



Appeal Decision

Site visit made on 14 August 2019

by S Hunt BA (Hons) MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 25 September 2019

Appeal Ref: APP/V0510/W/19/3231587

Rear of 131 North Street, Burwell, Cambridgeshire CB25 0BB

- 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 William Bowles against the decision of East Cambridgeshire District Council.
 - The application Ref 18/01575/FUL, dated 21 October 2018, was refused by notice dated 7 February 2019.
 - The development proposed is 4 bed dwelling and garage on part existing building plot for 1 bed dwelling (ref. 11/00900/FUL).
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a 4 bed dwelling and garage at rear of 131 North Street, Burwell, Cambridgeshire CB25 0BB in accordance with the terms of the application, Ref 18/01575/FUL, dated 21 October 2018, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matters

2. The submitted East Cambridgeshire Local Plan 2018 has been withdrawn and therefore Policies LP22 and LP28 as cited in the reason for refusal are no longer relevant and this decision will only refer to the adopted East Cambridgeshire Local Plan 2015 (ECLP).
3. The north indicator on the site layout plan differs from the site location plan. The appellant has clarified that the site location plan is correct and a new north point has been added to the site layout plan.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

5. The site lies to the northern end of the village of Burwell, situated to the rear of a modern bungalow at 131 North Street. The site comprises grassland, a former smallholding with some open storage of agricultural machinery, a metal shed and a static caravan. The garden boundaries of No's 131, 131c and a new dwelling to the rear of 131b are currently open plan, and the site itself has no

discernible boundary features. The remainder of the smallholding is well screened by mature vegetation.

6. Burwell is a large village with some characterful properties along its historic main road which leads to the site. This end of North Street is narrow with a mixed range of predominately modern housing, interspersed amongst the historic properties. The majority of dwellings here are either bungalows or 1.5 storey detached houses with steeply pitched roofs. Some development in depth is evident in the locality including a small cul-de-sac on the opposite side of the road and the adjacent new dwelling to the rear of 131b.
7. The character of the area changes markedly at the northern limits of the village beyond Howlem Balk, and beyond the tree belt around Catch Water Drain, where the countryside takes a much more intensive agricultural rural character than the appeal site, comprising large open fields and paddocks.
8. The design of the proposed dwelling is acceptable, at 1.5 storeys high and traditional detailing in keeping with other similar properties in the locality. I accept that it would be visible above the modern bungalow at No. 131, nevertheless as a result of its sympathetic design and intervening distances between the dwellings it would not be harmful to the character and appearance of the street scene here.
9. The character of the site and the immediately surrounding area is such that the erection of a dwelling in this location would assimilate successfully into its surroundings. The linear character of this part of the village has already been partly eroded by the development of the adjacent dwelling. I note that there is an extant consent for a bungalow on part of the site, on which a start was made some years ago but did not continue for various reasons. Whilst the fallback position of the 2011 consent is unlikely to be implemented and the plot was smaller and closer to the existing bungalow, the principle of 'backland' development has nevertheless been established.
10. With an appropriate landscaping scheme, which could be agreed by condition, the development would not result in an undesirable hardening of the edge between the built up part of the village and the rural area beyond. Only a small proportion of the smallholding would be developed and the remaining land would retain its rural character within the constraints of the tree belt beyond. Consequently, the proposed development would not result in any significant harm to the character and appearance of the surrounding area.
11. The proposed development would be consistent with Policies ENV1 of the ECLP which amongst other matters seeks for proposals to protect, conserve, and where possible enhance the pattern of distinctive historic and traditional landscape features, and the settlement edge and the wider landscape setting of settlements. It also complies with Policy ENV2 which sets out a range of design criteria and seeks for development to be designed to a high quality, enhancing and complementing local distinctiveness.
12. The proposals also accord with the objectives of the Framework for well-designed developments which are sympathetic to local character, as set out in paragraph 127, and the proposals would maintain the vitality of rural communities in accordance with paragraph 78 of the Framework. It would also broadly conform with guidance relating to backland development in the Council's Design Guide Supplementary Planning Document.

