



Appeal Decision

Site visit made on 10 July 2019

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2019

Appeal Ref: APP/W0530/W/18/3212846

Pettetts Barn, High Street, Hinxton, Saffron Walden, CB10 1RF

- 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 Fagg against the decision of South Cambridgeshire District Council.
 - The application Ref S/1373/18/FL dated 6 April 2018, was refused by notice dated 13 July 2018.
 - The development proposed is described on the application form as “new single storey detached dwelling with basement, detached garage and parking on land adjacent to Pettetts Barn”
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs Fagg against South Cambridgeshire District Council. This application is the subject of a separate Decision.

Procedural matter

3. The Council has confirmed that the Development Control Policies Development Plan Document¹ referred to on the decision notice was superseded by a new Local Plan adopted on 27 September 2018². The appellant was aware of this and has referred to this in their evidence. As a consequence, my determination of this appeal is now against the Local Plan and I am satisfied this has not prejudiced the interests of any party.
4. Since the appeal was submitted, a revised version of the Framework has been published³. I have determined the appeal in light of this, which is a material consideration that should be taken into account.

Main issues

5. The Council has raised no concerns about the development’s architectural style, housing density and off-road parking provision, or its impact upon; (1) the setting of listed buildings; (2) archaeology; (3) the living conditions of

¹ Development Control Policies Development Plan Document, Local Development Framework, South Cambridgeshire District Council, Adopted July 2007.

² South Cambridgeshire Local Plan, Adopted September 2018, South Cambridgeshire District Council.

³ National Planning Policy Framework, Ministry for Housing, Communities and Local Government, February 2019.

neighbouring occupiers; (4) highway and pedestrian safety; (5) flood risk; (6) trees; and (7) ecology.

6. Accordingly, within the context of the Council's reasons for refusal and the evidence in this case, the main issues are:
- whether the development is in an appropriate location;
 - the effect of the development on the character and appearance of the area, with particular regard to its designation as an 'important countryside frontage' and the Hinxton Conservation Area.

Reasons

Appeal site context

7. The appeal site is used for domestic garden purposes in connection with Pettetts Barn, a listed agricultural building that was converted to residential use in the 1980s. At the time of my inspection, the western half of the site was laid to lawn with a small number of recently planted trees/shrubs and a central vegetable/flower bed. The eastern half consisted of wild uncut grass with a small wooded copse.
8. The appeal site is enclosed by an attractive brick wall to its western boundary with the High Street; a mature hedgerow and trees to the northern boundary with North End Road; post and wire fencing with hedging to the eastern boundary; and post and wire/close-boarded fencing to the southern boundary. There are no buildings on the site, primarily due to permitted development rights having previously been removed.
9. The appeal site falls outside the development framework for the village as identified on the Proposals Map, with its western and northern boundary also identified as an 'important countryside frontage'. A significant portion of the site also falls within the Hinxton Conservation Area ('the conservation area').
10. The conservation area is characterised by the gently swerving course of the High Street, which is enclosed on both sides by buildings, many of which abut the highway edge. Behind the houses are secondary groups of buildings which also gain access from the High Street and are visible in gaps between built form. The conservation area is also characterised by 3 large open areas of land which extend right up to the High Street edge, one on the western side which contains a children's play area and paddock, and two on the eastern side, one of which is the appeal site and the other which is an agricultural field adjacent to No 82 High Street. All 3 areas are identified as 'important countryside frontages' and are separated from the High Street by attractive well-articulated walls, quite different in character to the simple and functional post and wire, post and rail and hedgerow boundary treatments typically found in the surrounding countryside.

Whether the development is in an appropriate location

11. The Council and appellant both agree that the site falls outside the development framework for the village. Policy S/7 of the Local Plan states that in such circumstances, development will only be allowed if it is allocated in Neighbourhood Plans or for agriculture, horticulture, forestry, outdoor

recreation and other uses which need to be located in the countryside or where supported by other policies in the plan.

12. There is no adopted Neighbourhood Plan for the village and the proposal does not fall within any of the specified development types and neither is it supported by any other policies in the plan. As a consequence, I conclude that the development would conflict with Policy S/7 of the Local Plan.

