



Appeal Decision

Site visit made on 28 June 2022

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 July 2022

Appeal Ref: APP/W0530/W/21/3280524

Land at the rear of 8 Parkway, Shudy Camps CB21 4RQ

- 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 and Mrs D Swadling against the decision of South Cambridgeshire District Council.
 - The application Ref 20/04987/FUL, dated 2 December 2020, was refused by notice dated 19 February 2021.
 - The development proposed is the erection of a dwelling with access off Carsey Hill.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling with access off Carsey Hill at land at the rear of 8 Parkway, Shudy Camps CB21 4RQ in accordance with the terms of the application, Ref 20/04987/FUL, dated 2 December 2020, subject to the following conditions on the attached Schedule A.

Procedural Matter

2. For the sake of accuracy, the Council's description of the location of the development has been used above rather than the appellants.

Main Issues

3. The main issues are the effects of the proposal on (a) the character and appearance of the area and (b) the living conditions of the occupiers of 8 Parkway, having regard to privacy.

Reasons

Character and appearance

4. The appeal site comprises the rear garden of a dwelling at 8 Parkway which backs onto Carsey Hill. The Parkway estate comprises detached and modest sized dwellings either side of a cul-de-sac road within wooded surroundings. Along Carsey Hill, the estate has extensive hedgerow and trees along the roadside. A Tree Preservation Order (TPO) covers roadside boundaries, woodland and individual trees within the area, including around the Parkway estate. In relation to the appeal site, the indicated roadside boundary under the TPO contains several elm and oak. However, the appeal site has a distinctly less dense landscaped and more open appearance compared to other areas of the Parkway estate which back onto Carsey Hill.

5. There are protected village amenity areas (PVAA) close to the vehicular entrance of the Parkway estate with Carsey Hill and adjacent to 7 Parkway, a neighbouring property. The former PVAA is mainly open whilst the latter is mainly wooded. A small triangular segment of the plot would lie within the later PVAA. On the other side of Carsey Hill opposite the site, there is a bungalow and a group of semi-detached dwellings on Hockley Close, with less substantial landscaping. Nevertheless, the surrounding area is dominated by trees, hedgerows and vegetation, and for all these reasons, the character and appearance of the area is distinctly sylvan and semi-rural.
6. The position of the new dwelling behind that at 8 Parkway would depart from the original layout of the estate and its Carsey Hill frontage area would not be as densely landscaped as the rear areas of the adjacent properties. However, it has an existing more open garden appearance compared to other properties as indicated. Extensive roadside vegetation removal has taken place on the site but there is no evidence to dispute the Tree Survey and Arboricultural Impact Assessment's (TSAIA) assessment that this area mainly contained low grade quality vegetation, brambles and ivy.
7. The TSAIA further indicates that existing trees to be removed, two sycamores, a beech tree and a group of mixed fruit trees are low quality, poor health or form. A further sycamore tree, just off the site, alongside the road, will need re-assessment once ivy has been removed and dependent upon this, it may also need to be removed on health grounds. As indicated on the proposed site plan, development would also offer opportunities to provide new shrub planting, with native species, alongside the roadside, and the internal access serving the dwelling.
8. Furthermore, the TSAIA indicates the retention of the main healthy and attractive trees on the site, a horse chestnut and an oak, between the front end of the dwelling and Carsey Hill. The dwelling would be located outside the root protection area (RPA) of these two trees, with the exception of a small infringement of the horse chestnut's RPA. The TSAIA also indicates construction around this corner of the dwelling would be carried out in a manner to minimise harm to tree roots.
9. The dwelling would be designed to match that of No 8 and the other dwellings on the Parkway estate, and would only encroach into the PVAA in a small way, with a section of landscaped front garden. The location of the dwelling would also be at a point in Carsey Hill, where there are opposing residential developments with lesser landscaped qualities. The bungalow has a mainly open frontage and the side of a semi-detached dwelling on Hockley Close has timber boundary fencing. The plot is also located towards the end of the Parkway estate closer to the village, including the junction of Carsey Hill and Blacksmiths Lane, where housing is more conspicuous.
10. Additionally, the risk of residents wishing to prune or fell trees and the Council being unable to resist such pressure in applications to works to protected trees would be low. In this regard, the ground floor living areas of the dwelling have been designed to be open plan with dual aspect windows, to the front and rear, which should ensure acceptable sunlight and daylight to serve future residents, even during the winter when the sun is positioned lower in the sky. Around the access drive, the front garden would receive sunlight during the afternoon and

the rear garden during the morning, even after taking into account the obstruction of the fence.

