



Appeal Decision

Site visit made on 6 July 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2022

Appeal Ref: APP/V0510/W/21/3284939

Land Adjacent 5 Willow Walk, Ely, Cambridgeshire CB7 4AT

- 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 S Evans against the decision of East Cambridgeshire District Council.
 - The application Ref 20/01746/FUL, dated 12 December 2020, was refused by notice dated 16 April 2021.
 - The development proposed is Erection of 2 no Semi-detached dwellings (Re-submission of refused application 20/01049/FUL).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). However, the revisions made to the Framework do not have any significant bearing on the main issue relevant to this appeal. I have nonetheless had regard to it in considering this appeal.
3. The appeal site has a relatively extensive planning history, which I have taken into account in considering this appeal. There is an existing extant planning permission granted in January 2020, for the construction of a four-bedroom dwelling (approved under LPA reference 19/01340/FUL). Given that the consent is extant and that the appellant clearly has intentions to develop the site, I consider that there is a realistic of this development coming forwards. It therefore represents a 'fallback position' which is a material consideration in the determination of this appeal. In addition, the conclusions of the Inspector reached in an appeal dismissed in August 2019¹ for one dwelling are also relevant. Notwithstanding this, there are two dwellings currently proposed and I have considered the appeal on its own merits.
4. The appellant has indicated that the 'character and appearance of the area' is a main issue in relation to this appeal. However, the planning application was not refused on this basis. This issue is therefore only relevant insofar as I have a statutory obligation to consider the effect of the development on the character and appearance of the Ely Conservation Area (CA), within which the site is located (addressed under 'other matters').

¹ PINS Ref: APP/V0510/W/18/3219798

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of the occupiers of 20 and 22 Lisle Lane (No 20 and 22) and 5 Willow Walk (No 5), with particular regard to the effect on outlook (Nos 5, 20 and 22) and overshadowing (No 5 only).

Reasons

6. The appeal site comprises an area of previously developed land which was formerly occupied by a number of single storey garages. These garages have now been demolished leaving a large vacant space between the residential development to either side of the site. To the north-west, are two semi-detached dwellings at No 20 and 22. These dwellings have small rear gardens and their rear elevation is in close proximity to the appeal site. They are separated from the appeal site by a high concrete wall. The neighbouring property at No 5 to the south-east of the appeal site is a two-storey end of terrace property, which is also separated from the site by an existing wall.
7. The proposed development is for two two-storey semi-detached dwellings which would be located in relatively close proximity to the sites north-western and south-eastern boundaries. To the north-west, a gap would be retained between the proposed dwellings and the neighbouring properties to facilitate car parking. Despite this gap, the proposed development would be particularly dominant when viewed from the neighbouring gardens and from the first-floor windows of these properties. This is due to the close proximity of these dwellings to the proposed two-storey flank wall and gable. This harm is further exacerbated by the small size of the gardens, with little opportunity for the occupants to evade the oppressive appearance of the proposed development.
8. I accept that there is already some overbearing impact on these properties as a result of the existing concrete wall. However, the proposed development would have a far more prominent and dominant height than the wall when perceived from these neighbouring dwellings. The appellant suggests that the outlook would be improved with the introduction of a close-boarded fence. However, this is not what is conveyed on the plans, with the existing wall shown as retained. In any case, the erection of a fence would not mitigate the harmful impact of the development, given its prominent scale and close proximity.
9. The proposed development would also be in particularly close proximity to No 5 to the south-east. At ground floor level, this neighbouring property includes some windows which face the appeal site but these are already largely obscured by the high concrete wall and a lean-to extension. However, there is a window at first floor level towards the rear of this neighbouring elevation which would face directly towards the proposed development. This window would be in very close proximity to the proposed two-storey flank wall of the development and the result would be a harmful oppressive and overbearing impact on the neighbouring occupiers.
10. With regard to privacy of the rear garden of No 5, given the orientation of the proposed development, there would be a large area of the garden which would not be overlooked, sufficient to avoid a harmful impact in this regard. In terms of overshadowing, there is little substantive evidence to indicate that the proposed development would result in harmful overshadowing. Indeed, the impact at ground floor would be minimal given the proximity of No 5 to the

existing concrete wall. At first floor the slope of the proposed roof would allow sufficient access to natural light for the occupiers of No 5.

11. Overall, the proposed development would have a significant overbearing impact which would be harmful to the living conditions of the occupiers of No 5, No 20 and No 22. As such, it would conflict with East Cambridgeshire Local Plan (April 2015) Policy ENV2, which requires in part that new development does not result in any significant detrimental effect on the residential amenity of nearby occupiers.
12. The proposed development would also conflict with Framework Paragraph 130, which states in part that new development should create a high standard of amenity for existing users.

Other Matters

13. In terms of the fallback position, I have not been provided with plans showing the approved elevations. However, the appellant has provided an approved layout plan as part of his statement of case. This shows that the proposed development would be located closer to the boundary with No 22 and No 20 than that consented under the fallback position. It also shows that the development would be closer to the boundary with No 5 but also that it would be set further to the rear of the site (at two storey level), thereby having a far more obtrusive impact on the first-floor side facing window of this neighbouring dwelling.
14. Taking these factors into consideration, the proposed development, even taking into account the prospect of additional four-metre high development under the GPDO (as suggested by the appellant) and the lower ridge height, would be materially more harmful than the fallback position, given its far more oppressive impact on neighbouring occupiers. As such, this consideration does not outweigh the harm which would be caused to the living conditions of neighbouring occupiers.
15. I note that the Inspector, in considering the previous appeal, concluded that there would be no harm to the living conditions of these neighbouring properties. However, the Council indicates that the proposal related to a 1.5 storey dwelling. I have not been provided with the elevation or floor plans in respect of that proposed development, but the appellant has not disputed the Council's assertion. As such, the Inspector's comments were based on a materially different scheme and do not therefore alter my findings.
16. The appellant also makes several references to the garages which previously occupied the appeal site. But these have now been removed and as such, their removal is not a factor which weighs in favour of the development.
17. Neither main party has raised any objections to the effect of the proposed development on the character and appearance of the CA. However, under section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am obliged to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA.
18. In this regard, and based on the evidence before me, I agree that the proposal would preserve the character and thereby the significance of the CA, which is primarily derived from the well-preserved historic character of Ely and its functional and physical relationship with the Cathedral. However, whilst the site

is currently vacant, I consider that the development would result in a neutral rather than a beneficial impact. As such, this is not a factor which weighs as a benefit of the proposed development.

19. There would be social and economic benefits associated with the provision of two new dwellings, the associated support for the local economy and the temporary support for construction jobs. However, given that only two dwellings are provided, these benefits would be limited, and they would not outweigh the far more significant harm which would be caused.
20. The extent to which the development complies with other environmental policies in the development plan is a neutral factor rather than an environmental benefit of the scheme.

Conclusion

21. The proposed development would conflict with the development plan taken as a whole and there are no other material considerations, of sufficient weight, which indicate a decision should be made other than in accordance with it. The appeal is therefore dismissed.

Luke Simpson

INSPECTOR