



Appeal Decision

Site visit made on 22 July 2019

by Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 23rd August 2019

Appeal Ref: APP/V0510/W/18/3219798

Garage Block adjacent to 5 Willow Walk, Ely, CB7 4AT

- 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 J Watson against the decision of East Cambridgeshire District Council.
 - The application Ref 18/01295/FUL, dated 17 September 2018, was refused by notice dated 12 November 2018.
 - The development proposed is 1 No. Dwelling.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The application form for planning permission gave the site address as Willow Walk, Ely, CB7 4AT, but the Council used the address that is given in the heading of this decision. I have adopted the Council's version since it better describes the location of the site.
3. The Council makes references in the refusal reasons to the East Cambridgeshire District Council Local Plan Proposed Submission 2018. However, I am subsequently informed that the Submitted Local Plan 2018 has been withdrawn following a meeting of Full Council in February 2019 and therefore it is only the policies within the adopted East Cambridgeshire Local Plan 2015 that are relied upon.

Main Issues

4. The main issues in this case are i) the effect on the character and appearance of the area and in particular whether the proposal would preserve or enhance the character and appearance of the Ely Conservation Area; ii) the effect on living conditions of neighbouring occupiers; and iii) the effect on parking in the area.

Reasons

Character and appearance of the area and whether the proposal would preserve or enhance the character and appearance of the Ely Conservation Area

5. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. This duty lies

behind the policy set out in the National Planning Policy Framework (the Framework) paragraph 193: *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance"*.

6. Given the age, the condition and the very poor appearance of the garages that at present occupy the site, it certainly cannot be said that the site currently serves to enhance the character or appearance of the Conservation Area. However, any replacement development should do more than remove an unsightly element.
7. Policy ENV 11: Conservation Areas, of the East Cambridgeshire Local Plan adopted April 2015, as applicable here, requires that development proposals within or affecting a Conservation Area should be of a particularly high standard of design and materials in order to preserve or enhance the character or appearance of the area.
8. The development in the immediate vicinity of the site includes dwellings that contribute to the character and appearance of the conservation area, but also some that would not be acceptable under current policy. Clearly new development should fully reflect the best of the development in the conservation area and meet government policy, as expressed in Section 12 of the Framework: *"The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development..."*. This policy applies to all development, but is all the more apposite in a conservation area.
9. The appeal proposal does not meet this requirement. The general massing, proportions and detailing does not reflect the development in the conservation area that justified its designation. The Willow Walk development opposite the appeal site, for instance, would be a form and character that the design approach could reflect. As it is, the appeal proposal does not respect the heritage character and appearance of the area and would not preserve or enhance the character or appearance of the Ely Conservation Area. In my judgement the development would result in less than substantial harm being caused to the significance of the Conservation Area. The public benefits of the scheme – the provision of 1 additional dwelling to the housing stock and short term employment, would not outweigh this harm as required by the Framework. Therefore it is contrary to Policy ENV11 of the East Cambridgeshire Local Plan 2015 and the relevant policies of the Framework.

The effect on living conditions of neighbouring occupiers

10. The proposed dwelling would be positioned approximately 3m back from the small gardens of Nos. 20 and 22 Lisle Lane. In the Council's opinion, by virtue of the height of the proposed dwelling and proximity to the boundary with Nos. 20 and 22, the dwelling would create overbearing and overshadowing impacts on the private amenity spaces and the dwellings themselves, which would be significantly harmful to the residential amenity of their occupiers.
11. However, taking account of the existing garages that actually stand on the boundary of Nos. 20 and 22 Lisle Lane, the proposed 2m high close boarded

fence would be an improvement on the existing outlook at ground level. Above the fence the side elevation of the proposed house consists of a gable with a pitched roof. This means that light into the back of Nos. 20 and 22 Lisle Lane would not be greatly obstructed. Added to this, the orientation of the axis of the ridge is shown to be northwest/southeast, so that the roof would have only a marginal effect in terms of daylight and sunlight on the rear elevations and gardens of these neighbouring dwellings. Whilst the dormer windows increase the bulk of the roof, these are set well into the roof, away from the Lisle Lane houses. Since the proposed flank elevation has no openings other than a door at ground level, there would be no overlooking and loss of privacy. Nor do I consider that there would be any unduly overbearing effect on the 2 houses.

12. As to the concern that the proposal would result in overlooking of the rear private amenity space of No. 5 Willow Walk from bedrooms at first floor level, whilst the proposed dwelling is set back so that its rear wall is somewhat behind the rear of No.5, the result is that there would be no view from the proposed first floor bedrooms into the garden area immediately at the rear of No.5. Furthermore, to the extent that there is overlooking of the rear garden, this is no more than commonly exists, and no more than No. 5 Willow Walk overlooks the garden of No. 7. There would thus be no undue deleterious affect on the living conditions of the occupiers of No. 5 Willow Walk.

The effect on parking in the area.

13. It is clear from the appellant's appeal statement that the existing garages are now out of use, although representations suggest that this has occurred only recently. It appears that in their present form and condition it is very unlikely that off street parking for neighbouring residents will be reinstated. It also appears that very few garages have been in use for their intended purpose for some years. Whilst it is true that there is limited opportunity for kerb-side parking, and I understand the difficulties mentioned by local people, the proposed development would not exacerbate the situation, as it exists now. I consider that it is very unlikely that additional parking provision will be supplied by private investment, as there is no indication that this would be financially viable. I note that the Highway Authority has no objections in principal to this application stating that, since the garages are no longer in use, there would be no additional or increased competition for on-street parking within the near vicinity. I agree with that assessment.

Other matters

14. The Council accepts that it cannot demonstrate a 5 year supply of housing land which brings the presumption in favour of sustainable development as set out in the Framework. This means that permission for development should be granted unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits, or specific policies in the Framework indicate that development should be restricted. The public benefits of the proposal primarily consist of the addition of a single dwelling and short term employment during its construction, both of which are not sufficiently compelling. The less than substantial harm that would be caused to the designated heritage asset, without public benefits that outweigh this harm, overrides the presumption.
15. I have taken account of all other matters raised, including the advice in Framework paragraph 68 that "*Small and medium sized sites can make an*

important contribution to meeting the housing requirements of an area, and are often built-out quickly". However, none amounts to a matter that outweighs the considerations dealt with above.

Conclusion

16. I have found that the appeal proposal would result in less than substantial harm being caused to the Conservation Area, contrary to policy Policy ENV11 of the East Cambridgeshire Local Plan 2015 and the relevant policies of the Framework. I therefore dismiss the appeal.

Terrence Kemmann-Lane

INSPECTOR