



Appeal Decision

Site visit made on 17 September 2019

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 6th February 2020

Appeal Ref: APP/D0515/W/19/3230632

**Former Colville Primary School, Church Lane, Newton In The Isle,
Cambridgeshire PE13 5HF**

- 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 Peter Terry on behalf of PJ Developments Ltd against the decision of Fenland District Council.
 - The application Ref F/YR18/1120/O, dated 30 November 2018, was refused by notice dated 12 March 2019.
 - The development proposed is 14 one bedroom and 20 two bedroom sheltered retirement apartments with landscaping and associated parking.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal seeks outline planning permission, with all matters reserved except access and layout. I have considered the appeal on this basis and have treated any plans in relation to the reserved matters as illustrative.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area, including its effect on the setting of a nearby listed building and on adjacent trees;
 - Whether the appeal site would provide a suitable location for the proposed development, having regard to the accessibility of services and facilities;
 - Whether the proposed development would be safe from flooding;
 - Whether the proposed development makes adequate provision for car parking; and
 - Whether there are contamination risks which would be likely to make the site unsuitable for the proposed development.

Reasons

Character and appearance, listed building and trees

4. The appeal site is an area of land which has a prominent location on the corner of Church Lane and Goodens Lane. Whilst the appearance of dwellings in the vicinity is relatively diverse, Church Lane is characterised at this point by well spaced two-storey residential development within reasonably sized plots which give way to open countryside as the lane passes out of the village. Dwellings along Goodens Lane are generally two-storey and well spaced. Generous levels of boundary trees, hedging and verges are present in the vicinity. As a result of these factors, the area has a spacious and verdant appearance which is in keeping with the village's rural location.
5. The site is open land which contains some hard surfacing and some undergrowth. There is minimal indication of any of the former school buildings which it held. Its undeveloped character allows for views across the site to a playing field beyond. These make a positive contribution to the spacious appearance of the area.
6. The appeal proposes the construction of 34 sheltered retirement apartments on the land. The proposed development would comprise an uninterrupted massing of built form which would span the majority of the site's frontage onto both streets. Whilst the layout would allow for some limited landscaping at the site frontage, a significant area of the plot would additionally form a surfaced car parking area. The building and parking area would together have a cramped and urbanising visual effect which would be out of keeping with the prevailing spacious and verdant pattern of development in the area as a result of their layout, massing and hard surfaces.
7. Some elements of the front of the building would have a limited greater set back from the street. Notwithstanding this, it remains the case that there would be no breaks within the building's front elevation, with resulting visual incongruity within the street scene. Similarly, whilst scale is a matter reserved for future consideration, if the building were of a similar height to surrounding properties this would not overcome the harm caused by its overall width.
8. St James Church is a Grade II* listed building which lies a little farther along the street from the appeal site. I have a statutory duty, under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the setting of the listed building.
9. Paragraphs 193 and 194 of the Framework advise that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
10. The church's special interest and significance is greatly informed by its architectural interest as a building dating back several centuries. Views of the church are currently possible through the site and above an adjacent property. A clear view of its tower can be obtained from Goodens Lane between intervening trees. Furthermore, such views would increase in winter due to leaf loss from deciduous species. The openness of the appeal site and the verdant appearance of intervening garden trees contribute a spacious and rural appearance to the church's setting which emphasises the church's position within a small village.

