

Appeal Decision

Site visit made on 16 September 2019

by D J Board BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2019

Appeal Ref: APP/V0510/W/19/3232829

Land to rear of 7 & 9 Burwell Road, Reach, CB25 0JH

- 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 & Mrs Dudley against the decision of East Cambridgeshire District Council.
 - The application Ref 18/01554/OUT, dated 31 October 2018, was refused by notice dated 15 January 2019.
 - The development proposed is described as outline application for the erection of up to 4No dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is made in outline. The matter of access is submitted for consideration. As such the appeal is considered on this basis.
3. The Council withdrew the Submitted Local Plan (SLP) 2018 following a meeting of its full council on 21 February 2019. Therefore it has confirmed that the policies from the SLP referred to in the decision notice are no longer relevant to this appeal.

Main Issues

4. The main issues are the effect of the erection of up to 4 dwellings on (a) the character and appearance of the area, having particular regard to trees and (b) protected species.

Reasons

Character and appearance

5. The site is located adjacent to the built-up area of Reach and the Reach Conservation Area (CA). The appeal site is therefore in the countryside. It would be to the rear of existing buildings in Burwell Road and Fair Green. Along Burwell Road the dwellings are a mix of detached and semi-detached and generally front the road. I appreciate that there are some dwellings to the rear of Fair Green and further afield rear of Chapel Lane and Manor House. Nevertheless, the prevailing character is frontage dwellings with generous plots with space around them within a wider verdant setting. In this context the areas to the rear of the built-up area provide transition to the wider countryside beyond.

6. The appellants contend that the proximity of the site to the settlement boundary is such that it contains and reads as part of the settlement and screened from the countryside, is overgrown and contains a number of outbuildings. However, even taking the existing low-level ancillary buildings into account and limited visibility from the road, it is my view that the site remains on the edge of the settlement. More specifically the existing built development in this part of the settlement has at most a semi-rural character. In this regard the appeal site contributes as part of an open and transitional landscape in an edge of settlement location.
7. The scheme would introduce up to four dwellings on the site. The indicative plans show how four detached dwellings might be sited. The plans show that the dwellings could be accommodated in a cul de sac type arrangement with access taken from Burwell Road. I appreciate that the plans are indicative. Nonetheless, the site constraints are such that it is likely that options for layout would be limited. Overall, I consider that the provision of dwellings would consolidate development in this location. As proposed the scheme would not have a physical or visual affinity with the predominantly frontage development that is characteristic of the immediate locality. This is something that landscape planting would not alter.
8. The appellants have referred me to an approved scheme¹ on the adjacent site. This is shown on the plans. Based on the information before me it would appear that, in contrast to the appeal scheme, the dwellings on the adjacent site would front onto the road. Therefore, whilst they may add to the residential frontage on Burwell Road, in my view it would not be directly comparable with the appeal scheme.
9. There are a number of trees located within the site. There is a frontage group of Lime trees which are subject to a tree preservation order (TPO). There is also a row of lime trees immediately adjacent to the access way which have recently been protected with a TPO as well as TPO trees within the wider site area. The pleasant setting of the road is enhanced by the presence of soft landscape features, including trees. The row of Lime trees and the other trees that bound the site are visible within the street scene from a number of perspectives and have a high amenity value. Whilst not all of them are covered by a TPO, they contribute significantly to the character and appearance of the area. The verdant open nature of the site adjacent to the countryside beyond contributes to the character and appearance of the area.
10. To facilitate the provision of the access the plans show that it would need to be widened. For this to happen three protected Lime trees would be removed. There is some dispute regarding the classification of two of the trees. The appellants provided an initial tree survey² as part of the planning application and a further survey, impact assessment and tree protection plan³ to support this appeal. These differ in their classification of the trees that would be removed.
11. In particular that the information provided with the appeal suggests that two of the trees would be classified as 'U' rather than 'B'. The Council remain of the view that the 'B' classification of these trees is correct. I accept that the

¹ 17/00967/OUT

² BS 5837:2012 Tree Survey

³ Tree Survey, Arboricultural Impact Assessment, Arboricultural Method Statement & Tree Protection Plan

reports were undertaken by two different experts. The appellants final comments outline detailed reasons why these two trees were reclassified. Specifically, that the form of the trees and their limited safe and useful life expectancy. However, even if I was to accept the reduced rating of these trees this does not alter the contribution that the other Lime (T003) makes to the character of the area. Furthermore, there are other trees in the group adjacent to the access.

12. I note that the existing access drive is in close proximity to the protected trees. Nevertheless, the new widened access would be in a similar position and there would also be changes to levels in and around the root protection areas. I noted that the trees overhang the existing access and would therefore be close to the widened access serving four dwellings. Therefore, long term the access would be used by up to four dwellings and delivery and maintenance vehicles associated with them. Over time this proximity would lead to pressure to lop or fell the trees. Should this occur the contribution that the trees do and could continue to make to the character and appearance of the area would be diminished. I appreciate that there may be technical methods available to construct the access and that the appellants consider works to the access would represent an improvement for existing users. Nonetheless, this does not alter my concerns regarding the effect of a new residential use on the site.
13. I therefore conclude that the scheme would have a harmful effect on the character and appearance of the area, having particular regard to trees. In this regard the scheme would be in conflict with Local Plan policies ENV1 and ENV 2 which amongst other things seek to protect the settlement edge, space between settlements and the wider landscape setting and retain existing important landscape features.

Ecology

14. The appellants have submitted a preliminary ecological appraisal as part of the appeal submissions. This found that the site has a low ecological value and that no further survey work would be required. More specifically that the trees and structures on the site have a very low suitability or potential for roosting bats and that no bat activity has been recorded. The hedgerows are shown to be retained and enhanced. Based on this information it is possible to conclude that there is not a reasonable likelihood of protected species being present on or near the site. Therefore, I am satisfied that protected species would not be harmed if the development were to go ahead.
15. I therefore conclude that the proposal would not have an adverse effect on ecology. In this regard it would not be in conflict with Local Plan policy ENV7 which seeks to protect biodiversity and provide appropriate mitigation measures and with paragraphs 174-176 of the National Planning Policy Framework (the Framework) which require that proposals protect and enhance biodiversity and geodiversity and highlight that when determining planning applications the aim should be to conserve and enhance biodiversity and ensure that adequate site investigation information, presented by a competent person, is presented.

Other matters

16. The appellants submit that the Council does not have a five-year housing land supply. More specifically that the tilted balance applies. The Council does not

dispute this and acknowledge that its housing land supply is 3.7 years. There is no dispute that the appeal site is not subject to any designations which indicate that development should be restricted for the purposes of footnote 6. Footnote 7 is clear that applications involving the provision of housing where the local planning authority cannot demonstrate a five-year supply of housing will render the most important policies out of date and as such the tilted balance test is engaged.

17. The adverse impact relates to the harm to the character of the landscape by virtue of the change from countryside to housing and the harm to protected trees. This would run counter to the core planning principle of recognising the intrinsic character and beauty of the countryside and to designing developments which add to the overall quality of an area. In my judgement, this harm carries substantial weight. In terms of benefits, the construction of up to 4 houses would deliver a modest amount of housing in an area where delivery historically been lower than that required to meet need. On the evidence provided to this appeal, the Council is currently not able to demonstrate an adequate supply of housing which adds weight to the social benefits which this proposal might bring through the provision of homes. I also note that there would be short and long term economic and social benefits⁴ from construction, supporting local services, biodiversity enhancement and that the dwellings could be well designed. I have considered the other benefits that may arise from the appeal. However, none of them would be attributed more than moderate weight individually or collectively.
18. The proposal would be in conflict with LP policies ENV1 and ENV2 in so far as they relate to landscape character. Therefore, it would be in conflict with the development plan as a whole. The proposal should also be assessed on the basis of the tilted balance set out at paragraph 11 of the Framework which is a material consideration. On this point I consider that the harm from the scheme would significantly and demonstrably outweigh the benefits of the provision of dwellings in this case. As such the Framework is a material consideration which also weighs against the proposal. Therefore, in the circumstances of this appeal the totality of the other material considerations does not justify making a decision other than in accordance with the development plan.
19. Therefore, for the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board
INSPECTOR

⁴ Appellants final comments dated 19 September 2019