



Appeal Decision

Hearing (Virtual) Held on 18 May 2021

Site Visit made on 18 May 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd June 2021

Appeal Ref: APP/V0510/W/20/3257114

Land to rear of 23 West Fen Road, Ely CB6 1AN

- 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 Ashwood Bond against the decision of East Cambridgeshire District Council.
 - The application Ref 20/00285/FUL, dated 24 February 2020, was refused by notice dated 15 June 2020.
 - The development proposed is erection of a three bedroomed bungalow and access.
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Decision

1. The appeal is dismissed.

Main Issue

2. The effect upon highway and pedestrian safety.

Reasons

3. The appeal site is for the most part formed of an area of grassed land that is not currently used for any clearly specified or active purpose. The main body of the site is situated to the rear of Nos 23, 25 and 27 West Fen Road (Nos 23, 25 and 27) and is abutted by the grounds of various neighbouring residential properties. The site is served by an existing shared vehicular access (the access) that runs between Nos 21 and 23 West Fen Road (Nos 21 and 23).
4. West Fen Road (the Road) is a single carriageway road that provides a connection between the A10 and the central area of Ely. It is a route that is the subject of a 30mph speed limit and that, in proximity to the site, offers footway links and unrestricted parking/waiting opportunities to each of its sides.
5. Traffic, pedestrian and parking surveys (the survey work) were undertaken at planning application stage and the main parties to this appeal agree that the various findings are suitably representative of current circumstances. The survey work identifies 85th percentile vehicle speeds of 25.6mph (westbound) and 28.4mph (eastbound) and also indicates that average two-way traffic flows peak at 154 trips per hour on weekdays whilst average two-way flows of just under 1,600 vehicles per day occur. Modest pedestrian flows (peaking at 26 two-way movements per hour along the Road's southern footway) and available on-street parking capacity upon the Road are also identified through the survey work.

6. My own on-site observations aligned (at least in broad terms) with the results of the survey work. Indeed, having witnessed moving traffic close to the site, I have no reason to doubt the accuracy of the recorded speed data. Whilst the traffic flows that I observed along the Road could not be accurately described as either constant or continuous, it was clear that neither could they be considered minor nor inconsequential. Indeed, it was rare to experience a sustained period with no traffic passing the point where the access meets the Road. A limited number of pedestrian movements took place to each of the Road's sides during my inspection and, notwithstanding several vehicles being parked on-street close to the site, I witnessed plentiful available on-street parking opportunities.
7. In accordance with the TRICS (Trip Rate Information Computer System) database, the proposed dwelling would be anticipated to generate something in the order of five additional vehicular trips per day. This represents a modest yet not insignificant number of additional trips. Indeed, notwithstanding any trips currently undertaken to the main body of the appeal site for maintenance or surveillance purposes, an intensification of the access's use would inevitably occur as a result of the proposal. This is even when acknowledging the realistic potential for future occupiers to undertake at least some of their trips on foot or by cycling.
8. A variety of private easements/rights of way apply to the access. Whilst it is not my role or capability to confirm the precise legal access rights of any given property, the evidence before me indicates that Nos 23 and 27 are the only residential properties with rights of access able to be exercised by a motor vehicle. This would not be inconsistent with photographs contained within the submitted evidence and my own on-site observations. Indeed, I witnessed a vehicle parked to the rear of No 23 and the practical difficulties that would be associated with accessing any other residential property (apart from a single garage located to the rear of No 27) were apparent. On this basis, it is likely that the access is currently lightly used. Nevertheless, it remains the case that the access already serves in a shared capacity and that the proposal would result in an intensification of its use.
9. The access has a discreet presence and is of a narrow width that does not provide the opportunity for simultaneous two-way vehicular movements. Indeed, it is sandwiched between the facing gable ends of Nos 21 and 23. Whilst a resurfacing of the access and advisory road marking is intended, limited perceptibility would continue to apply for motorists seeking to enter the site. Such constraints raise the likelihood of entering vehicles needing to stop (potentially abruptly) and/or to manoeuvre within the highway should another motorist be exiting at the same time. When noting the not insignificant traffic speeds/flows surveyed and the number of realistically anticipated additional trips to and from site that would be generated by the proposal, this raises legitimate highway safety concerns.
10. It was suggested at the Hearing that, in the event vehicles enter and egress the site simultaneously, the motorist seeking to egress would invariably look to reverse safely within the confines of the site so as to allow the entering vehicle to proceed. Indeed, it was also submitted that traffic management measures (such as new signage) could be put in place within the site to help influence driver behaviours. However, in practice, there would be no guarantees that egressing motorists would consistently give way to entering vehicles. Even if