Character and appearance

13. Policy NH/13 of the Local Plan states that planning permission for development will be refused if it would compromise the purpose of an 'important countryside frontage'. These are defined as land with a strong countryside character that; - (a) provides an important rural break; or (b) penetrates into a built-up area providing a significant connection between the street scene and surrounding rural area. Paragraph 6.42 of the Local Plan states that such land enhances the setting, character and appearance of villages by retaining the sense of connection between them and their rural origins and surroundings. The frontage where this interface occurs is identified to indicate that it and the countryside beyond should be kept open and free from development.
14. It is agreed between the parties that long-range views through the site to the agricultural field to the east are significantly restricted by existing trees and hedgerows on the site, and I see no reason to disagree with this assessment given my observations on-site. However, it is important to note that Policy NH/13 does not specify the need long-range views to be present in an important countryside frontage; - it simply requires a significant connection between the street scene and surrounding rural area. To my mind, this means that the land in question should have a strong countryside character that extends from its frontage in the built-up area of the village to the rural area beyond.
15. The appellant asserts that the appeal site no longer has an agricultural character and that this reflects guidance by Historic England which recognises that the settings of heritage assets change over time. However, countryside character is not the same as 'agricultural character' and in my view it would be an error to conflate the two; - it derives from a wide variety of uses, environmental factors and physical features and as a consequence, there is often great variation between the character and appearance of different parts of the countryside.
16. Although the appeal site has been used for garden purposes in connection with an existing residential dwelling, it nonetheless has an undeveloped, open and verdant appearance with a strong rural-domestic countryside character to its western half and a natural uncultivated countryside character to its eastern side. As a consequence, it makes an important contribution to the character, setting and appearance of the village, just as an agricultural, forestry or other rural-allied occupational use would.
17. Set against this context, it is my view that the development's large footprint and expanse of built form would significantly erode the openness of the appeal site, substantially diminish its countryside character and harm its frontage connection with the village street scene.

18. I have noted the appellant's reference to the boundary wall having a domestic character and that this reveals a strong connection to the built-up part of the village, but consider this to also be the case with the 2 other important countryside frontages in the village which similarly have well-articulated walls, one of which screens an agricultural field. The presence of these walls does not alter my view that the land behind them all are of a strong countryside character which provide a significant connection between the street scene and surrounding rural area.
19. I recognise that the development would only be single storey (above ground level) and unlikely to be notable in the wider countryside. I also agree with the appellant's Landscape Appraisal that long-range views of the scheme and wider village from the surrounding rural area would not be affected. However, I do not agree with this document's conclusion that the site is not of a countryside character for the reasons already identified and neither do I agree with the stated level of receptor sensitivity and magnitude of change from opposite the site on the High Street. In this respect, it is my view that the sensitivity of static and transient receptors, the scale of visual impact, and magnitude of visual effects from this position would be high, primarily because of; (a) the close proximity of Nos 107-119; (b) their orientation towards the site; (c) the significant size and scale of the scheme's built-form; (d) the clear views of it from ground and first floor level; and (e) pedestrians being able to walk through a highly valued historic location with sensitive localised views of the site.
20. Furthermore, despite a large part of the dwelling's built-form being just outside the boundary of the conservation area, it would nonetheless bring about a marked and harmful change to its character and setting in the northern part of the village. Furthermore, its visibility from opposite the site on the High Street, and partly from North End Road above the landscaped boundary, would intensify its harmful impact. I have noted that the scheme would also utilise a green roof, but am of the view that this would provide extremely limited mitigation for the scheme, particularly at pedestrian level. I also recognise that additional soft landscaping would be provided to the western boundary, but do not consider the screening of a development by landscaping to be a sound basis upon which to justify an otherwise harmful scheme as this could be repeated too easily and often for all forms of poor quality development.
21. In view of the above, and because the appeal site constitutes 1 of only 3 important pieces of countryside that penetrate into the village and make a significant contribution to its overall character, setting and appearance, I conclude that the development would compromise the purpose of the 'important countryside frontage' and conflict with Policy NH/13 of the Local Plan.
22. Furthermore, because the character of the conservation area is also derived from the important countryside frontages in the village, I find that the development would not preserve or enhance its character or appearance in accordance with S72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. As a consequence, the scheme would also conflict with Policies NH/14 and HQ/1 of the Local Plan, which collectively seek, amongst other things, to sustain the special character and distinctiveness of the district's historic environment and preserve the character of rural areas.

Other matters

23. Given my conclusion on the main issues that the development is unacceptable, the other objections raised by interested parties have not been central to my decision. Accordingly, there is no need for me to consider them further as it would not alter the outcome of the appeal.
24. I note the Appellant's frustration regarding the pre-application discussions and their attempts to address the concerns raised, but this has little bearing on the planning merits of the scheme before me and is a matter between the parties. I have also noted the lack of objections by the Parish Council and other consultees, the alleged views of Members at Planning Committee, and the support from many local residents and Councillors following extensive local consultation. However, this in itself does not demonstrate a lack of harm or diminish the significance of adopted development plan policy.