11. Under the TSAIA, it has been shown that there are gaps between the retained trees and the dwelling. On this basis, even taking into account future growth, it has not been demonstrated that there would be overriding issues of dropping debris. The follow-on effects of punching a hole in a group of trees, such as windthrow, or dry soil have also similarly not been evidenced. In this regard, both the oak and horse chestnut are healthy according to TSAIA.
12. For all these reasons, the development would be high quality in keeping with the sylvan, semi-rural character and appearance of the area. Such a small-scale development would furthermore not undermine the tranquillity or function of the village. The development would function well and add to the overall quality of the area, and would be sympathetic to local character. Accordingly, the proposal would comply with Policies NH/1, HQ/1 and H/16 of the South Cambridgeshire Local Plan (LP) 2018. Similarly, it would comply with paragraph 130 (a) and (c) of the National Planning Policy Framework (the Framework).

Living conditions

13. The rear of the new dwelling would face onto the garden and dwelling at 8 Parkway. However, the first floor would comprise bathrooms, stairs and dressing room, which would be obscure glazed. There is a dispute between main parties regarding the separation distance between the proposed and existing dwellings, and the proposed dwelling and the common boundary. In this respect, the Council's District Design Guide Supplementary Planning Document (SPD) 2010 details minimum distances between the windows of new dwellings and the adjacent properties to prevent overlooking. However, even if the Council's figures are correct, the dwelling's first floor windows would be obscure glazed, would be sited way from the common boundary, and would not be extensive in nature.
14. For these reasons, the development would not result in significant overlooking, including perceived, of the neighbouring property, and would result in a high standard of amenity for existing and future users. Accordingly, the proposal would comply with Policies HQ/1 and H/16 of the LP, and paragraph 130 (f) of the Framework. In this instance, there is justification to set aside the guidance of the SPD.

Planning balance

15. The development would not harm the character and appearance of the area and the living conditions of the occupiers of the neighbouring property in compliance with the policies of the LP. The proposal would comply with the development plan as a whole and the decision should be taken in accordance with it. There are no material considerations to indicate that the decision should be taken otherwise than in accordance with it.

Conditions

16. Suggested conditions have been considered in light of the advice contained in Planning Practice Guidance. Some have been amended, shortened and amalgamated in the interests of clarity and precision taking into account the guidance. A condition requiring the development to be carried out in

accordance with the details shown on the plans is necessary in the interests of proper planning and for the avoidance of doubt. In the interests of the character and appearance of the area, conditions are necessary to require the implementation of acceptable materials, landscaping and tree protection.

17. To safeguard the privacy of the occupiers of the neighbouring property at No 8, conditions are necessary to secure the approval and details of obscure glazing of the rear first floor windows and control construction hours. Due to distance separation, there is no need to ensure fixing shut of these windows above a certain height. To ensure acceptable drainage, the development must be implemented in accordance with an approved scheme. On the basis of the LP's sustainability policies, carbon emissions reduction and water efficiency consumption requirements are necessary. In the interests of highway safety, conditions are necessary to ensure acceptable access, visibility, and a construction method statement.
18. In accordance with local plan policy for rural areas, a condition is needed requiring the implementation of suitable ducting for broadband and other emerging technology. Given the trees on the site, there would be justification to remove permitted development rights for extensions to the dwelling only. For a small site, the prohibition of the burning of waste would not be required and if consent is required from the Environment Agency, this would be a matter that can be considered outside of the planning regime here.

