



Appeal Decision

Site visit made on 24 June 2020

by John Morrison, BA (Hons) MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd July 2020

Appeal Ref: APP/V0510/W/20/3244877

47A High Street, Cheveley, CB8 9DQ

- 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 and Mrs Brian Andrews against the decision of East Cambridgeshire District Council.
 - The application Ref: 19/01393/FUL dated 30 September 2019, was refused by notice dated 9 December 2019.
 - The development proposed is a single storey two-bedroomed bungalow, single garage and access.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are three main issues. These are the effect of the proposed development on a) the living conditions of existing and future occupiers; b) highway safety with specific regard to visibility at the proposed access; and c) the character and appearance of the area.

Reasons

Living Conditions

3. There are a number of strands to the Council's concerns in respect of this main issue. I shall aim to address each one in turn but there may be some overlap. Ostensibly they relate to how the appeal scheme would adversely affect the living conditions of existing occupiers of Nos. 47a, 49a and 51 High Street and future occupiers of the proposed dwelling.
4. The appeal scheme would be a single storey building and thus overall low in height. Despite this, it would be located on a noticeably higher ground level relative to Nos. 47a, 49a and 51. In the case of 47a, there are a number of ground floor windows in the south elevation. These serve rooms in which users would experience a looming affect from the new building owing to the higher ground level it would be sat on. This would be overbearing for occupiers. An effect that would be exacerbated by the proximity and sheer length of the building along the majority of No. 47a's side elevation.
5. For Nos. 49a and 51, the dwelling would be erected in very close proximity to the end of their gardens. Whilst the depth of the garden to No. 51 would to

some degree mitigate the impression of built form for its users, the same cannot be said of No. 49a. This dwelling has a contextually small garden which is sunken in places. The new dwelling would be off set from its rear extent but nonetheless the presence of it on a noticeably higher ground level would garner an oppressive experience for users of the garden. Particularly in the more sunken parts where users would feel hemmed in by both the new dwelling and No. 49a itself. The lack of windows on the end elevation and their deployment elsewhere on the design would ensure no gardens would be unacceptably overlooked but this would not make up for the adverse effects that would arise from the new dwelling as I have described them.

6. Turning to the proposed dwelling, the Council have concerns that it would provide a garden space of an unacceptably poor quality. This would mainly be due to its size, shape and relationship to other features. I feel that the spaces to the north and south of the proposed dwelling would be poor. In terms of the north, there would be a thin sliver of land between the dwelling and No. 47a. There would likely be some form of fixed boundary treatment at this point. The space would be narrow and the experience of its use restrictive and claustrophobic. To the south of the dwelling there would be a wider but equally restrictive elongated space, mostly in shadow due to a number of trees forming the boundary to No. 53. Some of which are subject to a preservation order. The species are such that they have large leaves which will shed and give rise to nuisance in blocking guttering etc albeit for me a nuisance that would not be so bad to live with. There would be an element of buyer beware in this respect, as well as the fact that some of the trees are in the ownership of No. 53. This and the extant preservation order will form somewhat self-governing safeguards against pressure for future major pruning or removal. I am also mindful that the dwelling would have a largely unencumbered open aspect section of garden to its east which would include a patio and sitting out area. I feel this would be the space most used by future occupiers who are more likely to be older in any case given the extent and nature of the accommodation on offer.
7. Taking the above into account, I am satisfied the appeal scheme would not give rise to harm to the living conditions of future occupiers. This would not however make up for how it would adversely affect those of existing neighbours. Specifically, those residing at Nos. 47a and 49a in the manner I have explained. This harm would result in conflict with Policy ENV2 of the Local Plan¹. Amongst other things, and in regard to this main issue, this policy seeks to ensure that there is no significantly detrimental effect on the residential amenity of nearby occupiers arising out of new development.

Highway Safety

8. The proposed dwelling would take its access from an existing private driveway that serves No. 47a. This runs to the north of No. 49. It would also form the access to the extant dwelling to the north of No. 47a. It is narrow but the appellant has demonstrated that appropriate adjustments can be made to allow two vehicles to pass at its mouth.
9. That said, I remain to be convinced that the driver of an exiting vehicle would be able to see sufficiently well to the north given the extent of a mature hedge that runs the length of the northern boundary of the site, terminating at the

¹ East Cambridgeshire Local Plan 2015

back edge of the footway. I am unsure based on what I have seen if this hedge is in the control of the appellant. The lack of visibility in this direction would lead to an exiting vehicle having to block the footway and possibly part of the vehicular carriageway for the driver to gain enough visibility north. This would be an obstacle to pedestrians and a potential hazard for passing vehicles which would be largely unseen until the obstruction was caused. There is therefore a potential for vehicle to vehicle or vehicle to pedestrian conflict at this point.

10. I am aware that the High Street is likely trafficked, and the appeal scheme would be one dwelling. This does not however give me sufficient faith that a situation of the type I have described would not come to pass. Particularly since there would not only be an increase in the use of the access by occupiers of the proposed dwelling but also the extant one which is yet to come forward. I also note that the Highways Authority have not objected, and I am making a different conclusion in this regard to that made by my colleague when they allowed the appeal for the extant dwelling to the north. However, a lack of an objection to a development proposal from a statutory consultee would not absolve me from making an assessment of the merits of a given development. In addition, my colleague made their conclusion on one additional use of the proposed access. In the case of the appeal scheme before me, this would be use over and above that. Not instead of it. In any event, matters of weight and subjectivity are for the decision maker in each case.
11. The proposed development would therefore, in regard to this main issue, be contrary to Policy COM7 of the Local Plan which seeks to ensure, amongst other things, that development proposals shall provide a safe and convenient access to the highway network.

Character and Appearance

12. The appeal site is currently part of the garden to No 47a High Street. It is laid mainly to grass. No. 47a is a back land plot. A two-storey detached dwelling accessed via a private driveway to the north of No. 49. As I have said, there is an extant planning permission for a detached bungalow to the north of No. 47a. The appeal dwelling would be sited immediately south. There are also two further units under construction to the rear of Nos. 55 and 57. It is perhaps fair to say therefore that the principle of back land development in the immediate area has been established at least to the point that resisting a further one purely on this ground would unlikely be reasonable.
13. The plot itself would be very narrow and the building elongated and thin. Effectively designed to just fit the site. There is therefore a justified criticism to levy at the design approach insofar as it is contrived, and a building would be somewhat shoehorned into an available space. I subscribe to the notion that driving pins into visible gaps does not generally amount to good planning. That said, the extant scheme for the dwelling to the north of No. 47a would be equally so, as indeed is No. 49a (a detached dwelling on the High Street frontage between Nos. 49 and 51). These dwellings form as much the context of the proposals as units of other scales and designs, which are varied. Prior to any of the back land plots coming forward there would have been a strong sense of spaciousness to the character of buildings with long and narrow, undeveloped gardens extending east. Strictly frontage development defined what would have been a uniform and spacious street scene. That is however

no longer the case with development having become higher density and multi tiered over time.

14. The evidence suggests that the dwelling would sit on or just breach the settlement boundary as the development plan defines it. Such would unlikely however adversely affect the open and undeveloped nature of the countryside given the building in this case would be read as part of a clearly defined cluster of back land plots with gardens not extending unacceptably far east into the more open and unspoilt countryside. In any case, the spread of its curtilage would be curtailed in that respect by how the garden to the extant dwelling proposed for the north of 47a would return around its rear. For the same reasons, I disagree that the appeal scheme would create an overly urban edge to this part of the settlement.
15. I appreciate that the Council's Design SPD² specifically addresses back land development amongst other things. In so doing, it states that it will only be acceptable if supported by a contextual analysis of the locality which is required to demonstrate that a given proposal would comfortably fit in with the character of an area, taking account of relevant features. This does not appear to have been done in regard to the appeal scheme albeit I have been able to conduct such an analysis and on the basis of the evidence before me and what I have observed on site, I am satisfied that there would be no harm arising out of the scheme being a back land plot.
16. With all of the above factors in mind, the appeal scheme would not be harmful to the character or appearance of the area. Such that it would, in regard to this main issue, comply with Policies ENV1 and ENV2 of the Local Plan. Amongst other things, these policies seek to ensure that development proposals should demonstrate that their location, scale, form and design will create positive, complementary relationships with existing development and be designed to a high quality, enhancing and complementing local distinctiveness and public amenity by relating well to existing features and introducing appropriate new designs.

Other Matters

17. The appellant suggests the proposed dwelling could be a retirement home for the current occupiers of No. 47a. I would attach some weight to this as a need albeit weight that would be tempered by the lack of a compelling case for why this need has to be met by the proposed dwelling as well as the lack of a sufficiently robust mechanism to ensure it would be delivered as intended.
18. It is mentioned that the dwelling would be built on a lower ground level than is currently the case on site. Indeed, I note from the proposed plans that there would some excavation. The proposed finished floor levels in relation to the ground levels are noted. However, I do not feel that what appear to be minor adjustments to the site levels would be sufficient to overcome my concerns.

Planning Balance and Conclusions

19. At the time the appeal scheme was determined by the Council, they were unable to demonstrate the supply of housing sites as required by the Framework³. This led them to consider the proposed development in the

² East Cambridgeshire District Council Design Guide Supplementary Planning Document 2012

³ The National Planning Policy Framework 2019

context of the so-called tilted balance⁴ set out by paragraph 11 of the Framework. They accordingly reduced the weight they ascribed to the fact that some of the proposed development would occur outside of the settlement boundary where development is generally restricted as per Policy GROWTH 2 of the Local Plan. Some more recent evidence from the Council sets out that, as of April 2020 and the publication of the East Cambridgeshire District Council Five Year Land Supply Report – 1st April 2019 to 31st March 2024, they can now show the required supply of sites.

20. I acknowledge this report, but I am equally mindful that it is yet to be independently examined or interrogated. I do not intend to do that now. If the Council were able to demonstrate at least the required supply of housing sites, the most important policies would not be out of date and attract substantial weight. Including GROWTH 2. If they could not, I would consider the appeal scheme in the context of the so-called tilted balance, treating the most important policies accordingly.
21. In so doing, I may reduce the weight I ascribe to policies albeit I would be mindful policies concerning the living conditions of occupiers and highway safety would be consistent with the aims of paragraphs 127 (f) and 108 (b) of the Framework respectively. Any planning harms arising would not be reduced, even in a paragraph 11 situation.
22. The appeal scheme would provide for new housing which would add to choice and mix locally. Indeed, it seems there is some evidenced need for smaller dwellings. It would also assist the Council's undersupply if there is one. There would be economic benefits to the construction industry as well as expenditure and taxation from future residents. That said, these benefits would be limited by the scale of the proposed development as well as being time limited in some cases. There are areas in which the appeal scheme would be acceptable, some of which I have discussed. These would however be a lack of harm in each case which, by definition, cannot be used to weigh against it. They would accordingly be neutral in any balance.
23. The adverse impacts arising from the proposed development would be of an environmental and social nature. They would be significant, wide ranging and long lasting. Placing these alongside the substance of the benefits as I have described them above I can only conclude that, should the so called tilted balance be engaged, the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Consequently, the appeal scheme would not be sustainable development for which the presumption in favour applies.
24. Whilst having regard to other matters that have been raised, as well as those by third parties, the appeal is therefore dismissed.

John Morrison

INSPECTOR

⁴granting a planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.