

Appeal Decision

Site Visit made on 23 February 2021

by R Sabu BA (Hons), BArch, MA, Pg Dip

an Inspector appointed by the Secretary of State

Decision date: 18th March 2021

Appeal Ref: APP/F3545/W/20/3262658

The Woodyard, Stores Hill, Dalham CB8 8TQ

- 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 Gordon Smith against the decision of West Suffolk Council.
 - The application Ref DC/18/1425/FUL, dated 20 July 2018, was refused by notice dated 9 October 2020.
 - The development proposed is erection of two dwellings (retrospective) and ancillary access arrangements.
-

Decision

1. The appeal is allowed and planning permission is granted for entry-Level exception site for 2no affordable dwellings and ancillary access arrangements at The Woodyard, Stores Hill, Dalham CB8 8TQ in accordance with the terms of the application, Ref DC/18/1425/FUL, dated 20 July 2018, subject to the attached schedule of conditions.

Preliminary Matters

2. From my observations during the site visit, the development has largely been carried out, though there were additional windows on the first floor of the south elevations which are not indicated on the application drawings. I have therefore made my assessment based on the drawings before me rather than the development as built.
3. While I note the description of development in the application form, I have used the description from the decision notice in the decision above as it more precise.

Main Issues

4. While I note the reasons for refusal, from the wider evidence the main issues are:
 - whether the development preserves or enhances the character or appearance of Dalham Conservation Area; and
 - whether the development provides a suitable location for housing with particular regard for the accessibility of services and facilities

Reasons

Character or appearance

5. The site lies outside the settlement boundary of Dalham and within the Dalham Conservation Area (DCA) the significance of which lies in the evidence of historic vernacular architecture. While many dwellings in the area face the main road, there are also a number set away from the highway such that the prevailing pattern of development is not strictly linear, rather it includes modest development set behind existing dwellings. Overall, the area has a pleasant, modest and spacious character and appearance.
6. The dwellings would be sited roughly to the rear of existing dwellings and the scheme does not front the highway. Given the layout of The Woodyard and other properties in the area which are set behind other buildings, the scheme is not unusual in this particular respect. Moreover, the building is approximately in line with the rear of The Woodyard such that the pattern of development does not appear incongruous.
7. The massing of the development is broken up by the use of varying roof heights and forms. The traditional materials reflect that of the other buildings in the area. Furthermore, given the setback nature of the scheme, along with the sloping ground levels of the site, the buildings do not appear prominent from Stores Hill. As such, while the scheme has somewhat urbanised the site, and once occupied would be likely to result in some domestic paraphernalia, given its limited visibility, it does not harm the modest spacious feel of the area.
8. Consequently, the development preserves the character or appearance of DCA and its significance. Therefore, it does not conflict with Policies DM2, DM22 of the Joint Development Management Policies Document Adopted February 2015 (DMPD) which seeks, among other things, residential development that maintain or create a sense of place and/or local character. It also does not conflict with DMPD Policy DM17 which requires that development should preserve or enhance the character or appearance of the Conservation Area.
9. The development does not conflict with Policy CS3 of the Core Strategy Development Plan Document 2001-2026 Adopted May 2010 (CS) which requires new developments to create and contribute to a high quality, safe and sustainable environment. In addition, the scheme does not conflict with the National Planning Policy Framework (Framework) in this respect.
10. While CS Policy CS5 relates to affordable housing, since it does not refer to the character and appearance of development, it is not directly relevant to this main issue.

Location

11. Dalham is a small village with limited services and facilities and the nearest settlement with a full range of services is some distance away such that future occupiers would be unlikely to travel by foot or cycle for day to day needs. In addition, from the evidence public transport in the area is limited such that future occupiers of the development would be reliant on the private vehicle for daily requirements.

12. However, given the scale of development and the distance to nearby towns, journeys by private vehicle arising from the development would be likely to be fairly short such that any harm in this respect would be limited and refusal of planning permission on this ground alone would not be justified. In addition, I recognise that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
13. Consequently, the development provides a suitable location for housing with particular regard for the accessibility of services and facilities. Therefore, it does not conflict with DMPD Policy DM5 which seeks to protect the countryside from unsustainable development. It also does not conflict with the Framework in this respect.

Other Matters

14. I note the first reason for refusal, however since the previous Inspector's decision was not on the basis of ground a) the planning merits of the scheme have not been considered by another Inspector. As such, the comments of the previous Inspector and the Written Ministerial Statement referred to by the Council do not form a reason to refuse the scheme. Since I have found the development acceptable in terms of reasons for refusal two, three and four, this matter in itself does not count against the scheme and has not altered my overall decision.
15. Paragraph 56 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations (CIL) require that planning obligations should only be sought, and weight attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
16. DMPD Policy DM5 permits new building in areas designated as countryside in a number of circumstances including where it is affordable housing for local needs in accordance with other policy. The appellant has submitted a signed and completed S106 legal agreement which secures the dwellings as low-cost homes for sale at a price equivalent to at least 20% below local market value. The Council has also confirmed that the proposal will contribute towards an established need for affordable units in Dalham.
17. Therefore, the delivery of affordable homes is necessary to make the development acceptable in planning terms. The obligation in this respect in the S106 legal agreement is fairly and reasonably related to the achievement of those objectives. I am, therefore, satisfied that the obligations in relation to affordable housing included in the S106 legal agreement meet the necessary tests.
18. While the second reason for refusal refers to the outlook of neighbouring occupiers of the cottages which front Stores Hill, given the distance and orientation between the scheme and these properties, from the evidence there is no undue harm to outlook of the occupiers.
19. I acknowledge local concerns including those relating to highway safety. However, the Highway Authority did not object to the scheme subject to a

number of conditions and from the evidence before me, I see no reason to disagree. While I note the evidence regarding displacement of vehicles that park near the site entrance, since the land in question lies within the ownership of the appellant, this matter has not altered my overall decision.

