



Appeal Decision

Site visit made on 19 May 2020

by David Carter BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd July 2020

Appeal Ref: APP/V0510/W/20/3245927

Rear of 46 Wisbech Road, Littleport, Ely, Cambs CB6 1JH

- 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 G Stanford and Mrs P Peters against the decision of East Cambridgeshire District Council.
 - The application Ref 19/01312/OUT, dated 10 September 2019, was refused by notice dated 15 November 2019.
 - The development proposed is a 3 bed dwelling, resubmission.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's evidence to this appeal included a statement of case together with two further documents; a newly prepared Five Year Housing Land Supply Report (issued 21 April 2020) and a Statement on 5 Year Housing Land Supply position in East Cambridgeshire.
3. The statement of case indicated that the Council is unable to identify a 5 year supply of housing land (5YHLS) whereas the new housing land supply report indicates the opposite. The Statement on 5 Year Housing Land Supply position in East Cambridgeshire also suggested the appeal site is located outside of a designated settlement envelope. Since this latter point appeared to me to be incorrect and, given the lack of reference to the latest position on housing land supply in their statement of case, the Council were invited to comment.
4. The Council responded indicating that at the time the planning application was determined and, when the statement of case was written, the Council could not demonstrate a 5YHLS. They also confirmed that the appeal site does lie within the settlement envelope of Littleport thus confirming the error in the document. The Council also indicated that the Statement was sent for information only, to inform me that while there had been a change in circumstances, it was not directly relevant to this appeal.
5. On the basis of the Council's response, I have taken no account of the Statement on 5 Year Housing Land Supply position in East Cambridgeshire in the determination of this appeal. However, for the avoidance of any doubt, I need to consider the Five Year Housing Land Supply Report since this is the most up-to-date information available to me and it is being concurrently used by the Council to demonstrate it possesses a 5YHLS in relation to a proposed development elsewhere in the District.

6. In relation to these matters, I sought confirmation from the appellant that they were aware of, and had sight of, the Five Year Housing Land Supply Report at the time their final comments were drafted. The appellant responded confirming they were aware of the report but referred to previous targets not being met and the likelihood that Covid-19 would lead to delays in the construction of new housing. The appellant also highlighted the readiness of the appeal proposal for early development. I return to these matters below.
7. The appeal proposal is a resubmission. The earlier proposal would have comprised 4 bedrooms as well as a single garage. The appellants suggest that if the appeal proposal is not acceptable then they would raise no objection to a smaller, single storey chalet bungalow. It is important to stress, however, that I am only able to consider the proposals as submitted.
8. The planning application is in outline seeking approval for access, landscaping and layout. Notwithstanding this, the appellants have included some extra detail, including the possible location of window openings, as part of their evidence which was not included in the planning application. I have not considered those details in the determination of the appeal because the planning application is in outline and they may change.

Main Issues

9. The main issues are the effects of the proposal on:
 - i) the character and appearance of the area and,
 - ii) the living conditions in respect of potential overshadowing of the neighbouring property at No 10 Hardwicke Close and the overlooking of the garden to the proposed dwelling from the existing dwelling at No 46 Wisbech Road.

Reasons

Character and appearance

10. No 46 Wisbech Road (No 46) occupies a corner plot at its junction with Hardwicke Close, lying within the defined development boundary of Littleport. The appeal site would involve construction of a new detached dwelling in the rear garden of No 46. Access, including parking for 2 cars onto Hardwicke Close would be provided. Hardwicke Close is a short cul-de-sac comprising a small group of detached properties. In part, the Hardwicke Close estate was developed using land which formerly also formed part of the garden of No 46.
11. The form of the existing housing on Hardwicke Close is open plan which helps give a spacious feel to the cul-de-sac. The location of the new dwelling facing onto Hardwicke Close would result in a higher density than nearby properties leading to a more cramped appearance including the placement of the building much closer to the highway than most of the other properties.
12. The limited plot size, and the proximity of the building to the site boundaries precludes provision of a garage (2 tandem car parking spaces would be provided to the front and side of the proposed dwelling) and the space for soft landscaping would be limited when compared to the other properties. While the proposed amenity space would exceed the minimum requirement it would, nevertheless, be significantly smaller than the average size in the immediate

locality. The front wall of the new dwelling would be more than 18m from any habitable rooms on the frontage of No 2 Hardwicke Close, opposite. I consider this would be acceptable. However, the side elevations of the new dwelling would be significantly more intrusive rather than complementary, to the rear elevations of both the existing dwelling on the appeal site and to No 10 Hardwicke Close (No 10). It has been suggested that landscaping could, in-time, mitigate the effects but I am not convinced, not least because of the small site and cramped nature of the development. The appellant suggests that one-third of the 6m gap from the north-east elevation to the boundary would be for landscaping and the gap from the south-western elevation to the boundary would be c1.5 m.