11. The appeal proposal would erode the rural spaciousness which the appeal site contributes to the church's setting by the introduction of an incongruous significant massing of built form at the site. This would minimise the views of the church framed by natural form which are available from both adjacent streets. As a result, the development would visually compete with the church. The proposal would consequently have a negative effect on its significance. As a Grade II* listed asset, the church is a particularly important building of more than special interest. Thus, it is an asset of significant importance and I consequently give great weight to its conservation.
12. "School House" is a property which lies adjacent to the appeal site. A line of mature trees lie within its rear garden and close to the boundary of the site. These contribute positively to the verdant appearance of the area. The proposed apartments, together with elements of the scheme's landscaping, would lie in close proximity to the edge of the site and hence to the trees concerned. As such, it is likely that development works such as the laying of foundations and service trenches would have a direct effect on the trees.
13. The proposal does not include an assessment of its effect on the trees concerned. The appeal seeks approval for the layout of the development at this stage. The significant footprint of the proposed building therefore represents the finished scheme. Its close proximity to the trees in question means that I am not persuaded that the proposal could proceed without causing unacceptable harm to them, or that conditions could allow for sufficient protection of them.
14. Whilst landscaping is a matter reserved for future consideration, the proposed garden would be located to the rear of the development and behind the proposed parking area. As a result, views of the garden from the public realm would be limited. The potential of the scheme to provide an attractive garden area is therefore a matter to which I attach only limited weight. Landscaping to the front of the development would have a limited area and consequently it would reduce the identified harm by only a minimal degree.
15. There is minimal information before me to suggest that a historic unimplemented scheme for ten houses at the site would have had a comparable effect on the appearance of the area, and in any case the proposal in question was assessed against a different policy background in view of its date. Therefore different considerations applied at the time, and consequently I attach only minimal weight to the relevance of this matter in determining the appeal.
16. Furthermore, I have assessed the contribution of the site to the appearance of the area in its current undeveloped state, as set out above. Therefore the historic presence of a school building at the site does not provide justification for the construction of a building of a similar scale.
17. The proposal would consequently cause unacceptable harm to the character and appearance of the area. It would additionally have a negative effect on the setting of a nearby listed building. This would cause less than substantial harm to the significance of the building. Furthermore, it would be likely to have an unacceptable effect on adjacent trees.
18. The proposal therefore conflicts with Policy LP 12 Part A (d, f and g) of the Fenland Local Plan (2014) ("the FLP"), which state that development should not

harm the character and appearance of villages and should retain and respect natural boundaries and biodiversity features. Further conflict exists with Policy LP 16 (b, c and d) of the FLP, which set out that development should enhance its local setting, protect and enhance biodiversity and retain and incorporate natural features such as trees. Additional conflict exists with Policy DM2 (d) of the "Delivering and Protecting High Quality Environments in Fenland" Supplementary Planning Document (2014) ("the ESPD"), which states that development should integrate appropriately into its surroundings in terms of scale. Conflict also exists with Policy DM 3 (b, c and d) of the ESPD, which state that the parking provision of developments should not dominate the resulting street scene, should incorporate existing views into the scheme and should aim to improve and reinforce positive features of local identity. Additional conflict exists with the design and historic environment aims of the National Planning Policy Framework (2019) ("the Framework").

Location of development

19. Policy LP3 of the FLP sets out a Fenland Settlement Hierarchy, which comprises 6 classes of settlement from market towns to "elsewhere". Newton is included within the hierarchy as a "Small Village". Residential development in this class will be considered on its merits and will normally be of a very limited nature and restricted to residential infilling or a small business opportunity.
20. The supporting text to the policy sets out that it aims to steer most new development to those larger places that offer the best access to services and facilities, helping to reduce the need to travel.
21. Newton has a village hall, a playing field, a church and a limited post office service. However, occupants of the proposed development would need to travel elsewhere in order to meet the majority of their day-to-day needs.
22. The neighbouring villages of Tydd St Giles and Gorefield have further services and facilities. Nevertheless, the roads between Newton and these settlements are generally unlit, with no footway. Furthermore, the road to Gorefield has a relatively narrow width for much of its distance. These factors are likely to render the routes concerned unattractive for regular use by pedestrians or cyclists. Given these elements and the distances involved, I do not consider that these would form realistic routes for occupants of the proposed development to regularly walk or cycle at all times of the year.
23. Bus stops in Newton offer a service to Wisbech, which is a larger local settlement with good facilities and services, although the frequency of bus services is limited and it is suggested that the future provision of public transport in Newton is uncertain. The suggested increase in the provision of public transport due to demand as a result of the development is therefore not so assured that I am able to place any particular reliance on it. Moreover, the very limited services and facilities which lie within easy walking or cycling distance weigh against the proposal. I therefore consider that occupants of the proposed development would be likely to rely on use of the private car for access to services and facilities.
24. I concur with the submission that occupants of the development may be likely to seek to reduce use of the private car in their later years. Where this is the case, the ability of such occupants to access services and facilities by

alternative means of transport would be unacceptably restricted, due to the locational factors referred to above.

25. Minimal evidence on the availability of local providers of various services to visit the proposed development at this location is before me, such that I attach only minimal weight to the potential for such visits to provide occupants of the development with access to services and facilities.
26. Similarly, the site's location within a small village and limited access to services and facilities limits the potential for the proposed housing to carry any particular health or social benefits for its occupants.
27. Whilst the proposal includes the provision of a small shop and post office service within part of the building and hence it may provide a small business opportunity, the appeal contains minimal information on the viability of such a proposal, which may be limited given the small size of the settlement and the relatively modest size of the facility proposed. This is therefore a consideration to which I attach only limited weight.
28. Furthermore, the proposal conflicts with the locational aims of Policy LP3 of the FLP irrespective of whether it would form residential infilling, due to the concerns which I have identified above.
29. Thus, I conclude that the appeal site would not provide a suitable location for the proposed development, having regard to the accessibility of services and facilities. The proposal consequently conflicts with Policy LP3 of the FLP, which steers development to places that offer the best access to services and facilities.

