



Appeal Decision

Site visit made on 10 March 2020

by R E Walker BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2020

Appeal Ref: APP/V0510/W/19/3242215

15 Martins Lane, Witcham CB6 2LB

- 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 Ms A Saberton against the decision of East Cambridgeshire District Council.
 - The application Ref 19/01003/OUM, dated 1 July 2019, was refused by notice dated 7 November 2019.
 - The development proposed is the outline planning application (all matters reserved except access for the demolition of the existing bungalow (no 15) and associated outbuildings and the erection of 10 dwellings with a new access from Martins Lane and associated open space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was in outline, with all matters reserved except for access. I have had regard to all the submitted plans but have treated all detailed elements of these drawings as indicative apart from the access.
3. Since the appeal was lodged, the Government has published its 2019 Housing Delivery Test (HDT) results. This confirms that the Council's delivery has, as it was in the 2018 HDT results, been below the requirement over the last 3 years. As such, a 20% buffer to the Council's housing requirement still applies and there has been no change in circumstances as a result. Therefore, no party has been prejudiced in the appeal process by the publication of the 2019 HDT results.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character and appearance of the surrounding area; and
 - Whether the proposal makes adequate provision for affordable housing.

Reasons

Character and appearance

5. The appeal site is located toward the northern end of the village of Witcham. It comprises of a single detached bungalow set in large grounds, a range of outbuildings and a small field. The field extends from the garden toward a

- small cemetery on the corner of Martins Lane and Mepal Road. The existing bungalow lies within the development envelope for the village, as defined within the East Cambridgeshire Local Plan (LP) adopted 2015. However, the field lies outside of the envelope limits.
6. Witcham contains a variety of dwelling types and layouts. However, properties along this part of the village tend to be aligned in a linear form facing toward the road. Although there are exceptions, properties are generally set in spacious grounds. Travelling along Martins Lane and around the corner onto Mepal Road, residential buildings become more dispersed and are interspersed with other land-based businesses, fields and the cemetery. Views to the wider countryside beyond become increasingly evident as part of a transitional landscape.
 7. I recognise that the appeal site is not the edge of the built form which continues along the northern side of Mepal Road. However, it is positioned at the edge of the built form on the western side of Martins Lane. It has a degree of sensitivity due to its prominent corner position, spacious open character and contribution to the transitional landscape outside of the built-up area of the village to the south.
 8. Although submitted for indicative purposes, the 'proposed feasibility layout' shows how a scheme for 10 houses could be developed on the site. I recognise that this layout would be in keeping with other forms of housing elsewhere in the village and incorporates features including the landscaped open space which would help create a sense of place and increase social interaction. However, in this case, the feasibility layout would depart from the more spacious, linear form of housing in this part of the village and would be viewed as a distinctly contrasting suburban entity.
 9. The proposal would push development back toward the rear of the site orientating several houses away from Martins Lane. Although indicative, when approaching Martins Lane from the north west, the rear of the proposed houses and gardens would become the predominant visible built form in the street scene. This would be at odds with, and harmful to, the existing, pleasant more spacious character befitting an edge of village location.
 10. I recognise that the existing outbuildings are set back within the site beyond the line of the existing residential properties on this side of Martins Lane. Moreover, the appellant has suggested that these outbuildings could be converted under a planning application. However, I have no substantive evidence that there is a significant probability that such a fallback exists, nor that if it were to, that there is a good likelihood that it would be implemented. As such, I afford this limited weight. Moreover, these are generally low-key structures of a type and form in keeping with the transitional landscape. As such, their position set back beyond the dwellings is not comparable to the level, form and location of the proposed development.
 11. My attention has been drawn to other permissions granted by the Council. Of particular relevance to the appeal site's location are permissions for 4 houses along the northern side of Mepal Road. I recognise that these properties result in housing further toward the countryside than the appeal site. From the evidence provided, these appear small plots, however they maintain the pattern of frontage housing and spacious gaps along the road that define the character of this part of the village.

12. I therefore find that the proposal would significantly harm the character and appearance of the surrounding area. It would, therefore, conflict with Policies ENV1 and ENV2 of the LP. These policies say, amongst other things, that development proposals should demonstrate that their location, scale, form, design, materials, colour, edge treatment and structural landscaping will create positive, complementary relationships with existing development.
13. These policies accord with paragraphs 127 and 130 of the National Planning Policy Framework (the Framework) which require, amongst other things, developments to be sympathetic to local character and the surrounding built environment and landscape setting. They also accord with paragraph 170 of the Framework which seeks to ensure that decisions contribute to, and enhance, the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside.

