
Appeal Decision

Site visit made on 8 January 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2020

Appeal Ref: APP/V0510/W/19/3237572

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 19/00519/FUL, dated 17 April 2019, was refused by notice dated 5 September 2019.
 - The development proposed is to provide 4no. 3 bed houses and refurbish existing 3 bed property on site with associated external amenity spaces, landscaping, parking and access arrangements.
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Decision

1. The appeal is allowed and planning permission is granted for 4no. 3 bed houses and refurbishment of existing 3 bed property on site with associated external amenity spaces, landscaping, parking and access arrangements at 51 Cannon Street, Little Downham CB6 2SS, in accordance with the terms of the application, 19/00519/FUL, dated 17 April 2019, subject to the conditions set out at the end of this decision.

Application for costs

2. An application for costs was made by Mr Jason Constable against East Cambridgeshire District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect upon the character and appearance of the area.
4. Whilst the proposal is for five dwellings in total, one of these would be provided by refurbishing an existing dwelling (annotated as plot 1 on the submitted drawings here) which, whilst involving the rebuilding of a garage, would have limited implications in character and appearance terms. Furthermore, separate planning permission¹ has recently been granted for a single dwelling off White Horse Lane (annotated as plot 5 on the submitted drawings here). In this context, my considerations shall chiefly be focussed upon the effect of proposed plots 2-4 (the proposed dwellings) situated to the rear of the site. Indeed, the Council's objections, as specifically referenced in their reason for refusal, are centred upon this particular part of the proposal.

¹ 19/00544/FUL

Reasons

5. The appeal site is located to the southern edge of the village of Little Downham. At its northern end, the site contains a detached 2-storey dwelling that makes up part of a row of properties that front Cannon Street. To the rear of this, and also forming part of the appeal site, is a spacious, sloping and predominantly grassed area that I understand has previously been used as an orchard. This area lies before a network of agricultural fields situated to the south.
6. To its eastern edge the site abuts White Horse Lane, a residential cul-de-sac that provides access to a limited number of homes, and to its southwestern edge is situated a small complex of buildings that appear agricultural in their form and function. The character and appearance of the appeal site, being situated at the edge of the village and, for the most part, outside of the village's defined development envelope, is heavily influenced by its rural and agricultural surroundings.
7. The proposed dwellings would be observable from various publicly accessible vantage points surrounding the site. They would cover relatively large footprint areas and would be of sufficient height to accommodate first floor living accommodation. Thus, their introduction would inevitably have an urbanising effect and reduce the openness that currently exists to the rear of the site.
8. It is nevertheless important to note that the proposed dwellings would be positioned at a noticeably lower ground level when compared to Cannon Street, a location from where fleeting views across the adjacent rural landscape are available. Following my own inspection, I am satisfied that the proposed dwellings, which would be loosely spaced to the rear of the site, would have a limited influence upon outward southward views from Cannon Street. The value of these existing views would thus be retained and not unduly compromised by the proposal.
9. When experienced from other vantage points to the sides and rear of the site it is important to note that the proposed dwellings would be experienced against the backdrop of existing built development. This is due, in part, to the presence of White Horse Lane and the properties it serves. Whilst, to a certain extent, the agricultural buildings to the site's western side read as a part of the surrounding rural landscape, they are still built additions that have a physical presence and influence the local pattern of development. Considering these immediate surroundings, I do not consider that the proposal should be resisted purely on the basis that it would introduce 'backland' development to the rear of the row of properties that address Cannon Street.
10. The proposed dwellings would be widely spaced and set on a broadly consistent horizontal axis. They would be of suitable design and appearance when considered against the varied type and form of other properties in the locality and would be set forward a noteworthy distance from the appeal site's rear boundary. Spacious rear garden areas as well as associated planting would be provided/retained, which would assist in assimilating the development with its rural surroundings. All matters considered, the proposed dwellings, whilst urbanising and causing of some harm, would not appear as an excessive or highly damaging excursion into the open countryside.

11. For the above reasons, the proposal would cause harm to the character and appearance of the area. The proposal conflicts with Policies GROWTH2, ENV1 and ENV2 of the East Cambridgeshire Local Plan (April 2015) (the Local Plan) in so far as these policies state that development will be strictly controlled in the countryside and that proposals will protect, conserve and, where possible, enhance the pattern of traditional landscape features and the unspoilt nature and tranquillity of the area.

