



Appeal Decision

Site visit made on 19 May 2020

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th June 2020

Appeal Ref: APP/W0530/W/19/3240270

45 Church Street, Haslingfield CB23 1JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval to details required by a condition of a planning permission.
- The appeal is made by Mr Ben Pulford (Ben Pulford Architect Ltd) against the decision of South Cambridgeshire District Council.
- The application Ref S/1151/19/DC, dated 22 March 2019, sought approval of details pursuant to condition Nos 3, 4, 6, 7 and 9 of a planning permission Ref S/3622/16/FL, granted on 6 September 2017.
- The details pursuant to condition Nos 7 and 9 were refused by notice dated 7 August 2019.
- The development proposed is demolition of existing bungalow and construction of 2 No two storey detached houses.
- The details for which approval is sought are outlined in condition Nos 7 and 9, which state that: *"No development shall commence until a traffic management plan has been submitted to and approved in writing by the Local Planning Authority. The principle areas of concern that should be addressed are: (i) Movements and control of muck-away lorries (all loading and unloading shall be undertaken off the highway where feasible); (ii) Contractor parking; all such parking where feasible shall be within the curtilage of the site and not on street; (iii) Movements and control of all deliveries (all loading and unloading shall be undertaken off the highway where feasible); (iv) Control of dust, mud and debris, in relationship to the functioning of the highway and neighbouring dwellings. Development shall be carried out in accordance with the approved details" (Condition No 7); and "Prior to the commencement of development detailed plans showing the proposed parking and turning areas for Plot 2 including dimensions in relation to the boundaries and visibility splays in both directions, together with two 2.0m x 2.0m pedestrian visibility splays to serve the access to both dwellings shall be submitted to and approved in writing by the Local Planning Authority. The pedestrian splays are to be included within the curtilage of the proposed access of the dwellings. The splay areas shall be kept clear of all planting, fencing, walls and the like exceeding 600mm high and maintained as such thereafter" (Condition No 9).*

Decision

1. The appeal is allowed and the details submitted pursuant to Condition Nos 7 and 9 attached to planning permission Ref S/3622/16/FL granted on 6 September 2017 in accordance with the application Ref S/1151/19/DC dated 22 March 2019 and the plans submitted with it are approved except in relation to the deliveries to the site and muck away movements, which shall all be carried out only during the hours 0900-1600hrs Monday to Friday.

Procedural Matters

2. The Procedural Guide Planning Appeals – England states that *only the person who made the planning application can make an appeal*. In this case, the appeal was lodged by David Rutherford, who has confirmed that the applicant is his agent and the application was submitted on his behalf. Nevertheless, as the appeal cannot technically be transferred to another person, it must continue in the original name of the applicant. I have therefore considered the appeal on this basis.
3. The Decision Notice indicates that the details submitted pursuant to Condition No 9 were not agreed upon by the Council. The Council also specified amendments on the Decision Notice to the details submitted pursuant to Condition No 7. I have therefore treated the original details submitted pursuant to both conditions as being refused and determined the appeal on this basis.
4. Notwithstanding this, I note that the main parties have provided alternative timings for the deliveries and muck away movements required by Condition No 7, which I have had regard to in my determination of the appeal.
5. The approved development was allowed on appeal¹ and the Inspector found that 2.4m x 90m vehicular visibility splays from the access to Plot 2 would be appropriate to serve the development. However, the Inspector imposed Condition No 9, which refers to the parking and turning within the site and pedestrian visibility from the accesses to both plots. As there is no clause within the Condition to reappraise vehicular visibility from the site, I have not referred to the arguments advanced by the main parties in respect of this matter. I have therefore determined the appeal on this basis.

Main Issue

6. The main issue is whether the details submitted pursuant to Condition Nos 7 and 9 of the abovementioned planning permission address the requirements of the conditions, with particular regard to the living conditions of existing residents and highway safety.

Reasons

7. The appeal site has a frontage to the western side of Church Street and the junction with Wells Close. Access to the approved development², allowed by the aforementioned appeal, will be taken from both roads. The northern boundary of the site is a short distance from the Harlton Road junction.
8. The carriageway width of Church Street varies on each side and there is a footway and grass verge to the east and west of the carriageway respectively. The Local Highway Authority (LHA) has indicated that Church Street is a secondary distributor road and provided data which suggests it is heavily trafficked in either direction. Whilst the data is now of some age, I have had regard to its findings.
9. The details submitted pursuant to Condition No 7 indicate that parking could be provided within the site for construction workers. In particular, during the construction of the dwelling in Plot 1, parking would also be accommodated within Plot 2. Furthermore, although the proposed parking spaces at the

¹ Appeal Reference: APP/W0530/W/17/3174960.

² Planning Reference: S/3622/16/FL.

frontage with Church Street would appear to be within the recorded boundary of the highway, they would be off the carriageway. Accordingly, the proposed parking would not be harmful to the living conditions of neighbouring occupants or impede the free flow of traffic within Church Street.

10. Similarly, although the details suggest that the manoeuvring of large rigid delivery vehicles into and out of the site would cause some disturbance to the free flow of traffic within Church Street, this would be unlikely to be so consistent that it would result in frustration to drivers or be of detriment to highway safety. In particular, the proposed plans appear to suggest that when these vehicles are parked, they would be contained within the site so would not overhang the carriageway.
11. Neither the Council nor the LHA raise objections to the proposed arrangements for the delivery and muck away manoeuvring or the approach to wheel washing and road sweeping measures. However, the main parties have referred to the proposed timings for deliveries and muck away movements, which would be considered under points (i) and (iii) of Condition No 7. A restriction to the hours of deliveries to the site and muck away movements from the site to 0900-1600hrs Monday to Friday would be reasonable, as this would strike an appropriate balance between enabling efficient construction within the site and maintaining the free flow of traffic within Church Street, in busy periods in the earlier part of the morning and late afternoon.
12. The details submitted pursuant to Condition No 9 demonstrate that parking and turning would be achievable within the site for Plot 2, without impinging on the vehicular visibility splays from its access. Furthermore, the details also demonstrate that pedestrian visibility would be achievable within the site as part of the development.
13. In light of the above, I conclude that the details submitted pursuant to Condition Nos 7 and 9 of the abovementioned planning permission address the requirements of the conditions, with particular regard to the living conditions of existing residents and highway safety. Hence, the details would accord with the requirements of Policy HQ1 of the South Cambridgeshire Local Plan (Adopted September 2018) which, amongst other things, requires that car parking does not cause safety issues and proposals must protect the living conditions of occupiers and surrounding uses from development which would create unacceptable impacts such as dust.

Other Matters

14. The Council and LHA have both suggested that the approved development would encroach onto and thereby lead to a loss of public maintainable highway. However, alterations to the layout of the approved development, necessitated by Condition Nos 7, 9 or any other part of the corresponding planning permission, would not negate or supersede any private legal rights relating to land ownership. Moreover, in order for the development to be carried out, I understand that it would be necessary for the Secretary of State for Transport to make an Order under Section 247 of the Act³ to secure the stopping-up of the highway. Accordingly, issues relating to land ownership, the loss of highway land and whether the development could be carried out in a different manner have not had any material bearing on my assessment of this appeal.

³ The Town and Country Planning Act 1990.

Conclusion

15. For the reasons given above, I conclude that the appeal should be allowed.

Paul Thompson

INSPECTOR