The Planning Inspectorate

Appeal Decision

Site visit made on 1 October 2019

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2019

Appeal Ref: APP/V0510/W/19/3233358
51 Cannon Street, Little Downham CB6 2SS

- 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 Jason Constable against the decision of East Cambridgeshire District Council.
- The application Ref 18/00775/FUL, dated 7 June 2018, was refused by notice dated 11 February 2019.
- The development proposed is demolition of existing and erection of 2no. 4 bedroom dwellings fronting Cannon Street, 3no. 2 bedroom dwellings and 1no. 3 bedroom dwelling fronting White Horse Lane.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council, since determining the planning application, has withdrawn the Submitted Local Plan 2018. Therefore, the Submitted Local Plan 2018 policies referenced in the Officer Report and Decision Notice are not relevant to the determination of this appeal.

3. During the course of the appeal part of the site was granted planning permission for one dwelling[1] (plot 6). The remaining part of the site was subject to another planning application which was refused[2]. The appeal before me is for 6 dwellings and I have considered the appeal on the basis of the planning application as submitted.

4. The appellant has submitted a Great Crested Newt and Reptile Impact Assessment (GCNRIA) dated June 2019[3] with their appeal statement. The Council has stated that this document was not part of their consideration in the determination of the application and objects to its inclusion as part of this appeal. There are also a number of plans submitted as part of the appeal which were not before the Council when it determined the application. The GCNRIA and amended plans include recommendations for mitigation, compensation and enhancement which have been submitted to respond directly to the Council's second reason for refusal. The amended drawings include minor changes to include a pond area within the site. I do not consider the GCNRIA or amended

[1] Planning application reference 19/00544/FUL- Construction of 1no. 3 bed house with associated external amenity spaces, landscaping, parking and access arrangements - Permitted 5 September 2019.
[2] Planning application reference 19/00519/FUL - Construction of 4no. 3 bed houses and refurbish existing 3 bed property on site with associated external amenity spaces, landscaping, parking and access arrangements - refused 5 September 2019.
[3] Great Crested Newt and Reptile Impact Assessment: Proposed Development of six Dwellings to Rear of 51 Cannon Street, Little Downhm - Greenwillows Associates (June 2019)

plans amount to a material change to the appeal scheme, but they are relevant to the appellant's case. Moreover, they have been available to the Council and interested parties for their comment at appeal stage. Consequently, I am satisfied that no prejudice would arise by me taking the GCNRIA and the amended plans into account in my decision.

Main Issues

5. The main issues are:

- the effect of the proposed development on the character and appearance of the area;
- the effect of the proposed development on the living conditions of future occupants, with particular reference to noise and disturbance and outdoor space; and
- whether the proposed development would effect the biodiversity of the site, with particular reference to Great Crested Newts.

Reasons

Character and appearance

6. The appeal site is located on Cannon Street along the southern boundary of the village of Little Downham. The site includes a detached dwelling that fronts on to the road. The existing dwelling is set within a large plot of land, which was previously used for growing fruit and vegetables. The site shares its boundaries with some of the rear gardens of the existing properties on Cannon Street. The appeal site has a frontage which splits between Cannon Street and White Horse Lane, which is a cul-de-sac with a narrow lane.

7. The appeal site has downward sloping gardens and beyond this is there is open farmland, interspersed with agricultural buildings and tree lined field boundaries. The majority of the site is located outside of the development envelope for Little Downham with the existing dwelling being within it.

8. The Council has provided a copy of a previous appeal on the site[4] in which the Inspector considered that while the varied street scape is varied, there is some consistency in the scale of properties, the materials and their orientation, with properties facing the road. I saw this to be the case at my site visit, that many of the properties are detached and set in from their side boundaries. This creates spaces in between the properties for landscaping and the occasional view of Ely Cathedral and the open countryside.

9. The elevated position of the road and the spacious gaps that exist between the dwellings, provide significant views of open countryside and Ely Cathedral when looking south. This enhances the street scene and plays a part in the pleasant nature of the character of the area.

