



Appeal Decision

Site visit made on 16 October 2017

by Graham Chamberlain BA (Hons) MSc MRTPI

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

Decision date: 9th November 2017

Appeal Ref: APP/V0510/W/17/3179459

Land to the south of The Green between Pink Cottage and Primrose Cottage, Kirtling Green, Newmarket, Cambridgeshire Easting 568091 and Northing 256092

- 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 Sustain Services Ltd against the decision of East Cambridgeshire District Council.
 - The application Ref 17/00508/FUL, dated 24 March 2017, was refused by notice dated 11 May 2017.
 - The development proposed is erection of 3 no. dwellings and garages.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 no. dwellings and garages at Land to the south of The Green between Pink Cottage and Primrose Cottage, Kirtling Green, Newmarket, Cambridgeshire Easting 568091 and Northing 256092, in accordance with the terms of the application, Ref: 17/00508/FUL, dated 24 March 2017, subject to the conditions in the attached schedule.

Preliminary Matters

2. In its appeal statement the Council has confirmed that it does not wish to defend its second reason for refusal. This is because the appellant has demonstrated that the existing access points into the appeal site can be filled in with new hedgerow planting. As such, the overall net loss in the length of the existing hedgerow would be 2.5 metres. Such a loss would not harm the character and appearance of the area and the provision of a landscaping scheme can be addressed through a planning condition. Consequently, the appeal does not fail on account of the concerns outlined in the Council's second reason for refusal.

Background and Main Issue

3. When the Council determined the planning application it was unable to demonstrate a five year housing land supply. The consequence of this was that the Council engaged the tilted balance¹ within Paragraph 14 of the National Planning Policy Framework.
4. In undertaking the tilted balance the Council appears to have afforded limited weight to the appeal scheme's conflict with Policy Growth 2 of the East

¹ Where the development plan is absent, silent or relevant policies are out of date, grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Cambridgeshire Local Plan 2013 (LP), which directs new housing developments to defined settlements. Notwithstanding this, the Council still concluded that the adverse impacts of the proposal upon the character and appearance of the area significantly and demonstrably outweighed its benefits. As a result the Council concluded that the proposal would not be sustainable development for which the Framework carries a presumption in favour.

5. The Council have now suggested that they are able to demonstrate a five year housing land supply. This is not disputed by the appellant. As such, the tilted balance in Paragraph 14 of the Framework is not engaged. The Council also suggest that the conflict with Policy Growth 2 is a matter of greater weight and it would not support the proposal on this basis. Policy Growth 2 postdates the Framework², is up to date and its application does not currently appear to be restraining housing land supply. As such, it is a policy that can be afforded full weight.
6. However, since the Council refused the appeal scheme a subsequent planning application for three dwellings at the appeal site has been approved³. There is nothing before me to suggest this scheme is unlikely to commence. As such, it is a fall-back position of significant weight as a material consideration. This is because even if I were to dismiss the appeal for being contrary to Policy Growth 2, three dwellings could still be erected at the appeal site. As a consequence, the conflict with Policy Growth 2 is not the determinative matter in this appeal. Instead, the Council's main concern is that the proposal would harm the character and appearance of the area as the approved scheme presents a different layout to that in the appeal scheme. Accordingly, the main issue in this appeal is the effect of the proposed development on the character and appearance of the area.

Reasons

7. The appeal site encompasses a linear shaped parcel of land flanked to either side by residential properties with a reservoir to the rear. A dense hedge surrounds the appeal site and there is intermittent planting throughout. The appeal site fronts onto The Green, which is a rural lane characterised by sporadic housing intermingled with generous levels of planting set behind a grass verge. As a result, the area has a rural and verdant character.
8. The appeal scheme is for the erection of three detached dwellings and a double garage. The properties have been designed in a style that reflects the local vernacular and they would be positioned back from The Green behind the roadside hedge. Additional tree planting is proposed in the front gardens, to the side of Plot 3 and between Plots 2 and 3.
9. The appeal scheme would inherently urbanise the appeal site, which is currently open and undeveloped. Nevertheless, planning permissions has twice been granted for housing within the appeal site⁴. Therefore, any inherent harm to the countryside from developing the appeal site is a matter of limited weight against the appeal scheme in light of these fall back positions.
10. Plot 3 would be positioned within a reasonably large plot and this would afford ample space for landscaping, including new tree planting. The double garage in the front garden would give a cramped appearance to the plot but this would be