Other Matters

13. There is no dispute that the proposed dwelling lies outside the development envelope for Burwell (the access road and garage are within it) and is therefore in the countryside for the purposes of planning policy. However the Council are unable to demonstrate a five year housing land supply. In such circumstances, the National Planning Policy Framework (the Framework) at paragraph 11(d) indicates that where relevant policies are out-of-date planning permission will be granted unless any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In this regard, the policies which restrict housing development to within the development envelope are out of date and the tilted balance test is engaged. I shall return to address that balance within my conclusion below.
14. I have had regard to the objections raised in relation to the proposal. There is no substantive evidence to justify the dismissal of the appeal on the grounds of harm to living conditions. Due to the position of the proposed dwelling and intervening separation distances the proposal would not result in any significant loss of privacy, loss of light, overlooking nor noise and disturbance to neighbouring properties. A condition would require suitable landscaping and boundary treatments, as there are currently no boundary features.
15. My attention has been drawn to the Burwell Masterplan. However, this document has not been referred to by either of the main parties and I cannot give any weight to a document that is not in the evidence before me.
16. The proposal would make a modest contribution to the local housing supply, and would bring some economic benefits related to its construction and in supporting local services, albeit the weight I attach to those matters is limited due to the small scale of the development proposed. I note the appellants' local connection to the village and the site but personal circumstances of that kind attract little weight in the planning balance.

Conditions

17. I have considered the conditions put forward by the Council and have included those that meet the tests set out at paragraph 55 of the Framework, with some minor editing of the suggested wording for precision and clarity. The Framework encourages the consideration of imposing a shorter time period to ensure that proposals for housing development are implemented in a timely manner. The Council have suggested that the commencement of the development should be shorter than the statutory default time of 3 years in order to assist in boosting the supply of housing land in the district. For a small development where some site clearance is required 1 year would be unreasonable however 2 years would assist in meeting such aims.
18. I have attached a condition specifying the relevant plans to provide certainty. A pre-commencement condition is required for a contamination risk assessment (and remediation/verification if necessary) due to the agricultural storage uses on the site. Details of hard and soft landscaping and boundary treatments are necessary to limit the impact on the surrounding area and assist in screening of neighbouring properties.

19. In order to ensure a satisfactory appearance I have included a condition requiring details of external materials to be approved. Details of a foul and surface water drainage scheme are required to reduce the risk of flooding and pollution to the environment.
20. To assist in meeting the environmental aims of the Framework and the ECLP I have imposed a condition requiring an appropriate biodiversity enhancement plan to be submitted and agreed. In the interests of highway safety conditions are attached requiring the provision and retention of parking and turning space, and for visibility splays.

Conclusion

21. I have concluded that the proposal would not harm the character or appearance of the countryside. It would bring some small economic benefits and would add to the local supply of housing. No adverse impacts have been identified that would significantly and demonstrably outweigh the benefits and the proposal therefore represents sustainable development having regard to the terms of paragraph 11 of the Framework.
22. Therefore, subject to conditions, I conclude that the appeal should be allowed.

S Hunt

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 2 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans listed below:

Site Location Plan	01/1632/17
Site Plan	02/1632/17
Proposed ground floor plan	03/1632/17
Proposed first floor plan	04/1632/17
Proposed Elevations	05/1632/17
Proposed Garage	06/1632/17
- 3) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This 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:

- i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 4) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The 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 and 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.
- 5) 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.
- 6) No development above ground level shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
- i) Soft landscape works to include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.
 - ii) hard surfacing materials;
 - iii) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied or in accordance with the agreed implementation programme.

- 7) If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.
- 8) No above ground construction shall commence until details of the boundary treatments to all boundaries of the site have been submitted to and agreed in writing with the Local Planning Authority. The boundary treatments shall be installed in accordance with the approved details prior to first occupation.
- 9) No above ground construction shall take place until details of all external facing materials, doors and windows have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details.
- 10) The dwelling hereby permitted shall not be occupied until works for the disposal of surface water and sewage shall have been provided on the site to serve the dwelling, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 11) The dwelling shall not be occupied until a biodiversity enhancement plan has been submitted to and agreed in writing with the Local Planning Authority. The biodiversity enhancements shall be installed within one month of the completion of the development and thereafter maintained in perpetuity.
- 12) Notwithstanding the provisions of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 2015, (or any order revoking, amending or re-enacting that order) no gates, fences or walls shall be erected across the approved access within 6 metres of the Highway as shown on Drawing Ref 02/1632/17.
- 13) The dwelling shall not be occupied until space has been laid out within the site for two or more cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. The area shall be levelled, surfaced and drained and thereafter be kept available at all times for those purposes.

End of Schedule.