Whether safe from flooding

30. The Framework sets out a sequential, risk-based approach to the location of development. The Planning Practice Guidance ("the PPG") indicates that the aim of this approach is to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) where possible.
31. The appeal site lies within Flood Zone 3 according to the Environment Agency's ("the EA") flood risk mapping. Land within this zone has a high probability of flooding.
32. Policy LP14 of the FLP sets out that development in areas known to be at risk from any form of flooding will only be permitted following, in the first instance, the successful completion of a Sequential Test, having regard to actual and residual flood risks.
33. A Flood Risk Assessment ("FRA") document accompanies the appeal proposal. The FRA accepts the Flood Zone categorisation of the site and proposes measures for the management of the risk of flooding at the development. It contends that the proposal is a "redevelopment" and hence that it forms a type of development to which the Sequential Test is not applicable. In this it relies on provisions within the Framework and PPG which set out that applications for some changes of use of land or buildings should not be subject to the Sequential Test.
34. However, even if the site were to form previously developed land this would not automatically render the proposal a change of use of a type which should

not be subject to the Sequential Test. The two are separate classifications and there is minimal evidence before me to lead me to an alternative view. Thus, in view of the location of the site within Flood Zone 3, the proposal should be subject to the Sequential Test.

35. As the Sequential Test has not been undertaken, the proposal fails to pass it. It is therefore not necessary for me to go on to consider whether the Exception Test which is required by Policy LP14 of the FLP is met. Moreover, I consider that suitable alternative sites in Flood Zones 1 or 2 which are also reasonably local are likely to be available due to the relatively small size of the development. It is therefore reasonably possible for the development to be located in an area with a lower probability of flooding.
36. Turning to the risk of flooding from surface water discharge, EA maps indicate that the site currently has a very low surface water flood risk. The appellant also considers that an increase in permeable surfaces at the site would reduce its risk of flooding from this source. However, this calculation does not include the potential for surface water run off from pitched roofs, which are not currently present at the site.
37. The appeal proposes the use of a combination of infiltration drainage and other measures to provide surface water drainage. The Cambridgeshire Flood and Water Supplementary Planning Document ("the FSPD") states that, where proposed, infiltration should be assessed on site using infiltration tests that comply with the relevant guidance. Infiltration test results which could provide an indication of ground permeability have not been provided with the appeal.
38. Thus, the combination of the lack of an assessment of the effect of built form at the site on surface water flood risk and the failure to provide infiltration test results means that it is unclear whether the proposal would increase the risk of surface water discharge flooding at the site. Given the proposed change in the nature of the site from an undeveloped area to one containing substantial built form, an assessment of this risk should include the effect of the proposed built form. I note that the views of the Lead Local Flood Authority support my own on this matter.
39. The appeal proposal consequently fails the Sequential Test and does not provide adequate assurance that sufficient surface water drainage would be provided, and the proposed development would therefore not be safe from flooding. Thus, the proposal conflicts with Policy LP12 of the FLP, which states that development should not put people or property in danger from identified risks, and that development should be served by surface water drainage. Further conflict exists with Policy LP14 of the FLP and the FSPD, which seek to direct development to areas of lowest flood risk and require development to demonstrate that suitable consideration has been given to surface water drainage. Additional conflict exists with the flood risk provisions of the Framework.

Car parking

40. The scheme would provide a parking court containing 19 spaces. The appellant submits that these would comply with guidance within the Manual for Streets¹ which states that the dimensions of bays within such perpendicular parking

¹ Department for Transport, 2007

arrangements should be approximately 2.4 metres wide and a minimum of 4.2 metres long. No larger sizes of parking bay are proposed.

