
Appeal Decisions

Site visit made on 22 July 2019

by Les Greenwood MRTPI

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

Decision date: 12 August 2019

Appeal A Ref: APP/V0510/W/19/3224542
47A High Street, Cheveley CB8 9DQ

- 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 Andrews against the decision of East Cambridgeshire District Council.
 - The application Ref 18/01714/FUL, dated 4 December 2018, was refused by notice dated 23 January 2019.
 - The development proposed is the erection of a new dwellinghouse and a double garage.
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Appeal B Ref: APP/V0510/W/19/3225009
47A High Street, Cheveley CB8 9DQ

- 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 Brian Andrews against the decision of East Cambridgeshire District Council.
 - The application Ref 18/01713/FUL, dated 4 December 2018, was refused by notice dated 23 January 2019.
 - The development proposed is the erection of a new bungalow including a single garage.
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Decisions

Appeal A Ref: APP/V0510/W/19/3224542

1. The appeal is dismissed.

Appeal B Ref: APP/V0510/W/19/3225009

2. The appeal is allowed and planning permission is granted for the erection of a new bungalow including a single garage at 47A High Street, Cheveley CB8 9DQ in accordance with the terms of the application Ref 18/01713/FUL, dated 4 December 2018, subject to the 10 conditions set out in the attached Schedule.

Preliminary Matters

3. The Council's refusal notices for these applications refer to policies in a Submitted Local Plan 2018. The Council advises that that plan was withdrawn in February 2019 and is no longer relevant to these appeals.

4. In June 2019 the Council issued an updated report on its *Five Year Land Supply* for housing development. I gave both main parties a chance to comment on that document and have taken the response into account.

Appeal A: Main Issues

5. The main issues for this appeal are the effects of the proposals on:
- i) the character and appearance of the local area; and
 - ii) living conditions at the retained house, 47A High Street.

Appeal B: Main Issue

6. The main issue for this appeal is the effect of the proposals on the character and appearance of the local area.

Reasons

Context: housing land supply (Appeals A and B)

7. At the time of the refusal of the appeal applications, the Council reported having a 3.86 year housing land supply, well short of the required 5 year supply of deliverable housing sites set out at paragraph 74 of the National Planning Policy Framework (the Framework). The Council's June 2019 report advises that its supply has declined slightly since then, to 3.70 years. Furthermore, the 2018 Housing Delivery Test measurements published by the Government in February 2019, show that the Council was well below the 75% threshold for the last 3 years, as set out in Footnote 7 of the Framework.
8. In accordance, therefore, with paragraph 11(d) and Footnote 7 of the Framework, the East Cambridgeshire Local Plan 2015 (LP) policies most relevant to determining the application are considered to be out-of-date. In this situation, the 'tilted balance' is engaged and planning permission should be granted for both appeal proposals 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.

Character and appearance (Appeals A and B)

9. The village of Cheveley is primarily linear in form, laid out along the High Street and connecting roads. 47A High Street is a substantial, detached 1.5 storey house set in an elevated backland position behind the frontage development – Nos 49, 49A and 50. The proposals are to build a 1.5 storey house (Appeal A) and a bungalow (Appeal B) within No 47A's large garden, one to either side of the house. Both would have garages. The existing access to No 47A would serve as a shared drive.
10. The Council's *Design Guide* Supplementary Planning Document (SPD) advises that backland development will only be acceptable if supported by a contextual analysis of the locality. The appellants have effectively provided such an analysis through their appeal statements.
11. Although the village consists primarily of frontage development along the main streets, it has been subject to some development in depth over the years, including No 47A itself plus 2 new houses and a cul-de-sac immediately to the south of the site. No 47 to the north is an older house, set even further back

from the street. I understand that outline permission has also been granted for 3 houses in the gap between the frontage houses and No 47, to the north of No 47A. Within this context, some further development in depth would fit in with the local development pattern, so long as it is not overly dense or cramped in this edge of village situation.