Affordable housing

14. The proposal makes no provision for affordable housing and there is a dispute between the main parties as to whether this is required. Policy HOU3 of the LP states that affordable housing contributions will be sought on developments of more than 10 dwellings. However, the Framework (paragraph 63) says that the provision of affordable housing should not be sought for residential developments that are not major developments. For housing, this means development where 10 or more homes will be provided.
15. The Council have also referred me to a Viability Assessment Report (VR) dated April 2019 and A Statement on the Seeking of Affordable Housing Developer Contributions (Statement) dated October 2019. The latter was endorsed by a Council committee and seeks to align the Council's affordable housing threshold with the definition within the Framework. Neither of these are adopted policies or Supplementary Planning Documents (SPDs) such that it is unclear to what extent they have been subject to consultation and scrutiny. As such, they carry limited weight.
16. The appellant has suggested that the appeal site is, in part, brownfield land as the existing dwelling is vacant. The definition of brownfield land (or previously developed land) in the Framework excludes land in built-up areas such as residential gardens. The appeal site is positioned with residential housing to the south and on the opposite side of Martins Lane. However, as outlined previously, it forms part of a transitional area toward the edge of the settlement and its character is influenced by the countryside. As such, I consider that the existing dwelling and its garden are not within a built-up area and would thus constitute previously developed land.
17. To this end, the existing vacant dwelling is material, as it is proposed to be demolished and replaced as part of the development. In accordance with paragraph 63 of the Framework, I consider that any affordable housing contribution that may otherwise be due should be reduced by a proportionate amount having regard to the existing vacant dwelling. As such, there would be a net gain of 9 houses and there would be no requirement for affordable housing.
18. I therefore find that the proposal would accord with the requirements of Policy HOU3 of the LP and the Framework. Moreover, although they are not

adopted policies or SPDs the proposal would also accord with the requirements of the Council's VR and Statement.

Planning Balance

19. I note the appellant's references to several paragraphs of the Framework including, amongst others, the presumption of sustainable development set out in paragraph 11. The Council has confirmed that it cannot currently demonstrate a 5-year housing land supply. The relevant policies of the development plan are therefore out-of-date and the so-called 'tilted balance' applies to this case. This 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.
20. Given the modest scale of development proposed, the associated benefits would be reasonably limited and significantly and demonstrably outweighed by the harm given the nature and extent of harm that would be caused by the development as outlined in the Character and Appearance section above. I have come to this conclusion having regard to the importance that the government places on boosting the supply of housing, locating and building sustainably and making effective use of land including on brownfield land.

Other Matters

21. As the site is located within 5 km of the Ouse Washes Ramsar site, Site of Special Scientific Interest (SSSI), Special Protection Area (SPA) and Special Area of Conservation (SAC), the Habitat Regulations¹ require an assessment to be undertaken, as to whether a proposal would be likely to have a significant effect, on the interest features of a protected site. The proposed development has the potential to result in an effect on this designated site and a Habitats Regulation Assessment is required before any planning consent is granted. I have no substantive evidence that the Council has undertaken an Appropriate Assessment and I am left to undertake my own, in my capacity as the competent authority in this case. However, I have already identified harm to the character and appearance of the surrounding area, such that undertaking my own Appropriate Assessment would not alter the outcome of the appeal. On that basis, there is no need to examine this further for the purposes of making my decision.
22. My attention has been drawn to an application which was approved by the Council for 8 houses. Although it is toward the edge of the settlement the character of that part of the village contrasts with the appeal site. I am required to consider the proposal on its own merits and my concerns do not relate to the principle of development in this location. Instead my concerns relate to the relationship of the resulting level of development within this part of the village.
23. Concerns regarding the processing of the application, including the lack of communication regarding affordable housing, are not issues that I can assess as part of this appeal. The validity or not of such matters do not affect the planning merits or effects of the proposal before me.

¹ The Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations)

24. I have also had regard to third party representations made raising a series of other concerns about the proposal. However, as I am dismissing the appeal on other grounds, I have not pursued these matters further.

Overall Conclusion

25. The proposed development would not represent an acceptable form of development as it would result in significant harm to the character and appearance of the surrounding area. For the reasons set out above the proposal would conflict with the development plan and Framework when read as a whole.
26. Overall, I find there to be no material considerations that would indicate that the appeal decision should be taken other than in accordance with the development plan.
27. The appeal is therefore dismissed.

Robert Walker

INSPECTOR