41. Whilst the use of the minimum recommended dimensions may be acceptable for a proportion of the parking provision, the scheme does not allow for any larger spaces which would improve accessibility for those who have difficulties with mobility. This is more likely to be an issue for some of those using the parking court in view of the intended occupants of the development. As set out above, reliance on the private car for transport by occupants is likely to be relatively high given the location of the site. Therefore demand for spaces is likely to be considerable and hence reliance could not be placed on low use of the court to provide a larger parking area. Thus, the proposal would not provide acceptable parking provision for occupants.
42. If I were to accept that the parking court's design allowed for drivers to enter and leave in a forward gear, this matter would not overcome the unacceptability of the proposed parking provision as it would not address the accessibility issues which I have identified. The submission that the occupants of such developments often own smaller and more accessible cars is unsupported by substantive evidence and consequently it carries only minimal weight.
43. The proposal consequently fails to make adequate provision for car parking. It therefore conflicts with Policy LP 15 (c) of the FLP, which requires development to provide well designed car parking. Further conflict exists with Policy LP16 of the FLP, which requires development to enable flexible use and adaptation to reflect changing lifestyles. Additional conflict exists with the design aims of the Framework.

Contamination risks

44. The PPG advises that the implications of contamination for development should be considered through the planning process to the extent that they are not addressed by other regimes. It states that contamination is more likely to arise in former industrial areas, however it may also be present in other locations.
45. The appeal site contains some hard surfacing and some undergrowth. It historically held a school. This does not comprise a former industrial use which may give rise to a need for further investigations in respect of potential contamination, as set out in the PPG. Furthermore, there is minimal evidence to suggest that unacceptable contamination may be present at the site. Whilst I acknowledge that, as proposed residential development, the appeal scheme involves a sensitive end use, there is minimal indication in the appeal evidence or at the site of any current or past activities which are likely to have resulted in contamination which would present unacceptable risks to future occupants.
46. As a result of the above factors there is, consequently, minimal evidence before me to suggest that further investigations are necessary due to potential contamination at the site. I therefore conclude that it is unlikely that contamination risks would make the appeal site unsuitable for residential use. In any event, conditions requiring the investigation and remediation of any contamination discovered in the course of development could be imposed in the event of a grant of permission in order to address any such concerns.

47. Contamination risks would therefore be unlikely to make the site unsuitable for the proposed development. The proposal consequently complies with Policy LP12 Part A(j) of the FLP, which states that development proposals in rural areas should not put people or property in danger from identified risks. It additionally complies with Policy LP16(m) of the FLP, which sets out that development sites should be suitable for the proposed use, taking account of contamination and other matters. Further compliance exists with Policy DM6 of the ESPD, which states that development should take into account the potential environmental impacts which arise from any former use of the site.

Other Matters

48. The appellant contends that there is a significant level of unmet demand for sheltered housing schemes such as that proposed. I acknowledge that the PPG states that the need to provide housing for older people is critical, and I do not dispute the benefits which sheltered housing can afford to its occupants. I additionally note that the availability of suitable alternative housing can assist in “freeing up” larger properties should people who occupy these wish to move.
49. However, the appeal site has a relatively limited size and minimal details of the availability of local sites for such schemes are before me. Even if I were to accept the appellant’s submissions with regard to demand, the appeal consequently does not persuade me that reasonably local alternative land which would be more suitable for the proposed development is not available. Thus, the appeal fails to demonstrate a compelling need for the proposal to be located at the appeal site. As a result, I attach only limited weight to the appellant’s submissions on the matter of need.
50. The appellant proposes to provide affordable housing within the development. However, no mechanism which would ensure that such housing would be provided is before me. Therefore I cannot be certain that this would form part of the scheme, and the weight which I attach to it as a benefit is consequently minimal.
51. A reduction in the need for the use of undeveloped sites as a result of the proposed use of previously developed land for housing is advanced in support of the proposal. If the site were to form previously developed land, this would form a limited benefit of the proposal.
52. Any benefits which the proposal would bring through the support of local businesses would be restricted by the relatively low level of such services and facilities in the vicinity, and the issues concerning access to these which I have identified above.
53. There is minimal evidence to suggest that the proposed sharing of facilities results in a more energy efficient development or that local finance considerations could help to make the development acceptable in planning terms, and therefore these are matters to which I attach only minimal weight.
54. I have had regard to other matters raised, including concerns about the proposal’s effect on the living conditions of neighbouring occupants and highway safety. However, as I am dismissing the appeal on the main issues for the reasons given above, I have not pursued these matters further.

Conclusion

55. I have found that contamination risks would be unlikely to make the site unsuitable for the proposed development. However, this would be a neutral effect and would not outweigh the harm I have identified regarding the remaining main issues, which includes less than substantial harm to the significance of a Grade II* listed building, which is a matter to which I attach considerable importance and weight. The limited benefits which the proposal would have would not outweigh the unacceptable harm. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR