



Appeal Decision

Hearing Held on 8 December 2020

Site visit made on 8 December 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2020

Appeal Ref: APP/H0520/W/19/3242418

Castle Hills House, School Lane, Eaton Socon, Cambridgeshire PE19 8GW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Martin Hicks against Huntingdonshire District Council.
 - The application Ref 19/00906/FUL, is dated 1 May 2019.
 - The development proposed is described as 'erection of a detached dwelling'.
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Decision

1. The appeal is dismissed, and planning permission refused.

Preliminary Matters

2. An application for an award of costs was made by Mr Martin Hicks against Huntingdonshire District Council and this is the subject of a separate Decision.
3. An additional drawing was deposited with the appeal detailing the site access. It is normally inappropriate to evolve a proposal through the appeal process but amended plans can be accepted if no party would be prejudiced by doing so. In this case, the drawing provides additional clarification rather than being a notable change to the proposal and it was submitted at the outset of the proceedings, thereby affording all parties a chance to review it. Thus, no party has been prejudiced by me accepting the drawing and having regard to it.
4. During the hearing the additional evidence listed at the end of this decision was submitted by the appellant. It was relevant to my considerations, reasonably brief and capable of being addressed by the Council Officer's present, who would have been familiar with the documents. I therefore accepted the late evidence as no party was significantly prejudiced by this course of action.

Background and Main Issues

5. The appellant has provided a planning obligation securing a financial contribution towards the provision of waste receptacles. When asked, the Council were unable to explain at the hearing why it is necessary to deal with this matter through a planning obligation as opposed to a condition, such as that in Appendix 9 of its Statement of Case. The PPG¹ states that a planning condition should be used in preference to a planning obligation when it is possible to overcome a planning objection by either means. Thus, it seems that

¹ Planning Practice Guide - Paragraph: 011 Reference ID: 21a-011-20140306

a planning condition would have addressed the Council's concerns and therefore this matter requires no further consideration.

6. Upon hearing the appellant's confirmation that the dwelling would be constructed to adhere to Part M4(2) of the Building Regulations, the Council removed its objections relating to the accessibility and adaptability of the proposal. This was subject to the imposition of a suitably worded planning condition in the event the appeal was allowed. Such a condition had already been drafted and was set out in Appendix 9 of the Council's Statement of Case. As this matter is no longer a point in dispute, I have not considered it further.
7. Accordingly, the main issues in this appeal are:
 - Whether the proposal would preserve or enhance the character or appearance of the St Neots Conservation Area;
 - The effect of the proposal on the setting of Castle Hills/The Hillings, a Scheduled Ancient Monument;
 - Whether the proposal would preserve the setting of the Grade II listed building known as River Mill (listed as Eaton Mill);
 - The effect of the proposed development on the character and appearance of the area, with particular reference to protected trees, and biodiversity.

Reasons

Whether the proposal would preserve or enhance the character or appearance of the St Neots Conservation Area

8. The St Neots Conservation Area (CA) encompasses several historic settlements either side of the River Great Ouse which have generally coalesced to form a single urban area bisected by the river. That said, with the interpretation provided by the St Neots Conservation Area Character Assessment (CAA) it is still possible to discern the original settlements, including the historic village of Eaton Socon in which the appeal site is located. Eaton Socon probably dates back to at least the Saxon era and was likely to be a riverside village broadly in the position of the Hillings. At some point after the Norman conquest the village was moved west to the Great North Road. The old village green and parish church are still discernible as the centre of the repositioned village.
9. Eaton Socon was once a rural settlement, but its landscape setting has been entirely lost due to 20th Century development save for the riverside, which provides some semblance of the rural context of the village. As a result, the verdant character and appearance of the riverside, and the approach to it, is important to the significance of the Eaton Socon character area of the CA.
10. School Lane is a historic spur linking the village with the river and River Mill. Historic mapping demonstrates that it was a reasonably undeveloped lane until 20th Century infilling occurred. This has been generally insensitive to the historic rural character of the village. The CAA identifies Castle Hill Close in particular as an intrusion into the historic street scene.
11. That said, the street scene becomes more verdant past Castle Hill Close due to the large front garden of Castle Hills House, which includes mature trees and provides a sense of openness despite the tall brick boundary wall. This contributes to the verdant setting of the riverside. The CAA identifies the

grounds of Castle Hills House as having an important green edge. This green edge has been diminished by the construction of a close boarded fence² around the grounds, but it nevertheless assists in providing a verdant approach to the river and thus contributes to the significance of the CA.