12. The proposed bungalow would be a relatively low building which would be subservient in scale and design to the house at No 47 despite its elongated form. It would be seen from the street, in an elevated position, but would replace existing outbuildings and would sit so far back, beyond the long drive, that it would be inconsequential in these views. It would be a substantial structure that would add a considerable amount of built development, but would be discreetly sited and would allow reasonable views over the top of the building. It would be well designed to fit into its setting, with an articulated form that would help to break up its massing.
13. The proposed house and its garage would also have an elongated form. It would be significantly taller than the proposed bungalow, however, and set further forward and in a more elevated position, with a ground floor level substantially higher than both No 47A and the bungalow. It would be seen from the street through gaps in the built frontage, appearing to be perched well above road level. I appreciate that it has been designed to step down towards the street and neighbouring properties, but it would still be of significant height near to the front boundary of the plot and would block views through to the sky and trees beyond. In combination with the existing house at 47A, the new houses nearby and the proposed bungalow (if built), it would cause a significant loss of open rural character on this village fringe, creating an overly cramped and built up appearance.
14. The Council has drawn my attention to an appeal decision for a site at 171 High Street (APP/V0510/W/16/3164410) where a proposed backland development of 3 houses was not allowed. That site is within the village conservation area, which provides a much different context for decision-making. I have assessed these current proposals on their own merits.
15. I conclude that the proposed bungalow (Appeal B) would not harm the character or the appearance of the local area. It would accord in this respect with the Framework and LP Policies ENV1, ENV2 and GROWTH 2 and the SPD, which aim to secure a high quality of design that is sympathetic to local character and visually attractive. On the other hand, I conclude that the proposed house (Appeal A) would unduly harm local character and appearance, in conflict with those same policies.

Neighbours' living conditions (Appeal A)

16. The proposed house would be a long and tall structure, sitting near to and directly to the south of No 47A, on higher ground. No 47A has ground floor living room and bedroom windows facing directly towards the site. Although the living room has other glazing, to minimise any impacts, the bedrooms would be heavily overshadowed and would be left with a very enclosed outlook that would be dominated by the new house. The proposed house would have a first floor bedroom window that would almost directly overlook one of the bedroom windows from a higher level and at fairly close range, causing a

significant loss of privacy. There would be similar effects on the retained area of garden for No 47A that would lie between the 2 buildings.

17. I conclude that the proposed house would unacceptably harm living conditions at the neighbouring property, No 47A, due to overshadowing, an overbearing effect and loss of privacy. It therefore also conflicts in this respect with the aims of the Framework and LP Policy ENV2, to provide a high standard of amenity for existing and future users.

Other matters

18. The village envelope set out in the LP runs along the back of 47A, excluding its back garden. Both of the proposed new dwellings would, to a greater or lesser extent, extend beyond that boundary. The Council raises no objection in principle to this due to the lack of a 5 year housing land supply. I likewise find no such objection. The site would be sustainably located in respect of access to local services.
19. I have also considered the various issues raised by the Parish Council and neighbours. The proposed buildings would be far enough away from the other neighbouring houses to avoid causing any significant harm to occupiers' living conditions, including from overshadowing, loss of outlook, overlooking, noise, fumes, light pollution or other potential disturbances. I note that the proposed garage for the new house would be next to No 50's boundary, but it would be a long way from that house. There would be some loss of private views, but this would not be sufficient reason to withhold planning permission.
20. The street does not appear to be heavily trafficked and I agree with the County Highway Authority that safe access can be provided subject to conditions requiring modest improvements. Like the Council's Senior Trees Officer, I am also satisfied that the existing trees at the site, including a Larch subject to a Tree Preservation Order, can reasonably be protected through the imposition of suitable conditions. I see no reason why future occupiers could not take their refuse and recycling to the street side for collection. Finally, I have seen no significant evidence of any lack of capacity at the local school or other local services.