they were to, this would not remove the possibility of entering vehicles having to stop in the highway to await reversing manoeuvres.

11. Vehicular visibility splay calculations undertaken separately by the appellant and the Highway Authority (the HA) appear within the evidence that is before me. Notwithstanding some differences in the precise methodology used, it is evident that regard has been paid by both parties to the relevant guidance contained within Manual for Streets 2 (September 2010) (MfS2).
12. Even when applying the specific calculations put forward by the appellant, it is apparent that very pronounced differences exist when required splays (incorporating distances of 31m and 36m measured to the east and west respectively) are compared to the splays that are actually achievable at the access (distances of 7m to the east and 6m to the west). Upon inspection, I was able to corroborate that significant visibility constraints apply in both directions when exiting the site. This was most particularly due to Nos 21 and 23 being set to the back edge of the footway and in proximity to the carriageway (owing to the footway's limited width).
13. The appellant has sought to suggest that more generous vehicular visibility splays exist in practical terms. This is in-part due to eastbound traffic being expected to travel on the far side of the carriageway relative to the site and to the regular presence of parked cars to the Road's southern side, which, it has been suggested, promote opportunities for motorists to nose out of the access carefully. However, given the unrestricted and ad-hoc nature of on-street parking to both of the Road's sides, it cannot be guaranteed that vehicles would remain parked in a consistent or potentially advantageous manner. Indeed, any positive effect upon visibility brought about by the presence of on-street parking was not clear or obvious upon my own use of the access during inspection. For these reasons, I attach limited relevance to the appellant's arguments in this sense.
14. As referenced in MfS2, reductions in visibility below the recommended level will not necessarily lead to a significant problem and that local evidence/circumstances should be taken into account. Indeed, a February 2021 appeal decision¹ at Bromsgrove has been brought to my attention where the Inspector factored in local circumstances when considering the suitability of site access points.
15. In terms of the site under consideration here, there have been no recorded accidents within 50m of the site's access during the latest 5-year period and surveyed 85th percentile traffic speeds fall below the Road's speed limit. Indeed, driver perceptions are likely influenced by the local highway environment which contains ad-hoc on-street parking, often narrow sections of carriageway and sometimes tightly dimensioned access points.
16. However, only so much flexibility can be applied when factoring in such considerations. Indeed, it cannot be ignored that levels of vehicular visibility at the site's access fall far below expected standards or that traffic flows along the Road are neither minor nor inconsequential in either direction. Notwithstanding that the site's access is already operational, I find that unacceptable levels of vehicular visibility are afforded to motorists at the site's access. These circumstances do not promote an intensification of the access's use.