12. The river is also approached along Ackerman Street, which has a more traditional village lane aesthetic due to the presence of hedges and period properties, some of which overlook the central recreation ground. There is an attractive almost rural vista along the eastern end of Ackerman Street looking towards Castle Hills House which is framed by trees and hedges. The proposed dwelling would be sited in front of Castle Hills House and would therefore harmfully intrude upon the pleasant vista from Ackerman Street. The brick boundary wall would need to be lowered to accommodate visibility splays so the proposed house would be very prominent. This harmful impact would be compounded by the design of the dwelling, which would include a bulky forward projection incorporating an integral garage and bedroom above.
13. Although only three modestly sized trees would be removed to accommodate the dwelling, its presence would still diminish and disrupt the green edge around the grounds of Castle Hills House, which is identified in the CAA as a positive spatial feature of the CA. This would reduce the open and verdant approach to the river where it becomes more pronounced past Castle Hill Close House, particularly where the proposed dwelling would be visible from close range in the area around the mill pond bridge. This would be a negative impact despite the presence of Castle Hills House, which is set back from the road and mill pond.
14. Lowering the front boundary wall would open up views into the grounds of Castle Hill House and thus enhance the sense of openness, especially if combined with soft landscaping. However, this potential benefit would be undone by the presence of the new dwelling and its associated paraphernalia.
15. The properties along School Lane exhibit a mixture of plot sizes and therefore the proposal would not appear unduly cramped. That said, the property would have a particularly awkward appearance from the west due to its overall depth and the lack of articulation between the front projection and the gable end. Moreover, the dwelling, when viewed from the west along School Lane, would appear as a discordant intrusion into the open front garden of Castle Hill House. It would also interrupt views of mature trees around the mill pond.
16. The proposal would therefore harm the appearance of the CA in vistas from Ackerman Street and School Lane. It would also diminish the contribution that the open grounds of Castle Hills House make to the significance and spatial character of the CA found in the verdant approach to the river. As a result, the character and appearance of the conservation area would not be preserved. The proposal would therefore be at odds with Policy LP34 of the Huntingdonshire Local Plan (LP), which seeks to secure development that protects the significance of designated heritage assets.

The effect of the proposal on the setting of Castle Hills/The Hillings

17. In referring to the scheduling description and the results of archaeological investigations in the 1950s, the appellant's Heritage Impact Assessment (HIA)

² It is unclear whether this required and received Scheduled Monument Consent

explains that the Hillings was probably the site of a Saxon Vill that included a chapel and burial ground. A Norman castle was constructed on the site during the anarchy and subsequently a post mill erected. The site is therefore of high archaeological and historic significance.

18. The setting of the SAM contributes to its significance as the site is still experienced in the context of the river valley to its east. The river side location was probably an important reason behind the siting of the Saxon Vill and a strategic reason for the construction of the Norman Castle. The historic significance of the SAM is better appreciated and understood with reference to its riverside setting and the way it is experienced in this context. The openness of the Castle Hills House grounds provides an open setting around the SAM that contributes to the sense of a verdant river valley context. This is important because the 20th Century development to the west along School Lane has significantly diminished the once rural setting of The Hillings.
19. The proposed dwelling would be sited in front of Castle Hills House and therefore it would have a recessive appearance when viewed from The Hillings. It would nevertheless erode the openness and verdant appearance of the grounds of Castle Hills House and thus diminish, in a modest way, the contribution the grounds make to the riverside setting of the SAM. The proposed house would also be present in river side views towards The Hillings from the millpond bridge immediately to the east of the appeal site. Again, this would erode, in a small way, the verdant riverside context of the SAM.
20. In conclusion, the proposal would modestly harm the setting of the SAM. It would therefore harm the significance of the SAM, which its setting contributes to. This is a finding shared by Historic England and the author of the HIA. The proposal would therefore be at odds with Policy LP34 of the Huntingdonshire Local Plan (LP), which seeks to secure development that protects the setting of designated heritage assets where this contributes to its significance.

Whether the proposal would preserve the setting of River Mill (listed as Eaton Mill)

21. River Mill is a fine example of a 19th Century mill with historic and architectural significance. The building is intrinsically linked and experienced within its riverside setting and the canal, leats and mill ponds to which it is associated. This setting adds to the significance and charm of the building. The River Mill is best experienced in its riverside setting in views from the south (in the vicinity of Eaton Socon Lock) or from the eastern side of the river.
22. The appeal site is located to the west of the listed building and on the far side of the mill pond. There is a dense, TPO protected belt of trees between the Mill and where the proposed dwelling would be sited. This belt of trees provides an attractive verdant back drop to the Mill, which the proposal would not significantly dent when viewed from the east.
23. Moreover, due to the distance between the Mill and appeal site, the belt of trees would considerably limit the extent to which the proposed dwelling would be visible from the immediate vicinity of the Mill. More importantly, the dwelling would not be visible from Eaton Socon Lock due to the presence of the large flats and it would be very hard to see from the eastern bank of the river. In this respect, the proposed dwelling would not diminish the riverside setting of the listed building in any meaningful sense. The proposal would therefore

preserve the setting of the listed building and consequently, in this respect, a conflict with Policy LP34 of the LP would not occur.

The effect of the proposal on protected trees

24. The trees in the appeal site are covered by a group Tree Preservation Order (TPO) and are therefore collectively of amenity value. The appeal scheme is supported by an Arboricultural Impact Assessment (AIA) which confirms that a tree labelled as T10 and two trees from group G1 would be marginally compromise by the proposal, predominately by the driveway which would encroach into their Root Protection Areas (RPA). In accordance with the relevant British Standard, the incursion of development into RPAs is generally discouraged without 'overriding justification' in order to safeguard tree roots and prevent soil damage. This is particularly so in the case of TPO protected trees such as these.
25. However, in this instance the AIA confirms that the intrusion of the driveway into the RPA would have a marginal effect and does not require specific mitigation. I have no reason to doubt this. Therefore, it is unclear, from the evidence before me, why the Council is seeking an overriding justification when the proposal would not harm the wellbeing of the trees. These are different circumstances to the appeal decision referred to by the Council³.
26. That said, the impact from construction equipment and storage in the RPA could be harmful if not mitigated. To this end the AIA recommends temporary tree protection fencing and heavy-duty ground guards as a means of protecting the trees and their RPA. The Council has not provided any substantive technical evidence to demonstrate that this mitigation would fail to protect the trees. Therefore, the evidence before me demonstrates the trees would be adequately protected despite the Council's in principle concerns regarding the appropriateness of construction works close to them.
27. In respect of post development pressure, being TPO protected trees the Council has control over works to them, including felling. I was advised at the hearing that the Council would only approve the removal of a TPO tree if it were dead, dangerous or dying. The effect on living conditions may be a further consideration, but not a determinative matter unless circumstances had changed significantly between the house being constructed and the application to fell or manage the tree being made, such as the tree growing significantly. However, the AIA suggest most of the trees are already mature, so this is unlikely to be a relevant consideration. In any event, the Council have not alleged that the occupants of the proposed dwelling would have inadequate living conditions because of the trees, a conclusion I share due to the generous size of the plot, the southerly aspect, the window to room size ratio and the distance between the trees and the effected rooms.
28. It is therefore difficult to envisage circumstances where the Council would sanction the removal of the trees or undesirable works to them. The Council's concerns regarding post development pressure would be understandable if the trees were unprotected or harmfully prejudicial to living conditions, as may have been the case in another appeal decision referred to⁴. However, that would not be the case in respect of the appeal before me. As such, it is highly

³ APP/HO520/W/16/3145480

⁴ APP/HO520/W/18/3205474

unlikely that the trees would be subject to justified post development pressure and therefore a conflict with Policy LP31 of the LP would not occur.