10. The proposal would see the introduction of six detached dwellings on the appeal site. The proposal seeks to demolish the existing dwelling at No 51 and replace it with 2 detached dwellings (Plots 1 and 2). The dwelling which is proposed to be demolished is a modest two storey dwelling of traditional

[4] APP/V0510/W/17/3189530 – Dismissed – Decision date 16 February 2018

proportions and design. The Council notes that these types of dwellings are commonly found within the rural street scene throughout the district.

11. Behind Plots 1 and 2, the dwellings named Plots 3 to 5 would be positioned to toward the rear of the site, and Plot 6 would front on to White Horse Lane. The 2 frontage dwellings would increase the density of this area and appear to occupy a greater width than the existing dwelling. Thereby, increasing the level of road-fronting built form at the site. Whilst I note that the appellant has highlighted that they have been reduced in height compared to the previously submitted planning application, they would still remain a prominent part of the street scene.

12. The appellant has also suggested that Plots 1 and 2 would not be noticeably closer together than the dwellings on the opposite side of the road or many other examples within the locality. I note the separation distance of the adjacent properties. Whilst the proposal would maintain a gap between the 2 dwellings, it would significantly reduce the openness which currently exists, and subsequently, the views of the countryside which are possible along the street. The southern side of Cannon Street has development located away from their side boundaries with space to the side, creating a less dense character within the street scene. These gaps provide open views out towards Ely Cathedral and views across the open landscape, which are an important and characteristic feature in the street scene that would be diminished by the proposal.

13. The appellant references the Design Guide Supplementary Planning Document (DGSPD) (2012) and states that the proposal meets the requirements in terms of the plot sizes, footprints and private amenity spaces of the proposed dwellings. However, it should be recognised that the DGSPD is intended as a guide to help with the development and design of proposals. Meeting the requirements does not necessarily make the proposal acceptable or outweigh any other harm which may exist.

14. The remaining plots of the proposal would be positioned in the open land behind the linear frontage development on Cannon Street. This area is undeveloped and contributes to the rural views from Cannon Lane and White Horse Lane. The introduction of built development in this area would have an urbanising effect on this edge of village location. This would reduce the openness that currently exists and would harm the existing frontage pattern of development along this part of Cannon Street, which plays an important part of the current character of the area. Whilst I note that there are farm buildings near the site, these are features you would expect towards the edge of the village as the character becomes more rural and would not be comparable to the proposed residential development in form or character.

15. I acknowledge the approved development of 2 dwellings at 37-39 Cannon Street[5], which are also located behind the building line along Cannon Street. I do not consider them to be directly comparable as the appeal site is closer to the outer edge of the settlement, larger in size and more readily visible. These factors would result in an uncharacteristic pattern of development and loss of openness and rural views. As such, the introduction of 4 dwellings at the rear of this site would significantly harm the rural character of the area.

[5] Planning application reference 16/01385/FUL

16. For the reasons set out above, the proposed development would have a harmful effect on the character and appearance of the area. Therefore, it would be contrary to policies ENV1 and ENV2 of the East Cambridgeshire Local Plan, adopted 2015. These policies seek new development to preserve, enhance or enrich the character and complement local distinctiveness by relating well to existing features.

Living conditions of future occupants

17. The main site access for the rear properties would be an access road positioned between Plots 1 and 2. The occupants of the properties (Plots 3 to 5) to the rear, would enter and exit the site along this access road, which would follow the considerable slope of the land down from the main road. As a result, motorists driving up the hill would need to do so in a low gear so as not to stall their motor vehicle, creating significant engine noise as they pass the dwellings on Plots 1 and 2. The frequent noise and disturbance from vehicles coming and going when accessing the rear properties would be harmful to the occupants of Plots 1 and 2 when in their respective gardens. Whilst the areas facing the driveways do not have windows, future occupants when inside their respective properties would still be aware of cars entering and exiting the site.

18. I note that the Council's Environmental Health Officer has not objected to the proposal and has provided suggested conditions should the appeal be allowed. However, this is not determinative, and I have reached my own conclusions.

19. In terms of outdoor space, the Council has suggested that as the level of built form extends into the rear private outdoor space of Plots 1 and 2, it reduces the level of outdoor space available to future occupants. The Council suggests the future occupants would be adversely impacted by the cramped and contrived nature of the scheme. Whilst I note that the plots sizes are smaller than those to the rear, I consider that the outdoor space is sufficient and proportionate to the size of the dwelling and would provide suitable space for outdoor activity. Therefore, I find no harm in this regard.

