

Appeal Decisions

Hearing Held on 28 November 2019

Site visit made on 28 November 2019

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 January 2020

Appeal A Ref: APP/D0515/W/18/3203159 **20 Deerfield Road, March PE15 9AH**

- 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 M Cooper against the decision of Fenland District Council.
 - The application Ref F/YR18/0070/F, dated 12 January 2018, was refused by notice dated 29 March 2018.
 - The development proposed is described as "to demolition the existing bungalow and out building, clear the site and construct 4 one bedroom homes with associated access ways, parking and private gardens."
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Appeal B Ref: APP/D0515/W/19/3228977 **20 Deerfield Road, March PE15 9AH**

- 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 M Cooper against the decision of Fenland District Council.
 - The application Ref F/YR19/0164/F, dated 12 February 2019, was refused by notice dated 25 April 2019.
 - The development proposed is described as "to demolish the existing bungalow and out-buildings, clear the site and construct 4 one bedroom homes with associated access ways, parking and private gardens."
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Appeal C Ref: APP/D0515/W/19/3236639 **20 Deerfield Road, March PE15 9AH**

- 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 M Cooper against the decision of Fenland District Council.
 - The application Ref F/YR19/0516/F, dated 20 May 2019, was refused by notice dated 9 August 2019.
 - The development proposed is described as "to demolish the existing bungalow and out-buildings, clear the site and construct 4 one bedroom homes with associated access ways, parking and private gardens."
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Decisions

Appeal A Ref: APP/D0515/W/18/3203159

1. Appeal A is allowed and planning permission is granted to demolish the existing bungalow and out building, clear the site and construct 4 one bedroom homes with associated access ways, parking and private gardens at 20 Deerfield Road, March PE15 9AH, in accordance with the terms of the application, Ref F/YR18/0070/F, dated 12 January 2018, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan and Drawing Nos 1093-02A; 1093-03; 1093-04B; 1093-05A.
- 3) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority, details of how this unsuspected contamination shall be dealt with. The development shall then be carried out in accordance with the approved remediation strategy.
- 4) The access and hardstanding areas hereby approved shall be constructed with adequate drainage measures to prevent surface water run-off onto adjacent public highway and thereafter retained in perpetuity.
- 5) Before the occupation of the development hereby approved, the proposed parking area shall be laid out in accordance with the approved plans, surfaced in a bound material drained within the site. The parking area, surfacing and drainage shall thereafter be retained in perpetuity (notwithstanding the provisions of Schedule 2, Part A, Class F of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any instrument revoking or re-enacting that Order).
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any instrument revoking or re-enacting that Order) planning permission shall be required for development or alterations falling within Classes A, B, C, D and E of Part 1, Schedule 2 and Class A of Part 2, Schedule 2.

Appeal B Ref: APP/D0515/W/19/3228977

2. Appeal B is dismissed.

Appeal C Ref: APP/D0515/W/19/3236639

3. Appeal C is dismissed.

Application for Costs

4. An application for costs was made by Mr M Cooper against Fenland District Council. This application is the subject of a separate Decision.

Procedural Matter

5. As set out above there are three appeals on this site. They differ in the detail of design and layout. I have considered each proposal on its own merits. However, to avoid duplication I have dealt with the three schemes together, except where otherwise indicated.

Main Issues

6. The main issues are the effect of the proposals on the living conditions of the occupiers of 18 Deerfield Road (No 18) and 11 Ashbeach Road (No 11) in

respect of light, privacy, noise and overbearing effects; whether the proposals would provide satisfactory living conditions for its future occupiers; the effect of the proposals on highway safety with regards to access; and the effect of the proposals on the character and appearance of the surrounding area.

Reasons

Living condition of neighbouring occupiers

7. The proposed developments would be two storey buildings being modest in scale. The developments would not be in close proximity to the boundaries of Nos 18 and 11. Given the scale of the proposals and the distance from the windows and doors and the garden areas of Nos 18 and 11, there would be no adverse overbearing effects created that would compromise the outlook of the occupiers of Nos 18 and 11.
8. Due to the scale and siting of the proposed developments and the orientation of the existing buildings, the proposals would not be bulky and would not create any overshadowing that would have detrimental effects on the living conditions of the occupiers of Nos 18 and 11.
9. The developments propose windows in the north and west elevations. These include windows into rooms described as home offices. Whilst the intention of the developer would be for these rooms to be used as offices, it would not be unusual for future occupiers to utilise these rooms as bedrooms. I therefore consider that these rooms would be habitable rooms. The use of obscure glazing for these rooms would be inappropriate as this would severely restrict outlook for future occupiers of the rooms. Nevertheless, given the location of the proposed windows in the north and west elevations and the distance from neighbouring windows, doors and garden areas, the proposals would not have a harmful effect on neighbouring occupiers with regards to privacy.
10. The proposed access for Appeal B would run alongside the boundary with No 18, which is not an uncommon feature within the area. A high boundary fence runs along the majority of the boundary between the appeal site and Nos 18 and 11. I note the level of activity associated with four residential properties including vehicle trips along the proposed access would differ from the existing situation. However, the existing boundary treatment would provide a substantial barrier, ensuring that the occupiers of Nos 18 and 11 would not be adversely compromised by future activities of the proposed developments with respect of noise.
11. Accordingly, I find that the proposed developments would not have a harmful effect on the living conditions of the occupiers of Nos 18 and 11 with regards to light, privacy, noise and overbearing effects. The proposals would accord with Policy LP16 of the Fenland Local Plan 2014 (FLP) and the Framework which seeks development to not adversely impact on amenity of neighbouring users.