² And is therefore consistent with the Framework

³ 17/014801/OUT

⁴ Two houses approved under reference 16/00640/FUL and three houses under reference 17/014801/OUT

mitigated to an extent by its low height and the simple pallet of natural materials that would be used. The new tree planting proposed within the garden of Plot 3 would also soften the impact of the garage. The gap between Plots 2 and 3 would be sufficient to permit a sense of visual separation as well as space for soft landscaping to be planted in-between and along the common boundary. As such, Plot 3 would exhibit a sufficiently spacious and verdant character in localised views.

11. Plots 2 and 3 would be large houses set in smaller plots. The proposed dwellings would also span much of the width of their respective plots and there would be little space in-between the double garages serving each property. The front gardens of the individual plots would also be dominated by unnecessarily large driveways. These factors would, in combination, afford the development a sense of being relatively cramped and suburban in character. Thus, the proposal could appear quite stark when compared to the larger, more verdant plots nearby without appropriate mitigation through design.
12. In this case, the hedge along the perimeter of the appeal site, including the road frontage, and along the boundary with the public footpath, would be retained, as would some of the existing trees within the appeal site. This, along with the proposed tree and hedge planting, would soften the development and mitigate the cramped appearance. Moreover, if the driveway and entrance gates were finished in suitable materials and designed to exhibit a rural style then the overall suburban impact would be lessened.
13. Additionally, the individual houses would present a style of architecture based on the rural vernacular that would be well detailed and attractive. This would reinforce the rural character of the area and respond to local distinctiveness. The massing of the houses is also broken up, with the garages being recessed back from the main two storey sections of the respective houses. This would provide some perspective and relief to the form of the houses and limit any sense of them appearing harmfully cramped.
14. The positive aspects of the design would be sufficient to ensure the development would integrate with the rural and verdant character of the area and not appear unduly cramped. Especially as separation distances between properties in the vicinity of the appeal site tend to vary. On balance, the proposed development would not harm the character and appearance of the area.
15. In coming to this view I have considered the development of three detached houses recently approved at the appeal site, the layout of which was a matter advanced for consideration. The approval has established the acceptability of the plot sizes, which are unchanged from the appeal scheme. Moreover, the appeal scheme would not be more prominent than the approved development as the houses would be in a similar position and would be of a similar size.
16. The space between the houses in the approved scheme would be greater than the appeal scheme. However, this would be at a cost to the overall design. The tree planting in the front garden of Plot 1 would be lost and replaced by a double garage that would appear cramped and squeezed in. Moreover, the massing of the dwelling in Plot 1 would be moved closer to the public footpath and would therefore be more imposing when viewed from this vantage point.
17. Additionally, the changes are ineffective as the double garage at Plot 2 would still be positioned on the boundary with Plot 1 and the driveway serving it would be

longer. Furthermore, the layout drawing does not show landscaping between Plots 1 and 2 whereas the appeal scheme would have a tree and hedge separating the front gardens of these plots. Consequently, the appeal scheme would not be worse than the approved scheme. In fact, aspects would be better and this is a matter that weighs in favour of allowing the appeal.

18. I therefore conclude that the proposal would preserve the character and appearance of the area. It would therefore adhere to Policies ENV1 and ENV2 of the LP, which seek to secure developments that are locally distinctive, well designed and have regard to the local context including the local landscape and architectural traditions. For this reason I find no conflict with Paragraphs 14, 17 and 56-68 of the Framework.

Other Matters

19. Concerns have been expressed that the village does not have sufficient infrastructure to cope with the cumulative number of homes that have been approved in the village. However, the Council have already approved three houses at the appeal site and I take this as a strong indication that existing services, facilities and infrastructure would be able to cope with the proposed development. Given the distance between the proposed dwellings and surrounding properties, I share the Council's view that the appeal scheme would not harm the privacy of neighbours.

Conditions

20. In allowing the appeal it is necessary to impose planning conditions. In determining this I have had regard to the advice in the Planning Practice Guide, the Council's list of suggested conditions and the appellant's submissions. In the interests of safeguarding the character and appearance of the area it is necessary to ensure the development is implemented in accordance with the approved drawings and that details of finishing materials and hard and soft landscaping are approved. This is to include the protection of existing trees where necessary and measures to support biodiversity.
21. To protect the living conditions of future occupants, sensitive end users, it is necessary to impose a condition relating to land contamination. To protect the living conditions of neighbours it is necessary to impose a condition relating to working hours for construction. In the interests of highway safety it is necessary to ensure vehicular access gates are set back from the road and inward opening, that visibility splays are provided and maintained and that sufficient space is provided to enable off road parking and manoeuvring. It has not been demonstrated that a scheme to dispose of surface water is necessary and this is a matter that is likely to be addressed through the building regulations.

Conclusion

22. The appeal scheme would be contrary to Policy Growth 2. However, there are material considerations that outweigh this conflict and the proposal would preserve the character and appearance of the area. Accordingly, for the reasons given above, and having regard to all other matters raised, I conclude the appeal should be allowed.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

Time Limit and Approved Plans

1. The development hereby permitted shall be commenced within 3 years of the date of this permission.
2. The development shall only be carried out in full accordance with drawings 01 – 11 Versions A received by the Council on the 27.03.2017

Requirements Triggered Before the Development Commences

3. No development shall take place until a full schedule of all soft and hard landscape works and biodiversity enhancements has been submitted to, and approved in writing by, the Local Planning Authority.

The schedule shall include,

- Planting plans including a written specification, schedules of proposed plants noting species, plant sizes, numbers/densities and a detailed implementation programme.
- Details of all hard landscaping
- For the avoidance of doubt, a scheme for the closure of existing accesses and the reinstatement of the hedge.
- Details of bird and bat boxes to be installed on the site.
- Details of all existing trees and hedgerows on the land and details of any to be retained alongside the height at which they will be retained.

The works shall be carried out in accordance with the approved details prior to the end of the first planting season following occupation of the development.

If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

Following the occupation of the dwellings hereby approved, and other than routine maintenance, no trees shall be lopped, topped, removed or felled and no hedges shall be cut below the retained height or removed without the prior written approval of the Local Planning Authority

4. No development shall take place until a scheme for the protection during construction of the trees on the site, in accordance with BS 5837:2012 - Trees in relation to construction - Recommendations, has been submitted to, and approved in writing by, the Local Planning Authority.

The scheme shall show the extent of root protection areas and details of ground protection measures and fencing to be erected around the trees, including the type and position of these.

The protective measures contained with the scheme shall be implemented prior to the commencement of any development, site works or clearance in

accordance with the approved details, and shall be maintained and retained until the development is completed.

Within the root protection areas the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored thereon. If any trenches for services are required within the fenced areas they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.

Requirements Triggered During the Construction Phase

5. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported to the Local Planning Authority within 48 hours.

No further works shall take place until an investigation and risk assessment has been undertaken and submitted to, and approved in writing by, the Local Planning Authority.

Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority and then undertaken in full. Following the completion of the measures identified in the approved remediation scheme a verification report must be prepared, and approved in writing by, the Local Planning Authority prior to the occupation of the dwellings.

6. No above ground construction shall take place on site until details of the external finishing materials to be used on the development have been submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved details.
7. Construction times and deliveries, with the exception of fit-out, shall be limited to the following hours: 08:00 - 18:00 each day Monday-Friday, 08:00 - 13:00 Saturdays and none on Sundays, Public Holidays or Bank Holidays.

Requirements Triggered Prior to Occupation

8. Prior to the first occupation of the development sufficient space shall be provided within the site to enable vehicles to enter, turn and leave the site in forward gear and to park clear of the public highway. The area shall be levelled, surfaced and drained and thereafter retained for that specific use.
9. Prior to the first occupation of the development any gate or gates to the vehicular access shall be set back a minimum of 6 metres from the near edge of the highway carriageway. Any access gate or gates shall be hung to open inwards. This style of access gate or gates shall be used at all times/thereafter be retained in perpetuity.
10. Prior to first occupation visibility splays shall be provided each side of the vehicular access in full accordance with the details indicated on the submitted plan 01 Rev A. The splays shall thereafter be maintained free from any obstruction exceeding 0.6m above the level of the adjacent highway carriageway.