The effect on biodiversity

29. The appeal site is close to a river but is predominately closely mown lawn set within a residential garden. There are mature trees present and some scrub on the eastern side of a close boarded fence in the vicinity of decking. The National Planning Policy Framework (the Framework) refers to Circular 06/2005, which states that developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. The Planning Practice Guide (PPG) states⁵ that it might be appropriate to undertake an ecological survey where protected species may be present or where biodiverse habitats may be lost. It also states that ecological surveys should be requested only where clearly justified.
30. The Council's written evidence does not detail which protected species it considers are likely to be present. Upon questioning at the hearing, the Council suggested that great crested newts, bats and nesting birds could be present. It seems that this judgment was based on the observations of the Council's Case Officer, who is not an ecologist. That is not necessarily a significant flaw if the scoping assessment is underpinned by relevant guidance or standing advice, but no substantive evidence has been provided to demonstrate this was the case. The Council has referred to the proximity of a nature reserve but the significance of this is unclear as is the precise location relative to the site. The Wildlife Trust commented on the application and suggested that a Preliminary Ecological Assessment (PEA) should be undertaken, but no reference was made in their comments to which species may be present and, if so, how they would be affected by the proposal.
31. Thus, the Council has not demonstrated that protected species are likely to be present and affected by the proposal and therefore whether a PEA would be a proportionate requirement. The appellant confirmed that post development surveys could take place, and these could be used as a baseline to demonstrate a net gain in biodiversity as required by Policy LP30 of the LP. I have no reason to question this approach and the Council have recommended a condition to that end. Accordingly, the Council have failed to demonstrate that the proposal would be in conflict with Policy LP30 of the LP or that the proposal would fail to conserve biodiversity contrary to the expectations of the Natural Environment and Rural Communities Act 2006.

Other Matters

32. The Planning Practice Guide⁶ suggest that a sequential assessment is necessary for development unless it is wholly within Flood Zone 1. This is logical because the Framework advocates a risk-based approach to the location of development in order to avoid flood risk to people *and* property. The appeal site is not entirely within Flood Zone 1 and therefore guidance in the PPG would suggest a sequential assessment is required. However, as the appeal has failed for other reasons this is not a point that requires further consideration.

⁵ Paragraph: 016 Reference ID: 8-016-20140612

⁶ See checklist linked in at Paragraph 32 Reference ID: 7 -032-20150415

Heritage Planning Balance

33. Policy LP34 of the LP states that harm to heritage assets can only be outweighed if there are public benefits that are powerful enough to do so. The harm that would occur to the character and appearance of the CA and the setting of the SAM would not be severe and therefore it would be 'less than substantial' within the meaning of the Framework. The Council have suggested that the combined harm would be towards the lower end of this 'spectrum' (of less than substantial harm). This is generous, but I am content to apply my balance on this basis because Historic England came to the same conclusion.
34. The provision of one dwelling would support housing land supply but only to a very modest extent. Similarly, the occupation of the dwelling would provide very modest economic benefits to the construction industry and the local economy more generally, even when allowing for the impacts caused by the Covid-19 pandemic. There is nothing to suggest the occupation of the dwelling would have a meaningful effect on the provision of services and facilities. The removal of three low quality trees is not a benefit because they have a group value, but nor is it harmful. This is a neutral matter. There is the potential for additional planting, especially along the boundary with Castle Hills House, and therefore a modest net gain to biodiversity could occur. Archaeological investigations could provide some modest benefits to the historic understanding of the area. Overall, the benefits of the proposal would cumulatively be matters of limited weight in favour of it.
35. Paragraph 193 of the Framework states that great weight should be given to the conservation of designated heritage assets, such as SAMs and CAs. Considerable importance and weight must be given to the special attention I must pay to the desirability of preserving or enhancing the character or appearance of the CA⁷. This guidance does not amount to a direction to refuse proposals that harm designated heritage assets, but it provides a strong presumption in favour of preservation.
36. In this context, the harm that would arise from the proposal would not be outweighed by its public benefits. Accordingly, there would be a conflict with Policy LP34 of the LP and Paragraph 194 of the Framework as harm to designated heritage assets would not have clear and convincing justification

Conclusion

37. The proposal would not harm protected trees or the setting of River Mill. Moreover, the Council have failed to demonstrate that the proposal would harm biodiversity. Nevertheless, the proposal would fail to preserve the conservation area or conserve the setting of the SAM. There are no other considerations or public benefits that would outweigh this harm. The proposal would therefore fail to satisfy the requirements of the Act, the Framework and development plan as a whole. Accordingly, for the reasons given, the appeal fails.

Graham Chamberlain
INSPECTOR

⁷ See Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990

APPEARANCES

FOR THE APPELLANT

Mr Martin Hicks
Mr Stephen Connell

Appellant
GC Planning Partnership Ltd

FOR THE LOCAL PLANNING AUTHORITY

Ms Debra Bell
Ms Louise Newcombe

Huntingdonshire District Council
Huntingdonshire District Council

DOCUMENTS SUBMITTED DURING THE HEARING

1. The Council's Local Validation List
2. Extract from Part M4(2) of the Building Regulations