



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/18/3215540

4 Pound Lane, Willingham, Cambridge, CB24 5UN

- 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 James Munns against the decision of South Cambridgeshire District Council.
 - The application Ref S/1266/18/FL dated 29 March 2018, was refused by notice dated 24 May 2018.
 - The development proposed is described on the appeal form as "Erection of 1 new 5 bedroom detached family dwelling".
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 1 new 5 bedroom detached family dwelling at 4 Pound Lane, Willingham, Cambridge, CB24 5UN in accordance with the terms of the application, Ref S/1266/18/FL dated 29 March 2018, subject to the conditions set out in the attached schedule.

Procedural matter

2. The appellant has drawn my attention to policies contained in a new Local Plan adopted on 27 September 2018¹. The Council has not provided any evidence to dispute the relevance of these policies and neither has it confirmed that the Development Control Policies Development Plan Document² referred to on the decision notice has been superseded. Whilst I recognise that the Local Plan was adopted following the Council's decision, 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. I have as a consequence determined the appeal in accordance with both these documents and am satisfied this has not prejudiced the interests of any party.
3. 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.
4. The development description has been amended to that shown on the appeal form as this is more precise. I am satisfied that this has not prejudiced the interests of any party.

¹ South Cambridgeshire Local Plan, Adopted September 2018, South Cambridgeshire District Council.

² Development Control Policies Development Plan Document, Local Development Framework, South Cambridgeshire District Council, Adopted July 2007.

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

Main issues

5. Within the context of the Council's reason for refusal and the evidence in this case, the main issues are:
- the effect of the development on the character and appearance of the area;
 - whether the development is in an appropriate location.

Reasons

Appeal site context

6. No 4 Pound Lane is a modern detached bungalow set on a substantial plot of land. The proposed dwelling would be sited on its eastern half, which forms the private garden to No 4 and is laid to well-maintained lawns, shrubs and trees, with a rural-domestic countryside character. The western half, which is partly divided from the residential garden by a low-lying hedgerow, consists of shrubland and wild grass, which gives it a natural uncultivated countryside character, quite different to the eastern half.
7. The appeal site lies on the outskirts of the village at the end of a short row of detached properties that overlook the village recreation ground, which consists of several sports pitches and a pavilion. The area is characterised by built-up development within the village, with open countryside beyond.

Character and appearance

8. The existing row of dwellings on Pound Lane vary in design, scale and height, giving it a varied roofscape. As a consequence, I am satisfied that the appellant's decision to reduce the height of the dwelling's wall-plate and ridgeline would result in a scheme that does not look out of place or dominate the area, despite it being moderately taller than the existing bungalow. Its visual impact would be further reduced by its use of projecting gables, differing eaves heights and a single storey element, which collectively help to break up the mass of the building. The development would also be compatible with the existing rural-domestic appearance of the garden and not encroach into the shrubland to the west which has a different countryside character.
9. In view of the above, I conclude that the development would represent a suitable transition to the open countryside beyond and not be harmful to the character and appearance of the area. The proposal would therefore accord with Policies DP/1 (p), DP/2 (1a) and DP/3 (2 l & m) of the Development Control Policies Development Plan Document and Policy HQ/1 of the Local Plan, which collectively seek to ensure, amongst other things, that new development is compatible with its location and does not have an adverse effect on the character of villages, the landscape and countryside.

Whether the development is in an appropriate location

10. The Council states that the site falls within the countryside for planning purposes, which is not disputed by the appellant. Policy DP/7 of the Development Control Policies Development Plan Document restricts development outside of urban and village frameworks to that for agriculture, horticulture, forestry, outdoor recreation and other uses that need to be located within the countryside. The proposal does not fall within any of these

development types and as a consequence, I conclude that it would conflict with Policy DP/7.

11. However, the appellant asserts that the scheme accords with Policies S/7 and H/16 of the recently adopted Local Plan. Policy S/7 states that development will be allowed outside of development frameworks where, amongst other things, it is supported by other policies in the plan. Policy H/16 states that the development of residential gardens for new dwellings will be permitted where it is for a one-to one replacement of a dwelling in the countryside and/or [my emphasis] where there would be no significant harm to the local area. On this basis, given that the scheme would not result in any adverse impacts to the living conditions of neighbouring occupiers, highway safety, on-street parking, biodiversity and trees, and my conclusion that it would not harm the character and appearance of the area, I conclude that the development would accord with Policies S/7 and H/16 of the Local Plan.
12. Despite the Development Control Policies Development Plan Document being over 10 years old, Paragraph 213 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework.
13. Although Policy DP/7 seeks to protect the countryside against gradual encroachment on the edge of villages and guard against growth in unsustainable locations, it adopts a restrictive approach to development in the countryside that does not fully accord with the more balanced and open position of the Framework. In view of this, I have attached only moderate weight to the scheme's conflict with Policy DP/7.
14. However, I am satisfied that Policies S/7 and H/16, which form part of the recently adopted Local Plan, are compliant with the Framework. As a consequence, I have given the scheme's accordance with these substantial weight in my assessment and concluded that this outweighs the development's conflict with the out-of-date Policy DP/7. This reflects advice in the Planning Practice Guidance (PPG) which states that if a policy contained in a development plan for an area conflicts with another policy in the development plan, the conflict must be resolved in favour of the policy which is contained in the last document to be adopted, approved or published⁴. When taken as a whole, I am therefore satisfied that the location of the proposal is appropriate and accords with the development plan.

Conditions

15. Although the Council did not provide any suggested conditions in the event the appeal was allowed, the appellant has confirmed that the imposition of conditions in accordance with the Framework and Planning Practice Guidance would be acceptable.
16. A condition has been imposed to ensure the scheme is carried out in accordance with the submitted plans. I have attached conditions regarding the materials and roof lights to ensure that the appearance of the development is satisfactory. For the same reason, and to prevent surface water discharging onto the highway, a condition for hard landscaping details is necessary. This

⁴ Section 38(5) of the Planning and Compulsory Purchase Act 2004 and Paragraph: 012 Reference ID: 21b-012-20140306, Revision date: 06 03 2014.

also requires details of boundary treatment as the design of the proposed feather edge timber fencing and timber gates is unclear and I would not consider close-boarded fencing or gates to be appropriate in this edge of settlement location where the urban area meets the countryside.

17. A condition has been imposed for visibility splays to ensure a satisfactory level of highway and pedestrian safety. I have also attached conditions relating to contaminated land given the unknown use of the buildings previously on the site; - these are pre-commencement as it would not be possible to carry out an adequate assessment if ground conditions had already been disturbed.
18. I do not consider it necessary to impose a condition for an infiltration test as there is no evidence before me relating to a history of surface water flooding and I am satisfied the matter will be adequately addressed by the Building Regulations. Given the small-scale nature of the development, I also do not consider it necessary to impose conditions restricting working hours or the burning of waste as any disturbance can be suitably controlled under other legislation.

Conclusion

19. In view of the above, having had regard to all other matters raised, I conclude that the appeal should be allowed.

Robert Fallon

INSPECTOR

Schedule of conditions

- 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 following approved plans and details:- Location Plan (Rev H), Site Plan (Rev F), ELE (Rev J), GLG (Rev J), GL1 (Rev J), SEC (Rev B) and DL (Rev A).
- 3) No development shall take place above damp proof course level until samples of all external wall, roof and dormer cheek facing materials have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved sample details, with all remaining materials to be in accordance with those specified on the application form.
- 4) The rooflights shown on the approved plans shall be flush fitting and conservation style.
- 5) No hard landscaping works shall take place until the following details have been submitted to and approved in writing by the local planning authority. These details shall include:

- a) hard surfacing materials for the new means of access, vehicle turning and parking area, patio areas and pathways;
- b) boundary treatments and gates, to include design, materials, colours and finishes;
- c) a scheme to prevent the discharge of surface water from the site access onto the highway.

The dwelling shall not be occupied until the above works have been carried out in accordance with the approved details.

- 6) The dwelling hereby approved shall not be occupied until pedestrian visibility splays of 2m x 2m have been provided each side of the vehicular access measured from and along the highway boundary. Such splays shall be within the red line of the site and shall thereafter be maintained free from obstruction exceeding 0.6m above the level of the adopted public highway.
- 7) No development shall take place until an assessment of the risks posed by any contamination have been submitted to and approved in writing by the local planning authority ('the risk assessment'). This risk assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - a) a survey of the extent, scale and nature of contamination;
 - b) the potential risks to: (i) human health; (ii) property (existing and proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; (iii) adjoining land; (iv) ground waters and surface waters; and (v) ecological systems.
- 8) In the event that the risk assessment finds the land to be affected by contamination which poses risks identified as unacceptable, no development shall take place until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority ('the remediation scheme'). The remediation scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out in accordance with the approved details.
- 9) In the event that a remediation scheme is carried out, upon completion a verification report by a suitably qualified contaminated land practitioner shall

be submitted to and approved in writing by the local planning authority before the development is occupied.

- 10) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

End of Schedule