Other Matters

12. The appeal site is not contained within, and does not sit adjacent to, the Little Downham Conservation Area (the CA). I am content that the proposal, being relatively limited in scale and extent and set away from the CA's boundary, would be sensitive to its setting and would not result in a loss of heritage significance. Indeed, the Council has not raised concerns in this context.
13. I acknowledge that there have been other recent planning appeals² at the site, which were unsuccessful. Where either provided or referred to in the evidence before me, I have taken these previous decisions into account in my consideration of this appeal. Nonetheless, the other schemes related to different forms and extents of new development and had differing effects accordingly (including with respect to neighbouring living conditions). For the avoidance of doubt, I must consider the proposal before me upon its own individual merits.
14. Little Downham is a settlement that contains some facilities and services, including a school and local bus services. The National Planning Policy Framework (February 2019) (the Framework) sets out that opportunities to promote walking, cycling and public transport use should be pursued, and that rural housing should be located where it will enhance or maintain the vitality of rural communities. The site's immediate relationship to the village would, I consider, suitably promote these objectives being achieved.
15. I am satisfied that suitable levels of on-site car parking would be provided to serve the development and note that the Highway Authority has not raised concerns in this context. The newly proposed shared vehicular access and associated parking and turning areas would be suitably arranged so as not to promote undue noise and disturbance (including via traffic movements and lighting) being caused to existing residents. Indeed, traffic flows to and from the development would be expected to be relatively limited and boundary treatment and soft landscaping schemes would provide additional mitigation and could be secured via condition.
16. The proposed dwellings would be positioned suitable distances away from the various neighbouring properties that already exist and would thus not appear overbearing or result in overshadowing or undue loss of privacy for neighbouring residential occupiers. I again note that planning permission has already been granted for a single dwelling on plot 5 (off White Horse Lane), such that it is not necessary for me to consider in detail here its implications upon neighbouring living conditions.
17. A bin collection point and turning facilities are indicated on the site layout in proximity to the proposed dwellings. Even if it were ultimately found to be the

² APP/V0510/W/17/3189530 & APP/V0510/W/19/3233358

case that the new shared vehicular access was not suitable for refuse vehicles, the Cannon Street frontage is located only a short distance away such that, notwithstanding the slope that is in place, bins could be taken there by future residents in a relatively straightforward fashion for collection purposes. I further note that the number of bins/receptacles associated with the future occupation of the proposed dwellings would realistically be expected to be relatively limited in number.

Planning Balance

18. The Council has confirmed that a five-year supply of housing land cannot currently be demonstrated in the District. Indeed, I am of the understanding that the current shortfall is significant notwithstanding any planning permissions granted for residential development in the locality in recent times. The Framework is clear that where a five-year supply of deliverable housing sites cannot be demonstrated the presumption in favour of sustainable development, as set out under paragraph 11 of the Framework, is engaged. For decision making this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.
19. I have identified conflict with Policy GROWTH2 of the Local Plan. Whilst this outlines a locational strategy for development, it acts to restrict the supply of housing. When considering the housing land deficit, I apportion the scheme's conflict with this policy only limited weight.
20. I have also identified conflict with Policies ENV1 and ENV2 of the Local Plan, which are broadly consistent with the Framework in so far as it recognises the intrinsic character and beauty of the countryside and requires that developments should be sympathetic to local character and landscape setting. I have found a degree of harm to arise upon the character and appearance of the area in the context of Policies ENV1 and ENV2, to which I apportion moderate weight.
21. Turning to the schemes benefits, it would, when factoring in that planning permission has already been granted for a dwelling on plot 5, deliver an additional three residential units in a District where there is currently a significant shortfall in the supply of housing land. This represents a meaningful contribution in such circumstances. Whilst delivery would not be expected to make a clear difference to the overall housing land supply position in the District, I apportion this benefit of the scheme considerable weight.
22. The proposal would also generate jobs and investment during the construction phase and expenditure in the local economy and support for local community facilities in the area once occupied, these are benefits that attract limited weight given the modest scale of development under consideration. Considering the fairly small size of the site, any ecological benefits brought about through additional landscaping would also be limited.
23. Having considered the benefits and adverse impacts of the scheme before me, I conclude that the harm and policy conflict that I have identified would not significantly and demonstrably outweigh the proposal's benefits when assessed against the Framework's policies taken as a whole. The presumption in favour of sustainable development, as set out in the Framework, applies therefore.

24. Notwithstanding the identified conflicts with Policies GROWTH2, ENV1 and ENV2 of the Local Plan, there are material considerations that indicate that the proposal should be determined otherwise than in accordance with the development plan in this case.

