
Appeal Decision

Site visit made on 15 February 2022

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 FEBRUARY 2022

Appeal Ref: APP/V0510/W/21/3283673

Land between 31 and 37 Brinkley Road, Dullingham, Newmarket CB8 9UW

- 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 & Mrs Jamie Davison against the decision of East Cambridgeshire District Council.
 - The application Ref 21/00803/FUL, dated 22 May 2021, was refused by notice dated 11 August 2021.
 - The development proposed is a new dwelling with associated detached garage and new highway access.
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Decision

1. The appeal is allowed and permission is granted for a new dwelling with associated detached garage and new highway access at Land between 31 and 37 Brinkley Road, Dullingham, Newmarket CB8 9UW in accordance with the terms of the application, Ref 21/00803/FUL, dated 22 May 2021, subject to the attached schedule of conditions.

Main Issue

2. The main issue is whether the proposal would be acceptable having regard to the character and appearance of the area and the development plan.

Reasons

3. The proposal is for a detached dwelling with a separate double garage in front on an undeveloped site between Nos 31 and 37 Brinkley Road. The site is separated by a fence from an agricultural field to the rear which also lies in the appellant's ownership. The application follows a previous scheme dismissed on appeal in April 2021¹.
4. The site lies outside the 'development envelope' of the village as defined in the East Cambridgeshire Local Plan 2015 (ECLP) where Policy GROWTH 2 restricts development to certain limited categories, none of which apply in this case. However, Nos 31 and 37 and a row of frontage dwellings on either side are within the defined development envelope where the same policy allows new housing provided there is no significant adverse effect on the character and appearance of the area.
5. The previous appeal established that a dwelling on the site would preserve the setting of both the Grade I listed St Mary's Church to the north-east and the

¹ Appeal ref. APP/V0510/W/20/3265378

Dullingham Conservation Area which includes the opposite side of the road. However, the then proposal was set well back into the site behind the general building line along this side of Brinkley Road with the dwelling sited behind the main two storey section of No 37 and the rear garden boundary of No 31. The current proposal addresses this concern being located directly alongside No 37 and thus would complement the existing street scene.

6. In addition, the previous scheme included two first floor bedroom windows facing north and one facing west which would have overlooked the private rear garden of No 31. These have now been omitted and together with the revised siting would ensure the privacy of the property concerned.
7. Together with the road frontage opposite, the site lies outside the development envelope of the village where new houses are contrary to policy. When defined in 2015 this may have been intended to ensure a break in the development along Brinkley Road. However, this does not reflect the current situation. The Council granted planning permission for five houses within the undeveloped frontage opposite the site in 2019, four of which have now been built with the footings of the fifth in place. In addition, outline planning permission has been granted for a further four dwellings on the adjacent Old Salt Depot site which also lies outside the development envelope. It is appreciated that these decisions reflected a housing land supply shortfall at the time and the latter was a previously developed site. However, this section of Brinkley Road is now becoming built-up so a further dwelling in an undeveloped gap opposite would not be out of place.
8. For these reasons the proposal would be acceptable having regard to the character and appearance of the area and the development plan. Whilst contrary to ECLP Policy GROWTH 2, the change in the character of the area amounts to a material consideration that justifies a decision at variance with the development plan.
9. The Council has suggested a series of conditions should the appeal be allowed. These have been assessed against the relevant tests, making minor changes as necessary. In addition to the standard time limit for commencement, a condition is necessary to define the approved plans in the interests of certainty. Conditions are also necessary to control the external materials to be used, to require a soft landscaping scheme and its maintenance, a hard landscaping scheme and suitable boundary treatment, all to ensure the satisfactory appearance of the scheme. Further conditions are necessary to control the hours of working and any piling to safeguard the living conditions of nearby residents and to secure biodiversity improvements in the interests of ecology.
10. Conditions are also required to ensure any contamination is addressed and foul and surface water disposal is satisfactory to prevent flooding and pollution. In the interests of highway safety, conditions are necessary to close the existing access and provide the new access, to require any gates to be set back, to limit the access gradient, to prevent surface water run-off into the highway and to ensure that the parking/turning area is provided. Finally, although not suggested by the Council, a condition is necessary to ensure obscure glazing in the north facing ensuite window to protect the privacy of the occupiers of No 31. There are however no unusual circumstances that justify the removal of permitted development rights.