20. However, I find that the effect of the proposed development on the living conditions of future occupants, with particular regard to noise and disturbance would be harmful. Therefore, it would be contrary to Policy ENV2 of the ECLP (2015). This policy seeks to ensure that there are no significantly detrimental effects on the residential amenity of future or nearby occupiers.

Biodiversity

21. As set out in my procedural matters, the appellant has provided an GCNRIA to address the Council's second reason for refusal. I note there were concerns raised over the previous ecological appraisal due to it not having a standalone GCN survey. I consider that the report provides a sufficient assessment and outlines recommendations that would mitigate the harm to GCN and could be secured by appropriately worded conditions were I to allow the appeal.

22. Consequently, the proposed development would not have a significant harmful effect on the biodiversity of the site with particular reference to GCN. Therefore, it would accord with Policy ENV7 of the ECLP (2015). This policy ensure that new development protects the biodiversity and geological value of land and buildings and minimises harm to, or loss of environmental features.

Other Matters

23. It has been raised by the neighbouring property, 49a Cannon Street, that the proposed development would cause a loss of privacy and would influence the value of the houses. The windows on the side elevation of Plot 2 which would look towards the rear garden of 49a would be obscured by louvres, preventing, direct views over the neighbouring property. A skylight on the side elevation would face skywards and so would not cause harm to living conditions in terms of privacy. There would be a window in the bedroom on the first-floor, however, due to the positioning of this window and the distance to the adjacent garden area, it would not result in a significant loss of privacy. Therefore, I consider that the design of the proposed development is acceptable in this regard. The value of property is not a planning matter.

24. There are a number of concerns raised by residents in terms of parking and highway safety. I note that the Local Highways Authority has not objected and has stated that the visibility splays are correct for this speed of road. I do not have substantive evidence before me to suggest that the proposed development would cause significant harm to parking or highway safety, and my observations on site did not lead me to a different view.

25. The appellant states that other sites that have come forward across the district lie extant and fallow. They also add that this proposal would be delivered by local builder and would be a high-quality scheme built to a high and modern standards, using local sub-contractors and suppliers. Whilst I acknowledge these positive effects of the development, they do not outweigh the harm that I have identified above.

26. The appellant also states that the consultee responses are not onerous nor in objection. However, the lack of objections from a Council department or outside organisations and bodies, does not necessarily mean that harm does not exist, and whilst I have had regard to these responses, I have come to my own judgement on the evidence before me.

Planning Balance and Conclusion

27. The Council has confirmed that it cannot currently demonstrate a 5 year housing land supply as required by paragraph 73 of the National Planning Policy Framework (the Framework), with its land supply stated to be 3.70 years[6]. Therefore, the relevant policies of the development plan are considered to be out-of-date. As a consequence, the presumption in favour of sustainable development as outlined in Paragraph 11 of the Framework is engaged, which indicates that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

28. I acknowledge the points by the appellant that the proposed development would provide additional houses and a social benefit, particularly in a district with a shortfall in housing supply. There would also be economic and community benefits from the local investment in its construction and future spending by the intended occupants. There would also be some environmental benefits in terms of the ecological enhancements proposed through the

[6] Five year Land Supply 1 April 2019 to 31 March 2024 – East Cambridgeshire District Council (June 2019)

GCNRIA. However, the nature of these benefits is somewhat limited due to the scale of the proposal. In terms of addressing the Council's housing land supply shortfall, the proposal would only have a limited impact.

29. Set against these benefits, there would be environmental harm due to the adverse effect on the character and appearance of the area and the living conditions of future occupants.

30. I conclude that the adverse impacts of the development, taken together, would significantly and demonstrably outweigh the benefits, and as such, the proposed development would not constitute sustainable development.

31. The proposal would therefore result in conflict with the development plan which is not outweighed by other material considerations, including the Framework. For the reasons set out above, I conclude that the appeal should be dismissed.

D Peppitt

INSPECTOR