Living conditions of future occupiers

12. The development in Appeal A proposes four parking spaces in front of the proposed units 2 and 3. The parking spaces are numbered on the submitted plans and the appellant confirmed at the Hearing that each parking space would be allocated to a specific residential unit. The living room windows of units 2 and 3 would look over the parking spaces numbered 2 and 3 respectively, ensuring that future occupiers of units 2 and 3 would not be

compromised in terms of privacy. It is not an uncommon arrangement to have parking spaces directly outside a property or living room windows and the proposal would not have an adverse effect on the outlook of future occupiers of the properties.

13. The parking spaces for units 1 and 4 in Appeal A would be located in front of the door and toilet windows of units 2 and 3. The pathways from parking spaces 1 and 4 to the respective residential units would be down the side of the building and would not necessitate occupiers of these units having to walk past the living room windows of units 2 and 3. The positioning of the allocated parking spaces in relation to the windows and doors of units 2 and 3 would ensure that the living conditions of future occupiers would not be adversely affected in relation to privacy.
14. I have had regard to the Council's statement of case including the appeal decision¹ at 63 Deerfield Road (No 63). The Inspector described that the parking spaces for No 63 would be directly in front of the main lounge window and the only bedroom window of the proposed dwelling. I therefore do not consider that this scheme to be directly comparable to the development subject of Appeal A, particularly with regards to location of parking spaces and positioning of habitable windows. In any case I have determined this appeal on its own merits.
15. Accordingly, the proposed scheme in Appeal A, would provide satisfactory living conditions for future occupiers of the properties. The proposal would be in accordance with Policies LP2 and LP16 of the FLP which seeks development to provide high quality environments and promote high levels of residential amenity.
16. The proposed garden areas in Appeals B and C are located to the front and rear of the buildings, some of which are detached from the proposed properties by the parking areas. Outdoor space is important to meet the demands of everyday life for occupants, providing an area for relaxation as well as essential activities.
17. Policy LP16 of the FLP advises that a third of the plot curtilage should be set aside as private amenity space. Some of the proposed garden areas do not achieve this third of a plot area and would feel cramped. The proposed garden areas to the front of the properties would be overlooked by passer-by's compromising the privacy of these amenity areas. The detachment of the gardens from some of the residential properties would also have an adverse effect on the enjoyment of the outdoor amenity areas. The proposals in Appeals B and C would not provide suitable outdoor amenity space that would give the properties an oppressive feel and would have a detrimental effect on the living conditions of the occupants of the proposed properties.
18. My attention has been drawn to other schemes in the area including developments at Dagless Way and Jim Hocking Court. However, I do not have full details of these development schemes or the circumstances that led to them being accepted and so cannot be sure that they represent a direct parallel to the proposals in Appeals B and C, including in respect of type of residential accommodation and development plan policies. Nevertheless, I have determined these appeals on their own merits.

¹ Planning Inspectorate Reference Number: APP/D0515/W/17/3188726

19. The proposals in Appeal B and C would have harmful effects on the living conditions of future occupiers of the properties with regards to private amenity space. The proposals would fail to comply with Policies LP2 and LP16 of the FLP and the Framework which seeks development to provide high quality environments and promote high levels of residential amenity.

Highway safety

20. The proposed development in Appeal B would introduce an access onto Deerfield Road which would be in close proximity to the boundary with 18 Deerfield Road (No 18). There is a range of walls and fences bounding the front garden areas of the properties along Deerfield Road.
21. The access would be close to the boundary of No 18 and the visibility at the proposed access junction would be restricted, particularly looking westbound where the existing boundary treatment of No 18 would prevent views when exiting the site which would force drivers to edge out onto Deerfield Road to gain visibility.
22. The appellant has referred to paragraph 108 and 109 of the Framework and stated that the proposed access would not have a serious effect. The proposed development would not have a severe impact on the road network, however the proposal would not ensure that a safe and suitable access can be achieved for all users, and therefore the proposal would have an unacceptable impact on highway safety and be contrary to paragraph 108 and 109 of the Framework.
23. The appellant has indicated that speed levels are low in the area and I note there are other accesses in the area which have a similar arrangement to the access proposed. The proposal would be for four residential units and the use of the proposed access would be significant compared to the majority of other residential accesses in the area.
24. The proposal, relating to Appeal B, would have a harmful effect on highway safety with regards to the access. The proposal would fail to accord with Policy LP15 of the FLP which seeks development to provide safe and convenient access for all.
25. Both parties agreed at the Hearing that there are no concerns with the effect of the proposals in Appeals A and C on highway safety with regards to access.