¹ APP/P1805/W/20/3245111

17. The evidence before me strongly indicates that pedestrian flows are limited and low-density along the footway that passes the access. I find that the modest number of additional vehicular trips anticipated to be generated would hold minimal potential to cause any meaningful level of inconvenience for users of the footway. Indeed, it would be unrealistic to anticipate pedestrians regularly having to wait for long periods before being able to advance along the footway.
18. However, this does not mean to say that the proposal would promote or acceptably safeguard pedestrian safety. Indeed, consistent with the site's relative proximity to the centre of Ely, surveyed pedestrian flows are not so limited to enable the prospect of direct conflict between exiting vehicles and pedestrians to be fully discounted.
19. It must be noted that very restricted pedestrian visibility is afforded at the access. Although it has been suggested that splays in excess of the HA's usual 2m x 2m requirement are achieved, it is evident that such splays have been calculated to the carriageway's southern side as opposed to the footway's southern edge. Whilst I am unaware of any locally adopted guidance (or similar) setting out a standard approach for calculating pedestrian visibility splays, I am of the stance that the appellant's approach is flawed. This is simply on the basis that pedestrians could reasonably be anticipated to pass the site in proximity to the footway's southern edge.
20. I have fully considered the latest evidence² submitted with specific respect to pedestrian visibility, but do not consider that acceptable levels of intra-visibility between egressing motorists/vehicles and pedestrians have been demonstrated. As was my own experience upon egressing the site, motorists are required to pull out/nose out their vehicle over the footway before being able to attain meaningful levels of footway visibility to each of the access's sides. Furthermore, the narrow nature of the footway offers limited margins for pedestrians to evade vehicles even if emerging at low speeds. Thus, most particularly when noting the additional vehicular trips anticipated, the proposal would have an unacceptable effect upon pedestrian safety.
21. As a further note, the proposal would, to a limited degree, promote instances of conflict occurring between moving vehicles and pedestrians within the site itself. This is due to factors that include the access's narrow and tapered design and its proximity to a side entrance serving No 23.
22. Various other local sites/planning decisions have been brought to my attention. Planning permission³ was granted in 2009 for six dwellings at land to the rear of No 19 West Fen Road (now known as Moore Court). Whilst the access to that site did/does not fully meet the expected standards for a shared access, its width is notably greater than the access to the appeal site. Wider margins that more flexibly cater for simultaneous vehicle movements thus apply and the levels of vehicular and pedestrian visibility on offer are not directly comparable. It is also the case that a former commercial use of the Moore Court site factored into the HA's decision not to sustain an objection, which, even when noting the apparent lack of detailed traffic modelling then submitted, further differentiates the 2009 scheme from the appeal proposal. It is a planning decision of limited relevance to my considerations.

² Local Access Examples, Sheet 3 of 3

³ 09/00702/FUL

23. A vehicular access serves No 19b West Fen Road (No 19b) and does not offer readily useable turning facilities. Whilst this access is similarly located between the gable ends of two properties, it is slightly wider than the appeal site's access and serves merely a single dwelling. Any required manoeuvres at No 19b could be undertaken without the realistic threat of conflict with any other user of the same access, which is not the case at the appeal site. No 19b's access (and accident-free record) is thus of limited relevance to the outcome of this appeal.
24. A proposal⁴ for an additional single dwelling at No 70 West Fen Road (No 70) has also been brought to my attention. However, No 70 is served by two separate access points. The relevant submitted site plan indicates that one such access was intended to be retained for the existing dwelling and that the other would have served the additional dwelling. It has thus not been clearly evidenced that a shared access was accepted by the HA. It was also apparent upon inspection that each of No 70's access points are bordered by stone walled elements of limited height, as opposed to the gabled ends of two-storey properties (as are in place adjacent to the appeal site's access). Even when noting the potential for sub-dividing close-boarded fencing to have been installed, the proposal at No 70 is of little relevance to my considerations.
25. A planning permission⁵ for the erection of a single dwelling to the rear of No 40 Prickwillow Road, Ely also makes up part of the submitted evidence. Access to that site is via Springhead Lane (the Lane), which connects to a shared access that I'm led to understand currently serves 11 different properties. It is of considerable length, of insufficient width to accommodate two-way traffic movements and offers very limited visibility at its point of connection point to the Lane.
26. However, the Lane does not act as a through-route. It takes the appearance of an estate road and serves a fairly modest number of properties. It was clear upon inspection that the Lane is not comparable to the Road in terms of its character nor the number of traffic movements that it serves. Indeed, during a ten-minute visit to the Lane I did not witness a single traffic movement. The highway environments are quite clearly different, which leads me to find that the Prickwillow Road scheme is of limited relevance.
27. For the above reasons, the proposal would prejudice highway and pedestrian safety and thus cause harm. The proposal conflicts with Policy COM7 of the East Cambridgeshire Local Plan (April 2015) and the National Planning Policy Framework (February 2019) (the Framework) in so far as these policies require that development proposals shall provide safe and convenient access to the highway network.