20. I note local concerns regarding precedent. However, I have necessarily assessed the scheme based on its planning merits. Therefore, this matter has not altered my overall decision.

Conditions

21. I have made some minor changes to the conditions suggested by the Council having regard to the tests set out in the Framework and the guidance contained in the Planning Practice Guidance. I have amended some of the wording of the conditions in the interests of precision and clarity.
22. A condition specifying plans is necessary in the interests of certainty. Conditions requiring the removal of windows and an existing first floor window to be obscure glazed are necessary to safeguard the living conditions of neighbouring occupiers. Conditions removing permitted development rights in relation to windows and fences are necessary to safeguard the character and appearance of the area as well as the living conditions of neighbouring occupiers.
23. Conditions relating to contamination and biodiversity are necessary to conserve the natural environment and a condition relating to electric vehicle charging points are necessary in the interests of sustainability.
24. Conditions regarding visibility splays, parking areas, cycle storage and gates and fences are necessary to safeguard highway safety. While the Council has specified a different drawing in relation to visibility splays in their suggested conditions, it has confirmed that the application was determined on the basis of the drawing cited in the decision notice. I have therefore specified this drawing in the relevant conditions.
25. Conditions regarding fencing and lighting is necessary to safeguard the living conditions of neighbouring occupiers.

Conclusion

26. For the reasons given above the appeal should be allowed.

R Sabu

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: BW1-00561120 (Location plan), 16-5657-01 Rev D (layout with fencing shown in red), 16-5657-01 Rev B (Parking Layout), 204/10 (1973) 16-5650-01 Rev C (Elevations), 204/10/(1973) 16-5650-01 Rev B (Floor plans) and 20-5650-201 Rev C (Visibility splays).
- 2) The dwellings hereby approved shall not be occupied unless and until the existing south facing first floor windows NOT shown on drawing 204/10 (1973) 16-5650-01 Rev C have been removed and the south elevation has been constructed in complete accordance with this drawing.
- 3) The building/extension hereby permitted shall not be occupied until the window at first floor on the south elevation (shown on elevation drawing 204/10 (1973) 16-5650-01 Rev C) has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed.
- 5) There shall be no residential occupation of the site until the following components to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the local planning authority:
 - i) A site investigation scheme (based on the approved Preliminary Risk Assessment (PRA) within the approved Desk Study), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - ii) The results of a site investigation based on i) and a detailed risk assessment, including a revised Conceptual Site Model (CSM).
 - iii) Based on the risk assessment in ii), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken. The strategy shall include a plan providing details of how the remediation works shall be judged to be complete and arrangements for contingency actions. The plan shall also detail a long-term monitoring and maintenance plan as necessary.

No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the remediation strategy in iii) is submitted and approved, in writing, by

- the local planning authority. The long-term monitoring and maintenance plan in iii) shall be updated and be implemented as approved.
- 6) Prior to first occupation, all dwellings with off street parking shall be provided with an operational electric vehicle charge point at reasonably and practicably accessible locations, with an electric supply to the charge point capable of providing a 7kW charge.
 - 7) Visibility splays shall be provided as shown on Drawing No. 20-5650-201 Rev C with an X dimension of 2.4 and a Y dimension of 90 metres in each direction and thereafter retained in the specified form.
 - 8) Notwithstanding the provisions of Part 2 Class A of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted or permitted to grow within the areas of the visibility splays.
 - 9) The areas within the site shown on Drawing No. 16-5657-01 Rev B for the purposes of manoeuvring and parking of vehicles shall be provided and thereafter those areas shall be retained and used for no other purposes.
 - 10) Prior to the dwellings hereby approved being occupied, details of the areas to be provided for the secure cycle storage shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be retained thereafter and used for no other purpose.
 - 11) Any gates and fences as may be installed at the property shall be set back a minimum distance of 5 metres from the edge of the carriageway.
 - 12) The dwellings hereby approved shall not be occupied until the fencing illustrated on block plan 16-5657-01-Rev D has been installed in its entirety and it shall be retained in this form. The area of fencing shown by the red line on plan 16-5657-01-D shall not exceed 1 metre in height.
 - 13) Prior to residential occupation details of biodiversity enhancement measures to be installed at the site, including details of the timescale for installation, shall be submitted to and approved in writing by the local planning authority. Any such measures as may be agreed shall be installed in accordance with the agreed timescales and thereafter retained as so installed.
 - 14) No external lighting shall be installed within the red line of the application site.
 - 15) Notwithstanding the provisions of Part 2, Class A the Town and Country Planning (General Permitted Development Order) 2015 as amended (or any Order revoking and re-enacting that Order, with or without modification) other than those expressly permitted by this planning permission, no fences walls or other means of enclosure shall be erected without the prior written consent of the local planning authority.

END OF SCHEDULE