Conclusion

11. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) Development shall be carried out in accordance with the approved drawings listed below:
602 P-01 Existing Site Plan
602 P-02 Proposed site plan and street elevation
602 P-03 Plans and elevations
Location Plan
- 2) The development hereby permitted shall be commenced within three years from the date of this decision.
- 3) No above ground construction shall take place on site until details of the external materials to be used in the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) Construction times and deliveries, with the exception of fit-out, shall be limited to the following hours: 0730 to 1800 each day Monday - Friday, 0730 to 1300 Saturdays and none on Sundays, Bank Holidays and Public Holidays.
- 5) Should the foundations of the development hereby permitted require piling, no piling shall be carried out until a report/method statement has been submitted to and approved in writing by the Local Planning Authority detailing the type of piling and mitigation measures to be taken to protect local residents from noise and/or vibration. The piling shall then be carried out in accordance with the approved details.
- 6) Should contamination be found at any time when carrying out the approved development that was not previously identified it must be reported to the Local Planning Authority within 48 hours. No further works shall take place until an investigation and risk assessment has been undertaken and submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. The remediation works in the approved scheme shall then be undertaken and following completion a verification report must be prepared and approved in writing by the Local Planning Authority prior to occupation of the dwelling hereby permitted.

- 7) No development shall take place until a scheme to dispose of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme(s) shall be fully implemented prior to occupation of the dwelling hereby permitted.
- 8) Prior to occupation of the dwelling hereby permitted a full schedule of all soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include planting plans, a written specification, schedules of plants noting species, plant sizes, proposed numbers/densities and a detailed implementation programme. It shall also indicate all existing trees and hedgerows on the land and details of any to be retained. The works shall be carried out in accordance with the approved details prior to the end of the first planting season following occupation of the dwelling. If within a period of five years from the date of the planting or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place unless the Local Planning Authority gives its prior written consent to any variation.
- 9) No above ground construction shall commence until full details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details prior to the occupation of the dwelling hereby permitted or in accordance with an implementation programme submitted to and approved in writing by the Local Planning Authority prior to occupation.
- 10) No above ground construction shall commence until details of the boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be in situ in accordance with the approved details prior to the occupation of the dwelling.
- 11) Prior to occupation of the dwelling hereby permitted, the vehicular access from the existing carriageway edge shall be laid out and constructed in accordance with a detailed engineering scheme to be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the provision of a metalled/sealed surface for a minimum length of 5m from the existing carriageway edge.
- 12) The existing access to Brinkley Road shall be permanently and effectively closed and the footway/highway verge reinstated within 28 days of the bringing into use of the new access in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.
- 13) Prior to occupation of the dwelling hereby permitted any gate or gates to the vehicular access shall be set back a minimum of 5m from the near edge of the highway carriageway and shall be hung to open inwards. These requirements shall be met at all times thereafter.
- 14) The gradient of the vehicular access shall not exceed 1:12 for a minimum distance of 5m into the site as measured from the near edge of the highway carriageway and this requirement shall be met at all times thereafter.

- 15) Prior to occupation of the dwelling hereby permitted the on-site parking and turning area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan P-02 and thereafter retained for that specific use.
- 16) The access and all hardstanding within the site shall be constructed with adequate drainage measures to prevent surface water run-off onto the adjacent public highway and these shall be retained at all times thereafter.
- 17) Prior to occupation of the dwelling hereby permitted a scheme of biodiversity improvements shall be submitted to and approved in writing by the Local Planning Authority. The biodiversity improvements shall be installed prior to the occupation of the dwelling and retained at all times thereafter.
- 18) Prior to occupation of the dwelling hereby permitted the first floor north facing ensuite window shall be fitted with obscure glazing and retained as such at all times thereafter.