Conclusion

19. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Schedule A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans; SW/1D; SW/2G; SW/3C; SW/4B and SW/6B (in respect of access and visibility).
- 3) No development shall take place until a scheme of surface water and foul water drainage works has been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.

The scheme/details shall specify: a) the existing drainage arrangements of the site including discharge location and rate where appropriate; b) the proposed discharge location in accordance with the drainage hierarchy and reasonable evidence this can be achieved; c) a site plan identifying indicative locations for sustainable drainage features; d) evidence to support b) which must include infiltration/percolation testing or written confirmation from the appropriate water authority/third party that a discharge to its drainage system is acceptable; e) measures to prevent access surface runoff onto the public highway and f) details of foul discharge location or treatment plant and discharge location. All external areas should utilise permeable surfaces.

- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The statement shall provide for:
 - i) wheel washing facilities;
 - ii) measures to control the emission of dust, mud and dirt, and the means to prevent mud or debris being deposited onto the adopted public highway;
 - iii) the parking of vehicles of site operatives and visitors;
 - iv) movements and control of all deliveries (all loading and unloading of plant and materials).

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees and the appropriate working methods in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. Such a scheme shall specify details of construction events, protective fencing and ground protection measures. The scheme for the protection of the retained trees shall be carried out as approved.
- 6) No development shall take place until details of the construction of the development within areas highlighted as ground protection BS 5837:2012, on Tree and Arboricultural Impact Assessment Plan drawing number 19.290 Rev A., have been submitted to and approved in writing

- by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) No development shall take place above slab level until samples and details of the materials to be used in the construction of the external surfaces of the dwelling 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 samples and details.
 - 8) No development shall take place above slab level until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The details shall include indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development. The details shall also include specification of all proposed trees, hedges and shrub planting, which shall include species, density and size of stock.
 - 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
 - 10) The dwelling, hereby permitted, shall not be occupied until the vehicular access from the existing carriageway edge has been laid out and constructed in accordance with a detailed engineering scheme to be submitted to and approved in writing by the local planning authority, and such a scheme shall include the provision of a metalled/sealed surface for a minimum length of 5m from the existing carriageway edge.
 - 11) The dwelling, hereby permitted, shall not be occupied until the windows at first floor level on the northern elevation have been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.
 - 12) No development shall take place above slab level until a scheme has been submitted that demonstrates a reduction in carbon emissions for the permitted dwelling and approved in writing by the local planning authority. The scheme shall demonstrate a minimum of 10% of carbon emissions (to be calculated by reference to a baseline for the anticipated carbon emissions for the property as defined by Building Regulations) reduction through the use of on-site renewable energy and low carbon technologies. The scheme shall be implemented and maintained in accordance with the approved details prior to the occupation of the dwelling.
 - 13) Prior to the first occupation of the dwelling, details shall be submitted to and approved in writing by the local planning authority to confirm that the dwelling has been completed to meet the requirement of 110 litres of water per person per day.

- 14) No construction site machinery or plant shall be operated, no works shall be carried out and no construction related deliveries taken at or dispatched from the site except between the hours of 0800-1800 Monday to Friday, 0800-1300 Saturday and not at any time on Sundays or Bank or Public holidays.
- 15) The dwelling, hereby permitted, shall not be occupied until two pedestrian visibility splays of 2m x 2m have been provided each side of the vehicular accesses measured from and along the highway boundary. Such splay shall be within the red line of the site and shall thereafter be maintained free from obstruction exceeding 0.6m above the level of the public highway.
- 16) The access shall be a minimum width of 3.2m, for a minimum distance of 5m measured from the near edge of the highway carriageway.
- 17) The dwelling, hereby permitted, shall not be occupied until the development has been constructed in accordance with broadband/Wi-Fi details submitted to and approved that shall first have been submitted to and approved in writing by the local planning authority. The details shall specify ducting capable of accommodating fibre optic cabling and new emerging technology.
- 18) 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 extension to the dwelling shall take place within the curtilage of the permitted dwelling.