Planning balance

21. In accordance with the Framework, planning 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. I recognise that the proposals would make more efficient use of the site and would make a modest but important addition to the need for more housing in the District. They would help to support local services and would provide some minor economic benefits during construction.
22. I find, however, that there are aspects of the Appeal A proposal which would conflict with Framework policies sufficiently to clearly outweigh the benefits and indicate that permission should not be granted. In contrast, I find no significant conflict between the proposal in Appeal B and the Framework, or any LP Policy aside from Policy GROWTH 2 (Locational Strategy), which is agreed to be out-of-date.

Conditions: Appeal B

23. I impose a condition specifying the relevant plans to provide certainty. Conditions are required in regard to land contamination and tree protection in the interests of public health and of local character and appearance, respectively. 2 of these conditions need to be dealt with before development commences in order to ensure that contamination is not caused or trees harmed in the early stages of development. Linked to these 2 conditions are 2 other supplementary conditions. I find no need for other such pre-commencement conditions.
24. A condition specifying the use of the proposed materials is needed to protect the character and appearance of the area. Foul and surface water drainage details are also required in the interest of public health and to ensure that surface water drainage is dealt with sustainably, avoiding any increase in flood risk off-site. Access improvements are required in the interest of highway safety. Finally, a requirement for a scheme of bio-diversity improvements is justified to maximise opportunities for creation, restoration, enhancement and connection of natural habitats as an integral part of development proposals, in line with LP Policy ENV7.
25. The Council also suggests a condition restricting normal permitted development rights for extensions and outbuildings, in order to safeguard neighbours' living conditions. I see no exceptional justification for such a restriction in this case.

Conclusion

26. For the reasons set out above, and having regard to all other matters raised, I conclude that Appeal A should be dismissed and that Appeal B should be allowed, subject to conditions.

Les Greenwood

INSPECTOR

SCHEDULE OF CONDITIONS – Appeal ref APP/V0510/W/19/3225009

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 995-01A, 995-02A, 995-03, 995-04 and 995-05.
- 3) No development shall take place until an investigation and risk assessment of the nature and extent of any contamination on the site, whether or not it originates on the site, has been undertaken and a written report of the findings has been submitted to and approved in writing by the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons. The report of the findings must include:
 - (i) A survey of the extent, scale and nature of contamination;
 - (ii) An assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and

service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments; and

(iii) An appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Any remediation works proposed shall be carried out in accordance with details and a timeframe which have first been submitted to and approved in writing by the Local Planning Authority.

- 4) 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. The necessary remediation works shall be undertaken, and following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the dwelling hereby permitted.
- 5) 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 Design, Demolition and Construction - Recommendations*, has been submitted to and approved in writing by the Local Planning Authority. This shall include a Tree Protection Plan and a Method Statement. 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 within 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 levels 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.
- 6) No trees shall be pruned, removed or felled and no hedges shall be removed during the development hereby permitted without the prior written approval of the Local Planning Authority.
- 7) No construction works shall take place above ground floor slab level until a scheme to dispose of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the first occupation of the dwelling hereby permitted and thereafter retained operational.
- 8) The materials to be used in the construction of the external surfaces, including walls, doors, windows and the roof shall be as specified on the approved plans. All works shall be carried out in accordance with the approved details.

- 9) The dwelling hereby approved shall not be occupied until access improvements have been carried out in accordance with details first submitted to and approved in writing by the Local Planning Authority, including the following:

- (a) Widening of the first 10m of the access driveway to enable 2 vehicles to pass each other; and
- (b) Construction details for the access driveway including materials and drainage.

The approved details shall be carried out in full prior to the first occupation of the dwelling hereby permitted and shall be retained thereafter.

- 10) The dwelling hereby approved shall not be occupied until a scheme of biodiversity improvements has been implemented in accordance with details first submitted to and approved in writing by the Local Planning Authority. The approved biodiversity improvements shall be maintained thereafter.