outline form only and I am satisfied that sufficient information is available in order for me to reach a decision.
23. The proposed access road would require the removal of a number of trees which according to the appellant's Arboricultural Report V2 2016 (AR 2016) are five fruit trees, a sycamore and an ash tree.

24. There is no dispute between the parties that the ash tree (0602) is one of the trees subject to the TPO. Now removed, the evidence within the AR 2107 shows that the tree was mature and, although diseased, its location near to the road contributed significantly to the character and appearance of the area. While the Council have given consent for its removal I note that a condition of the consent is that a replacement *Acer campestre* 'Elegant' be planted in the vicinity of the removed tree. This tree would then also be covered by the TPO.
25. The provision of the proposed access would mean that the replacement tree as required by the condition could not be achieved. I note that the appellant's submitted plan TPO1 proposes a new tree slightly to the northwest of the required replacement, adjacent to the proposed access. Given its proposed location adjacent to the road then I am satisfied that it would have the potential to make a similar contribution to public amenity as the removed ash tree. I acknowledge that it would not be covered by the TPO, but a condition could be imposed to secure its provision and replacement should it fail.
26. The appellant disputes that existing tree 0603, is covered by the TPO. Although the Council states in its decision notice that the tree is an ash, it confirms in its statement that it is in fact a sycamore as alleged in the AR 2016. I note that the TPO was made before digital technology and therefore discrepancies in mapping could occur. Nevertheless, there only four trees covered by the TPO that are sycamores, none of which are plotted on the TPO map in the position of tree 0603 or indeed close to it. Furthermore, from my observations, I would concur that the sycamore tree T7 on the TPO map relates to mature tree 0604 within AR 2017 and that sycamore tree T6 no longer exists. Moreover, the TPO was made 27 years ago and tree 0603 is significantly smaller than those existing covered by the TPO. While this may be due to other factors than age, when coupled with the other evidence then I am satisfied that based on the evidence before me, on the balance of probabilities, tree 0603 is not covered by the TPO.
27. In any case the tree is small and sited back from the road. Consequently, its contribution to the character and appearance of the area and the boundary between the open and built development is minimised and could realistically be reproduced by a replacement tree on site. The other trees to be removed on the site are five fruit trees, four of which the AR 2016 identifies as being of low quality, nor are they covered by the TPO. Their removal therefore would not be materially harmful to the character and appearance of the area.
28. Therefore, the proposal extends an existing pattern of development and other examples of similar patterns exist in the village. As such, I am satisfied that the proposed development would not appear incongruous or out of keeping with the character and appearance of Stetchworth and would represent an appropriate extension to the village.
29. For the reasons above, I conclude that the proposal would not be harmful to the character and appearance of the area. There would therefore be no conflict with Policies GROWTH2, ENV1 and ENV2 of the LP. These require, amongst other things, that development causes no significant adverse effect on the character and appearance of the area, it relates sympathetically to the surrounding area and has regard to the SPD.

Other matters

30. The Council has drawn my attention to a number of buildings on the main High Street within the vicinity of the appeal site that are listed, but offers no consideration as to the likely impact of the proposal on the setting and significance of the buildings. From my observations on site I found that the appeal site is located a substantial distance from the identified listed buildings. Furthermore, it is well screened from the rear elevations of those listed buildings closest to the appeal site. In the absence of any evidence from the Council, it seems to me that the setting of the listed buildings is predominantly formed by their relationship to the High Street frontage and the countryside setting to the rear. In this instance, given the limited views available from the open countryside and the presence of existing built development I do not consider that the setting or significance of the listed buildings would be harmed based on the indicative layout.

Planning Balance and Conclusion

31. I have found that the aspects of Policy GROWTH2 relating to housing supply cannot be considered up-to-date and therefore the Policy in this respect attracts limited weight. In these circumstances, and in relation to decision taking, paragraph 14 of the Framework advises that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or specified policies in the Framework indicate that development should be restricted.
32. In considering the potential benefits of the proposal, I note that the new dwellings which would meet Lifetime Homes standard and be constructed with energy efficient technologies would contribute to the Council's five year housing land supply as required by the Framework. Furthermore, the site is within a reasonably accessible location. However, a net increase of only three dwellings would be a small contribution so I afford this benefit only moderate weight. In addition, the construction of the dwelling would derive some economic benefits but this would be for a limited time. Furthermore, given the small scale of the development, the contribution to the local economy from the spending power of future occupants is unlikely to be significant.
33. The lack of harm to the character and appearance of the area is not a benefit justifying the development, but is a pre-requisite of good design and therefore is neutral in the planning balance. I acknowledge that the proposal would result in the replacement of a tree the subject of a TPO which is in poor condition with a new tree and this is a benefit of the scheme. However, as the tree is diseased with an estimated life expectancy of less than 10 years and covered by TPO legislation, the replacement would have been made in any case and therefore I give this benefit limited weight.
34. I have found that the proposal would cause significant harm to the living conditions of existing residents. This would be contrary to local policy and one of the core planning principles within paragraph 17 of the Framework and I give this considerable weight in my decision.
35. Therefore the harm that would be a consequence of the significant adverse impact I have identified would significantly and demonstrably outweigh the limited to moderate benefits referred to above when assessed against the

policies in the Framework when taken as a whole. Therefore, the proposal does not constitute sustainable development for which Policy GROWTH5 of the LP and the Framework carries a presumption in favour. For this reason, and having regard to all other matters raised I conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR