
Appeal Decision

Site visit made on 5 August 2019

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th September 2019

Appeal Ref: APP/D0515/W/19/3227741

Land west of Magnolia Cottage, Kirkgate, Tydd St Giles PE13 5NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr and Mrs R Bell against the decision of Fenland District Council.
 - The application Ref F/YR18/0841/O, dated 10 September 2018, was refused by notice dated 8 November 2018.
 - The development proposed is 4 no detached dwellings and associated garages.
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Decision

1. The appeal is allowed and outline planning permission is granted for 4 no detached dwellings at Land west of Magnolia Cottage, Kirkgate, Tydd St Giles PE13 5NE, in accordance with the terms of the application, Ref F/YR18/0841/O, dated 10 September 2018, subject to the conditions in the attached schedule.

Procedural Matters

2. I have amended the site address to match the one supplied by the Appellant on the appeal form, rather than the planning application. I consider this to be a more accurate description of the location of the appeal site.
3. The description of the development provided by the Appellant identifies that the proposal is for 4 no detached dwellings and associated garages. The proposal is in outline with only access to be determined at this stage. The submitted drawing SE-926/20 is therefore indicative in respect of scale, appearance, layout and landscaping.
4. The application originally had a reason for refusal related to whether biodiversity on the site would be preserved or enhanced. The Council in its appeal statement, has confirmed that in receiving a satisfactory ecological appraisal¹, they are no longer pursuing this reason for refusal, subject to safeguarding conditions being imposed. I have therefore determined the appeal on this basis.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the site and its surroundings.

¹ Ecological Impact Assessment Tydd St Giles – Greenwillows Associates Ltd (April 2019)

Reasons

6. The appeal site is a field located south of Kirkgate between 2 existing residential properties, Magnolia Cottage to the east and Ashlea House to the west. The boundary of the site comprises a mixture of mature trees and hedges. On the opposite side of the road to the appeal site, there is an entrance to a golf course complex and a holiday park.
7. There are residential properties located along both sides of Kirkgate. Although these vary slightly in style, they generally follow a linear pattern of development. Whilst development is mainly concentrated at the ends of the road, there are properties located at various points along all of Kirkgate, with some properties being broken up sporadically by fields. The existing dwellings are predominately large detached properties and due to their location around the appeal site, I do not consider the site to be isolated. The developments located towards the central area of Kirkgate appear to be more recent additions to the street scene, some of which are still under construction. Due to the number of developments around the site I consider that the area is residential in character. This is reinforced by the footpath on the opposite side of the road, that provides access to the village centre. Nevertheless, the hedges and mature trees which front on to the road contribute to a green and spacious character.
8. The appeal proposes 4 no detached dwellings on the site with garages and includes a new access to the site on to Kirkgate. Although indicative, the drawings for the proposed dwellings indicate that 4 dwellings in generous plots, would be capable of being positioned in a linear form, so as to line up with the existing dwellings on either side of the land. As such, they would not appear an incongruous feature in the street scene. Further they could be positioned in such a way that would retain the majority of the existing landscaping around the site. Therefore, even with the the need to alter the landscaping to accommodate a safe access, it would help retain the existing green and spacious characteristics of Kirkgate. This would ensure that the new dwellings would not be prominent features in the street scene when viewed along the highway.
9. I therefore consider that the proposed development would not have a detrimental effect on the character and appearance of the area. Consequently, I find that the proposal accords with Policies LP12 and LP16 of the Fenland Local Plan (FLP), adopted May 2014, which seeks, amongst other things, to ensure that new development does not adversely harm the character and appearance of the area.

Other Matters

10. There have been a number of concerns raised by interested parties. I now consider these before reaching my final conclusion. There have been concerns raised over flood risk. However, from the evidence before me, which includes no objections from the Environment Agency, a Flood Risk Assessment² and a Sequential and Exception Test³, I found no material harm.

² Flood risk assessment for proposed residential development at kirkgate, tydd st giles, wisbech, cambs – Geoff Beel Consultancy (February 2018)

³ Sequential and exception test, proposed new dwellings at land adjacent magnolia cottage kirkgate tydd st giles cambs – Swann Edwards Architecture (October 2018)

11. In regards to highway safety, there were no objections from the Highway Authority, subject to an appropriate condition regarding access. The Appellant has agreed with the Highway Authority advice, that the necessary pruning can be secured via a planning condition, should permission be granted. I do not, therefore, find that proposal would result in a detrimental impact on highway safety.
12. There were concerns raised around the overdevelopment of the area and the lack of infrastructure. I have also considered the point made that the proposal would result in setting a precedent within this location. Nevertheless, it is well established planning practice that each proposal is considered on its own merits, as I have done in this case. The settlement of Tydd St Giles is identified within Policy LP3 of the FLP as being capable of limited infill. The Appellant and the Council agree that the development would not cause significant harm to the locality by virtue of its sustainability. I agree with their findings and I do not find harm in this instance.
13. In regards to impact on residential amenity, although there are existing properties on both sides of the land, I do not consider that the proposal would lead to a level of overshadowing or loss of light that would make the scheme unacceptable. In any case, the current scheme is only outline and the submitted plans are only indicative of a possible layout.
14. Concerns were also raised around ecology. However, as set out in my procedural matters, the Council is no longer pursuing this as a reason for refusal, as the Appellant has submitted an ecological appraisal⁴ that addressed the concerns raised. On reviewing the evidence, I agree with the parties that there is no material harm in this instance.
15. I therefore consider that these and all other matters raised, whether considered individually or cumulatively, do not weigh significantly against allowing the proposed development.

Conditions

16. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result, I have amended some of them for consistency and clarity.
17. In addition to the standard implementation and reserved matters condition, to provide certainty, it is necessary to require compliance with the submitted plans. To ensure the safety of occupants, a condition on mitigation against flooding is necessary. I have included conditions around landscaping to ensure the proper implementation of the agreed landscape details in the interest of amenity value and the visual character of the area. For reasons of highway safety, conditions relating to access are required. I have included a condition to ensure that the significance of historic environment assets are conserved. For ecological reasons, a condition is required to protect and ensure adequate mitigation for protected species.
18. As other conditions suggested by the Council relate to matters that are reserved for future consideration, I consider that it is neither necessary, or appropriate, to apply them at this stage.

⁴ Ecological Impact Assessment Tydd St Giles – Greenwillows Associates Ltd (April 2019)

19. In accordance with Section 100ZA of the Town and Country Planning Act 1990, the appellant has provided written agreement to the pre-commencement conditions.

Conclusion

20. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

D Peppitt

INSPECTOR

Schedule of conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: Flood Risk Assessment (FRA) (ref: GCB/ Swann Edwards, dated: February 2018), Drawing numbers SE-926-01 and SE-926-20 Rev A (in so far as it relates to means of access for the development).
- 5) The development shall be carried out in accordance with the mitigation measures detailed in the submitted Flood Risk Assessment (FRA) undertaken by Geoff Beel Consultancy (ref: GCB/ Swann Edwards, dated: February 2018) namely:
 - i) Finished floor levels are set 300mm above existing ground level at a minimum of 2.4 AOD.
 - ii) Flood resilience construction is used up to 300mm above finished floor levels.
- 6) The details submitted in accordance with Condition 1 of this permission shall include:
 - i) A plan showing (a) the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5m above ground level exceeding 75mm, showing which trees are to be retained and the crown spread of each retained tree and (b) the location of hedges to be retained and details of species in each hedge.
 - ii) Details of the species, diameter (measured in accordance with (i) above), and the approximate height and an assessment of the general state of health and stability of each retained tree and of

- each tree which is on land adjacent to the site and to which conditions (iii) and (iv) below apply.
- iii) Details of any proposed topping or lopping of any retained tree or of any tree on land adjacent to the site.
 - iv) Details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree or hedge from damage before or during the course of development.
 - v) The plans and particulars submitted shall include details of the size, species, and positions or density of all trees and hedges to be planted and the proposed time of planting.
- 7) Except where directly affected by the approved access, the existing hedge along the northern boundary of the site shall not be uprooted or removed and shall not be reduced below a minimum height of 3 metres and shall be retained in perpetuity thereafter.
 - 8) Prior to the first occupation of the development hereby approved the hedge which forms the northern boundary of the site shall be cut back to the highway boundary and maintained as such in perpetuity thereafter.
 - 9) Prior to the first occupation of any dwelling hereby approved the access shall be constructed to a minimum width of 5 metres for a minimum distance of 10 metres measured from the near edge of the highway carriageway and thereafter retained as such in perpetuity.
 - 10) No development shall take place on the land identified on the submitted plan SE-926-01 until a programme of archaeological work including a Written Scheme of Investigation has been submitted to, and approved in writing by, the local planning authority. The scheme shall include an archaeological assessment of significance and research questions; and:
 - i) The programme and methodology of site investigation and recording;
 - ii) The programme for post investigation assessment;
 - iii) The provision to be made for analysis of the site investigation and recording;
 - iv) The provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) The provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) The nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
 - 11) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (10).
 - 12) No dwelling shall be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (10) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
 - 13) No development shall take place on the land identified on the submitted plan SE-926-01 until a Construction Ecological Management Plan has been submitted to, and approved in writing by, the local planning

authority. The Construction Ecological Management Plan shall include details of the following measures of protection and enhancements relating to biodiversity and shall include timescales for delivery/implementation:

- i) Full details of all external lighting; such details should avoid impacts to the boundary habitats.
- ii) Provision of bird nesting and bat roosting boxes, including numbers, types and locations.
- iii) Requirement for covering of all construction trenches in relation to badgers and hedgehogs.
- iv) Provision of hedgehog gaps in all new fence lines.

All works shall then be undertaken fully in accordance with the approved details with the items identified under (ii) and (iv) being maintained in perpetuity thereafter.