Conditions

25. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and 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 purposes and have omitted others. Pre-commencement conditions have only been applied where agreed to by the appellant in writing and where necessary to guide initial works on site.
26. In light of the current housing supply shortfall, it is appropriate that a 2-year period for commencement is imposed in the interests of promoting quick delivery. In the interests of certainty, a condition specifying the approved plans and documents is required. With respect to each of the plans listed, I have used the latest plan revision before me. I am satisfied that no party with an interest in this appeal is prejudiced by me taking this approach, particularly as all of the plans listed were before the Council when it resolved to determine the planning application that is now the subject of this appeal.
27. In the interests of safeguarding the living conditions of future occupiers of the development and of seeking to guard against pollution, conditions are reasonable and necessary that secure that potential contamination is properly investigated and remediated (where necessary) both before and throughout the construction phase of development.
28. In the interests of protecting the character and appearance of the area, a condition is reasonable and necessary to secure full details of the external surfaces of the development. For the same reason, further conditions are also required to secure full details and the implementation of boundary treatments and of hard and soft landscaping works. The boundary treatment and soft landscaping conditions would also be in the interests of safeguarding neighbouring living conditions.
29. In the interests of enhancing biodiversity and safeguarding protected species, conditions are reasonable and necessary to ensure that various intended enhancement and mitigation measures are indeed implemented and thereafter maintained, including through the planting of soft landscaping and the delivery of a Biodiversity Management Plan. The Wildlife Trust, I note, is content with the various measures and recommendations contained within the relevant survey and assessment documents submitted.
30. Whilst the site is located within Flood Zone 1, the lowest risk zone, I note that interested parties have raised potential flooding and drainage concerns. To guard against flood risk and to protect water quality, it is both reasonable and necessary to impose a condition attaining full details of how surface and foul water on the site shall be disposed of and securing the subsequent retention of these measures.
31. In the interests of highway safety, conditions are reasonable and necessary that secure that the new shared vehicular access and parking and turning areas are laid out in accordance with the submitted details and thereafter retained,

and that all new access points do not allow for surface water to drain to the public highway. To ensure consistency with extant permission 19/00544/FUL, the condition referring to parking and turning areas shall make it clear that two off-street parking spaces are to be provided within plot 5.

32. As set out in the Framework, conditions restricting the future use of permitted development rights should only be used where there is clear justification to do so. In this instance, again in the interests of highway safety, I see clear justification for such a condition to be applied that pertains to the future erection of any gates, fences or walls across any new vehicular access to be installed.
33. So as to ensure that the living conditions of local residential occupiers are properly safeguarded, conditions are reasonable and necessary that secure full details of the method of piling to be undertaken (should the building foundations require it), that control the hours of construction work and that secure the submission and implementation of a Construction Environmental Management Plan (CEMP). The CEMP condition is also in the interests of highway safety.
34. In the interests of ensuring that existing trees to be retained are properly safeguarded during construction, a condition is reasonable and necessary that secures implementation in full accordance with the recommendations contained within the approved arboricultural report. I was suitably content from my own site inspection that the trees intended to be retained and protected, as depicted upon approved plan TPP_51CANNONST_1A, remained in situ.
35. To ensure that any archaeological remains on-site are suitably recorded, a condition is required securing a programme of archaeological investigation. In the interests of promoting an energy efficient development, a condition is reasonable and necessary that secures the submission and implementation of an Energy and Sustainability Strategy.

Conclusion

36. For the above reasons, the appeal is allowed subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be commenced within 2 years of the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following plans and documents: Location Plan; PL-4-01C; PL101G; PL102G; PL-2-04B; PL-02-05A; P-2-03B; PL-4-02B; PL-3-04C; PL-3-03C; TPP_51CANNONST_1A; Arboricultural Impact Assessment and Method Statement (June 2019); Reptile Survey (16 October 2018); Great Crested Newt and Reptile Impact Assessment (June 2019); Transport Statement (March 2019).

- 3) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which shall have first been submitted to and approved in writing by the Local Planning Authority.
- 4) No development shall take place until a scheme to dispose of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to the first occupation of any dwelling hereby permitted and shall be maintained in accordance with the approved details at all times thereafter.
- 5) No development shall take place until an Energy and Sustainability Strategy for the development, including details of any on-site renewable energy technology and energy efficiency measures, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved Strategy.
- 6) No development shall take place until an investigation and risk assessment of the nature and extent of any contamination on the site, whether or not it originated on the site, has been undertaken. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and approved in writing by the Local Planning Authority before any development takes place. The report of the findings shall include: (i) a survey of the extent, scale and nature of contamination; (ii) an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments; and (iii) an appraisal of remedial options, and proposal of the preferred option(s) including a timeframe for implementation. The investigation and risk assessment shall be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Any remediation works proposed shall be carried out in accordance with the approved details and timeframe as approved in writing by the Local Planning Authority.
- 7) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it shall be reported in writing to the Local Planning Authority within 48 hours and no further work shall take place until an investigation and risk assessment has been undertaken and submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary, a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority before work recommences. The necessary remediation works shall be undertaken and, following completion of the measures identified in the approved remediation scheme, a verification report shall be prepared and submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the development hereby permitted.
- 8) No development shall take place until a Biodiversity Management Plan based on the recommendations provided in the approved Reptile Survey

- (October 2018) and Great Crested Newt and Reptile Impact Assessment (June 2019) and including details of intended enhancements to the nature corridor, wood pile, pond, hibernacula and rough wildflower grass areas, as depicted on approved plan PL101G, has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.
- 9) The development hereby permitted shall be completed only in accordance with the biodiversity recommendations and mitigation measures as stipulated within the approved Reptile Survey (October 2018) and Great Crested Newt and Reptile Impact Assessment (June 2019) and as detailed on approved plan PL101G. The biodiversity improvement and mitigation measures shall be installed prior to the first occupation of any dwelling hereby approved and thereafter maintained in perpetuity.
 - 10) Prior to any site clearance or work commencing on the site a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority, which shall include, but not be limited to, details of mitigation measures for noise, dust and lighting during the construction phase, details of the access points for deliveries and site vehicles, and details of the proposed phasing/timescales of development. The CEMP shall at all times be adhered to during all phases of construction. No burning of waste shall take place on the site during all site clearance and construction phases.
 - 11) Construction times and deliveries, with the exception of works to fit-out the dwellings internally, shall be limited to the following hours: 0730-1800 Monday-Friday, 0730-1300 on Saturdays and none on Sundays and Bank Holidays.
 - 12) In the event that the foundations of the development require piling, no development shall take place until a report/method statement has been submitted to and approved in writing by the Local Planning Authority, which shall detail the type of piling and the mitigation measures to be taken to protect local residents from noise and/or vibration. Noise and vibration control on the development shall be carried out in accordance with the approved details.
 - 13) No above ground construction shall take place on site until full details of the external surfaces of the development, including to walls, roofs, windows and doors, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
 - 14) No above ground construction shall take place until full details of all hard-surfacing materials have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be carried out in full prior to the first occupation of the development.
 - 15) No above ground construction shall take place until details of the intended boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The approved treatments shall be implemented in accordance with the approved details prior to the first occupation of any dwelling and shall be retained in accordance with the agreed details in perpetuity.

- 16) Prior to the first occupation of any dwelling hereby permitted a full schedule of all soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include planting plans, a written specification, schedules of plants noting species (to include some heritage apple), plant sizes, proposed numbers/densities and a detailed implementation programme (including details of who will be responsible and any phasing arrangements). It shall also indicate all existing trees and hedgerows on the land and details of any to be retained. The works shall be carried out in accordance with the approved details prior to the end of the first planting season following first occupation of the development. If within a period of ten years from the date of the planting, or replacement planting, any tree or plant (including retained existing trees/hedgerows) 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.
- 17) The development hereby permitted shall be implemented only in accordance with the recommendations and tree mitigation measures contained within the approved Arboricultural Impact Assessment and Method Statement, dated June 2019. The protective measures contained within the report shall be implemented prior to the commencement of any development or site clearance works and shall be maintained and retained until the development is completed. Within the root protection areas of existing trees to be retained the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored thereon. If any trenches for services are required within fenced areas, they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.
- 18) In accordance with approved plan PL101G, the shared vehicular access hereby permitted shall be installed prior to the first occupation of the development at a minimum width of 5m and for a minimum distance of 10m measured from the near edge of the highway carriageway and thereafter shall be retained in this approved form in perpetuity.
- 19) All car parking and turning facilities, as depicted on approved plan PL101G, shall be provided in a hard-surfaced form prior to the first occupation of the development and thereafter shall be retained at all times for the purposes of parking and turning vehicles only. For the avoidance of doubt, this shall include provision of sufficient space to allow two cars to park within plot 5 as depicted on approved plan PL101G.
- 20) All vehicular access points and areas of hardstanding within the site shall be constructed with adequate drainage measures to prevent surface water running off onto the adjacent public highway, and these measures shall be retained in perpetuity.
- 21) 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 any new vehicular access hereby permitted and depicted on approved plan PL101G.