Other Matters

28. The site is located within the Ely Conservation Area (the ECA). The significance of the ECA as a designated heritage asset is drawn, in-part, from its rich history, its range of often exceptional listed buildings and its variety of open spaces. An unashamedly modern and well-proportioned single-storey dwelling is proposed. The Council's Conservation Officer has stated that its design has rigour and has indicated that it would make a credible contribution to the City's

⁴ 18/01782/FUL

⁵ 19/00768/FUL

built environment. I have no reason to disagree and find that the proposal would preserve the character and appearance of the ECA. Notwithstanding this, the proposal would not enhance the ECA's character or appearance. Indeed, in its current grassed and undeveloped state, the site makes a limited yet valid contribution to the ECA's heritage significance.

29. I have noted objections/concerns raised by interested parties with respect to matters including the intended level of on-site parking provision, bin collection arrangements, potential noise and disturbance, intended drainage provisions and the effect upon the stability of existing boundary walling. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters further here.

Planning Balance

30. The proposal would deliver a well-designed 3-bedroomed bungalow in a central location and the Framework reaffirms the Government's objective of significantly boosting the supply of homes. Whilst the parties agree that the Council can currently demonstrate a 5-year supply of deliverable housing sites, the standard method for calculating local housing need determines the minimum rather than the maximum number of homes needed. Even so, a single additional dwelling would not make a clear and noticeable difference to the overall housing land supply position in the District. I afford the benefit of an additional housing unit limited weight.
31. The proposal would make effective use of a currently underutilised area of land that is located within an urban settlement and that is well-served by locally accessible facilities and services. Even so, the site does not meet the Framework's definition of previously developed land. Indeed, in the context of historic uses that have been suggested, any remains of a former permanent structure were not apparent upon inspection and residential garden land located in a built-up area is excluded from the Framework's definition. I thus afford moderate weight to the scheme's benefit of making an effective use of the site. Any biodiversity benefits brought about by new landscaping or any other relevant enhancement measures would be limited and attractive of commensurate weight in the planning balance.
32. The scheme's benefits, when considered in a cumulative sense, would be relatively modest and would not outweigh the significant harm (through prejudicing highway and pedestrian safety) that I have identified. I accept that the breach of a single development plan policy will not always amount to conflict with a development plan when considered as a whole. However, given the importance of Policy COM7 (noting its consistency with the Framework) and the clear nature of the breach identified, I find that, in this case, the proposal conflicts with the development plan when read as a whole and that material considerations do not lead me to a decision otherwise.

Conclusion

33. For the reasons given above, the appeal is dismissed.

Andrew Smith

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Charles Robinson BTech (Hons) MPhil MRTPI	TwelveTwentyOne Planning
George Bailes BSc (Hons) MSc MCIHT	The Transportation Consultancy

FOR THE COUNCIL

Molly Hood BSc (Hons) MA	Planning Officer
Barbara Greengrass BSc (Hons) MSc MRTPI	Planning Team Leader

FOR THE HIGHWAY AUTHORITY

Nigel Eggar MCIHT MIHE MTPS	Highway Development Manager, Cambridgeshire County Council
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INTERESTED PARTY

Jonathan Harris	Local resident
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