13. On this main issue I conclude that the construction of a 3 bed, 2 storey dwelling would represent a cramped, over-development of the site at a significantly higher density compared to nearby dwellings leading to a form of development out-of-character with the area. Accordingly, the proposal would conflict with Policies ENV1 and ENV 2 of the East Cambridgeshire Local Plan (2015) (LP) and the Design Guide SPD. These policies seek to achieve a high quality of development which will be complementary and sympathetic to existing development.

Living Conditions

14. The focus of the second reason for refusal concerns the overshadowing of the garden to No 10 caused by the appeal proposal on the one hand and, the overlooking of the rear garden of the proposed dwelling from No 46 on the other.
15. Through the orientation and placement of the appeal property, it would appear to me that overshadowing is likely to occur mainly during the latter half of the day, with the degree of overshadowing of direct sunlight varying according to the time of year. While existing boundary treatments would already and inevitably have some overshadowing impact on the garden to No 10, the height and scale of the new dwelling including the roof would add significantly to these effects which would have a harmful impact on current and future occupiers of No 10.
16. Moving on to overlooking, No 46 is at a slightly higher ground level as the existing garden slopes downwards. The first floor windows in the rear elevation of No 46 would face directly across the rear garden of the new dwelling, the boundary of which would be set some 10m away. Given the proximity it is inevitable that the overlooking would reduce the quality of the rear garden of the new dwelling from that which might normally be expected in the locality. I am less concerned on potential overlooking from the appeal property into the rear garden of No 48 Wisbech Road because of the length of that garden and the existing outbuildings and foliage restricting the outlook from the rear elevation.
17. On this main issue I conclude that the appeal proposal would have a harmful effect on the occupants of No 10 as a consequence of overshadowing of the rear amenity space to that dwelling. In addition, the proximity of the existing dwelling at No 46 would have a detrimental impact on the enjoyment of the rear garden of the new dwelling as a result of overlooking. As a consequence, the appeal proposal conflicts with Policies ENV 1 and ENV2 of the LP which seek, amongst other things, to ensure that new development does not

adversely affect the living conditions of existing neighbours and future occupiers.

Other Matters

Housing land supply

18. As I noted under the Preliminary Matters above, the position with respect to the supply of housing land has changed. The planning application and the appeal statements of both main parties were based on the premise that the Council could not identify a 5YHLS. The Council's position statement published in June 2019 estimated that only a 3.70 years supply could be identified against the provisions of the LP which was adopted in 2015. In those circumstances the tilted balance would be engaged.
19. However, under the provisions of the National Planning Policy Framework (the Framework), where local plans are more than 5 years past adoption, the housing requirement used in assessing the supply will be based on the standard method for determining local housing needs for the LPA area. In accordance with this national planning policy, the Council issued a new Five Year Land Supply Report on 21 April 2020, the 5th anniversary of the LP adoption. This report identifies a 6.61 years supply of housing.
20. Comparison of the two reports shows that the period covered by both is the same (i.e. 1 April 2019 to 31 March 2024) as is the total identified supply available within 5 years (i.e. 4,772 dwellings). This means that the main explanation for the change in position lies in the housing requirement and more specifically in the treatment of any housing backlog. In the 2019 report a backlog of 2,501 dwellings since 2011 was added into the housing requirement. Using the new methodology any backlog is treated differently through the application of an affordability index. Past performance also determines the level of buffer that should apply and, in the case of East Cambridgeshire, this adds 20% to the requirement.
21. The overall effect of the standard method, even when taking account of the buffer, is that the supply of available housing land has increased from 3.70 to 6.61 years supply. Given this change in circumstance, the appellant was asked to confirm awareness of the new position as well as being given an opportunity to comment. Although the appellant referred to a past record of under-delivery there was no specific challenge to the basis of the supply of sites identified by the Council nor any reference made to any other challenges made in relation to this.
22. In these circumstances, it appears to me that even if the inclusion of individual sites were to be questioned, it seems unlikely, given the 6.61 years supply, that any such challenge (or challenges) would reduce the supply to below 5 years.
23. Given the new position, I conclude that the Council can identify a 5YHLS in accordance with the methodology established by the Framework. This means that the tilted balance is not engaged in relation to the determination of this appeal.

The development plan

24. Apart from references to the supply of housing land the appellant also refers extensively to the Framework and its approach towards sustainable development. The development plan for the area comprises the LP adopted in 2015. Work on a new local plan was under examination when the Council resolved to withdraw that plan in February 2019. The Council has recently (April 2020) carried out a review concluding that the extant LP is in need of revision.
25. Notwithstanding this, paragraph 213 of the Framework indicates that existing local plan policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework.
26. The basket of policies from the LP that I consider most important to the determination of this appeal comprises GROWTH 2 (Locational strategy), GROWTH 5 (Presumption in favour of sustainable development), HOU 2 (Housing density), ENV 1 (Landscape and settlement character), ENV 2 (Design), ENV 7 (Biodiversity and geology), ENV 8 (Flood risk), ENV 9 (Pollution), COM 7 (Transport impact) and COM 8 (Parking provision). These policies will be subject to review as part of the emerging LP, but the fact that they were adopted in 2015 does not necessarily mean they are out of date.
27. In relation to the first reason for refusal I consider that Policies GROWTH 2, GROWTH 5, HOU 2, ENV 1 and ENV 2 are the most relevant. Policy GROWTH 2 establishes the strategy for the distribution of growth including development envelopes. Littleport lies within a defined settlement envelope within which development to meet local needs would normally be permitted subject to no significant adverse impact on the character and appearance of the area. I have dealt with these matters under the first main issue and consider that Policy GROWTH 2 remains broadly consistent with Section 11 and, in particular, paragraphs 117 and 122 d) of the Framework which safeguard the environment, living conditions and prevailing character and appearance.
28. Policy GROWTH 5 reflects the Framework's presumption in favour of sustainable development. While it was prepared under an earlier version of the Framework, I am satisfied that, overall, the approach in this policy remains up-to-date.
29. Policy HOU 2 concerns housing densities, making the point that these will be judged on a site-by-site basis taking account, amongst other things, the existing character of the locality and surrounding housing densities. This is also a matter dealt with under the first main issue. I am satisfied that, overall, the approach in this policy remains up-to-date.
30. Policies ENV 1 and ENV 2 cover the quality of development and design matters. These policies are at the core of the first reason for refusal. The principles established by these policies remain consistent with the Framework, in particular the section dealing with design.
31. Taken in combination I consider the approach in the LP policies remains broadly consistent with the approach in the Framework and, as such, they have significant weight.

32. Policies HOU 2, ENV 1 and ENV 2 are the most pertinent in relation to the second reason for refusal which deals with living conditions. Again, these policies remain broadly consistent with the Framework and as such they have significant weight.
33. The other policies in the basket cover matters that are not determinative in relation to this appeal. Policies ENV 7, ENV 8, ENV 9 deal with matters that could, if necessary, be dealt with by conditions. Policies COM 7 and COM 8 deal with matters relating to public highway safety and parking. While I note that there is no garage proposed and that the tandem parking proposed would be likely to lead to some parking on the road, I am satisfied that the appeal proposal would be acceptable in relation to these matters. All of these policies remain broadly consistent with the approach in the Framework.
34. Taken as a whole, therefore, I find that the basket of policies in the LP remains relevant and up to date for the determination of this appeal and that paragraph 11d) of the Framework is not engaged in this respect.

Covid-19

35. The appellant has suggested that Covid-19 is likely to impact on construction activity, possibly removing some sites from the development pipeline and, in these circumstances a windfall site, such as the appeal proposal, would help meet any shortfall. This is because development could commence very quickly, unaffected by Covid-19.
36. Given time lags in publication of data, the impacts of Covid-19 remain uncertain, although it is known that construction activity has declined and working practices remain restricted due to safety measures. The housing market has also been affected through the lockdown through, as examples, restrictions on the activities of estate agencies and homebuyers as well as mortgage availability.
37. It is likely that it will be some time until the full effects of the crisis become clear, and the Government will introduce any further changes to the planning system in response it considers appropriate, over and above those already made. While I appreciate that the appeal proposal could move to construction at short notice, it would not be appropriate that this should be at the expense of harmful impacts on character and appearance and living conditions.

Personal circumstances

38. The appellant has stated that Mrs Peters, the current occupant of No 46, has no intention of moving and that any future occupants would be able to judge whether to invest in either the new dwelling or No 46 at the time of purchase. In my mind this is acknowledging the shortcomings of the appeal proposal since it should not be necessary to compromise either the character and appearance of the area or living conditions of both existing and future residents in order to make the proposal acceptable.

Planning Balance

39. In view of my analysis of the main issue and other matters, I find that the proposed development would have significant harmful effects on the character and appearance of the area and on the living conditions of existing and future

occupants. In essence, the shortcomings arise from the cramped, overdevelopment of the appeal site.

40. While the provision of a new dwelling would make a small contribution to the supply of housing land which could be built at an early date, without disturbing the current occupant of No 46, the benefits would not outweigh the harmful impacts of the scheme I have identified.
41. Accordingly, I find that the harm arising would not be outweighed by the benefits and there are no considerations that would lead me to make a decision otherwise than in accordance with the development plan.

Conclusion

42. For the reasons stated above, the appeal is dismissed.

David Carter

INSPECTOR