Character and appearance

26. The area in which the appeal site lies is characterised predominantly by residential properties with a notable exception being the Social Club building directly opposite the site. There is a mix of different building styles in the area with differing architectural designs and features including the use of various materials. It is this variant style of built form which positively contributes to the character of the surrounding area.
27. There is a distinct building line to the properties to the north of Deerfield Road and the proposed development for Appeal A would be set further back than the existing properties to allow for parking spaces. The appeal site is located on a corner plot with a residential access to the east of the site. I also noted that there were a number of properties in the area which had vehicles parked to the front of the houses. Given the location of the appeal site and the positioning of

the proposed property and parking for Appeal A, the proposal would not appear overly harmful in the context of the existing built form in the area.

28. The proposal for Appeal C would introduce a building with an undercroft design including large windows to the front elevation and Juliet balconies to the first floor. The appeal site is large and would be able to accommodate a building of the size and scale proposed in Appeal C. The design detailings of the proposed building in Appeal C would differ from the existing architectural features in the area however, given the variant building styles, the proposal would not have a detrimental effect on the appearance of the surrounding area. The Council indicated at the Hearing that there were some concerns regarding materials for the scheme in Appeal C. There are a mix of different materials in the area and through the use of a condition, I consider that a suitable material palette for the building can be achieved that would not compromise the character of the area.
29. I therefore find that the proposals for Appeals A and C would not have a harmful effect on the character and appearance of the surrounding area. The proposals would not contradict Policy LP16 of the FLP and the Framework which seeks development to make a positive contribution to the local distinctiveness and character of the area.
30. The Council confirmed at the Hearing that there were no concerns with the development subject of Appeal B having any harm to the character and appearance of the area.

Other matters

31. The appellant indicates in their statement of cases that the Council do not have a five year housing land supply and refers to an allowed appeal decision² dated 10 November 2017 which concluded that the Council did not have a five year housing land supply. The Council have provided a Five Year Housing Land Supply report dated June 2019 which indicates that the Council can demonstrate a housing land supply of 7.18 years. No further evidence was presented at the Hearing regarding housing land supply.
32. The proposals would be in a sustainable location and provide accommodation that would meet housing need in the area. The proposals would also provide economic activity during construction stage. These matters however, do not lead me to a different overall conclusion on the main issues.

Conditions

33. The conditions imposed are those that were agreed by the appellant and the Council at the Hearing. In the interests of precision and clarity I have undertaken some minor editing and rationalisation.
34. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings as this provides certainty. To prevent undue risk to the local environment it is necessary to attach conditions relating to drainage and contamination. To protect the living conditions of occupiers of neighbouring properties, it is necessary for certain permitted development rights to be removed from the properties.

² Planning Inspectorate Reference Number: APP/D0515/W/17/3171513

Conclusions

35. I conclude that the scheme subject of Appeal A would not have harmful effects on the living conditions of existing and future occupiers of the proposed development and Nos 18 and 11; highway safety; and the character and appearance of the surrounding area.
36. The scheme subject of Appeal B would not have a harmful effect on the living conditions of the occupiers of Nos 18 and 11 with regards to light, privacy, noise and overbearing effects; or the character and appearance of the surrounding area. These matters however would not outweigh the harm I have identified in relation to the living conditions for future occupiers of the properties regarding private amenity space; and highway safety regarding access.
37. Finally, the scheme subject of Appeal C would not be harmful to the living conditions of the occupiers of Nos 18 and 11; highways safety; or the character and appearance of the surrounding area. These matters however would not outweigh the harmful effects that I have identified in terms of the effects on the living conditions of future occupiers of the development in relation to private amenity space.
38. For the reasons set out above, and having had regard to all other matters raised, I conclude that Appeal A should be allowed, and Appeal B and Appeal C should be dismissed.

Chris Baxter

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr Robert Whickham	Planning Consultant
Marcel Cooper	Appellant
Eugene Cooper	Architect
Christian Cooper	Architect
Patrick Kavanagh	Estate Agent Consultant

FOR THE LOCAL PLANNING AUTHORITY:

David Rowen	Fenland District Council
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DOCUMENTS SUBMITTED AT THE HEARING:

1. Statement of Common Ground signed by appellant and Council
2. March Neighbourhood Plan November 2017
3. Appendix P9 document – Drwg No. 1087-03 Rev G
4. Application for Costs
5. Application form relating to Appeal C