Planning balance

25. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that the determination of applications should be made in accordance with the development plan unless material considerations indicate otherwise.
26. Policies S/7, HQ/1, NH/13 and NH/14 of the Local Plan were considered at examination not long ago and I am satisfied that they accord with the recently published Framework; - they are therefore up-to-date. I have noted the appellant's assertion that the important countryside frontage designation, development framework limit and boundary of the conservation area are out of date and need to be reviewed, but that is a matter for the plan-making process and conservation area review and not a section 78 appeal. I am also satisfied that the important countryside designation is appropriate to the appeal site in the context of Policy NH/13. Furthermore, I note that the appellant has not provided any evidence that would dispute the presence of an up-to-date 5 year housing land supply for the district, which is based on housing figures in the recently adopted Local Plan, and that the delivery of housing is not substantially below its housing requirement over the last 3 years⁴.
27. I do not agree with the appellant that the scheme meets all the requirements of Policy H/15 of the Local Plan, primarily because it would not significantly enhance its immediate setting or be sensitive to the defining characteristics of the location. My attention has also been drawn by the appellant to Policy S/11 of the Local Plan, but this relates to development within infill villages, whereas the proposed development falls outside the identified development framework boundary for Hinxtton. The provisions of this policy as it relates to infill development does not therefore apply. The appellant has also referred to Policy NH/2 as being material, but whilst I find that the development would have a neutral impact on the wider landscape and national character area in which it is located, this does not outweigh the harm I have identified or the scheme's conflict with other development plan policies.
28. The appellant states that the scheme would be a self-build and has drawn my attention to the Self-Build and Custom Housebuilding Act 2015. However, the Local Plan was examined against this legislative background and Policy H/9 was deemed appropriate to ensure delivery of the necessary number of plots. I am

⁴ Based on the figures specified in Footnote 7 and Paragraph 215, National Planning Policy Framework, having regard to the housing delivery test results published on 19 February 2019.

as a consequence satisfied that Policy H/9 does not conflict with Paragraph 61 of the Framework which seeks to ensure that the type of housing needed by different groups in the community is reflected in planning policy. In carrying out this assessment, I have also had regard to sections 2 and 2A of this Act which set out the need to give enough suitable permissions to meet identified demand. However there is no evidence before me that Policy H/9 would not achieve this within the relevant base period, but even if there was, this would not outweigh the harm I have identified or the scheme's conflict with other development plan policies.

29. My attention has been drawn by the appellant to Paragraph 78 of the Framework which states that housing should be located where it will enhance or maintain the vitality of rural communities to promote sustainable development. However, whilst I recognise that the development would be in close proximity to other dwellings and not be physically isolated, and that the village has a modest range of facilities and nearby employment areas that would be accessible by means of transport other than the private motor car, this does not alter my view that the development as a whole would be harmful for the reasons I have given.
30. The appellant and Council have also referred to other planning application and appeal decisions in support of their position. However, I do not have the full background and details to these cases, and in any event, I must consider the appeal scheme on its own merits against current planning policy. The existence of these other decisions would not therefore set a precedent in this case.
31. On the basis of the evidence and my observations on-site, I am satisfied that the scheme would cause less-than substantial harm to the significance of the conservation area as a designated heritage asset. As a consequence, I have weighed this harm against the public benefits of the proposal, including securing optimum viable use, in accordance with Paragraph 196 of the Framework.
32. In carrying out this balancing exercise, I have given considerable importance and weight to the desirability of preserving or enhancing the character or appearance of the conservation area in accordance with Section 72 (1) of the 1990 Planning (Listed Buildings and Conservation Areas) Act 1990.
33. I recognise that the scheme would result in a range of public benefits, namely;
 - (a) the provision of a flexible dwelling to cope with the lifestyle changes and needs of future occupants; (b) enhancing the local mix of residential properties; (c) enabling the appellant to remain in the village and release their existing family property onto the market; (d) the utilisation of renewable energy and sustainable construction techniques to reduce the scheme's carbon footprint; (e) the use of a green roof and new soft-landscaping to enhance biodiversity; (f) a quickly-deliverable contribution towards the Council's housing land supply; (g) future occupiers contributing to local shops, services, facilities and community organisations; and (h) local employment during construction. However, it is my view that when considered collectively, these would be of modest value and outweighed by the harm to the conservation area. I also find that these benefits, when taken cumulatively, would be outweighed by the harm to the character and appearance of the appeal site and its role as an important countryside frontage.

34. In view of the above, I conclude that the proposal does not accord with the development plan and that the relevant policies referred to are not out of date or inconsistent with the Framework. In view of this, the presumption in favour of sustainable development as outlined in Paragraph 11 of the Framework is not engaged. I also find that other material considerations do not indicate that the development should be approved.

Conclusion

35. No public benefits of the proposal have been found that outweigh the harm that would be caused to the significance of the conservation area, and the failure to preserve or enhance its character or appearance. All representations have been taken into account, but no matters, including the scope of possible planning conditions, have been found to outweigh the identified failures, harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR