



Appeal Decision

Site visit made on 31 January 2023

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 February 2023

Appeal Ref: APP/F3545/W/22/3290421

Plot 19, Hall Drive, Lakenheath IP27 9JT

- 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 Paul Ashley (Yellow Door Property Ltd) against the decision of West Suffolk Council.
 - The application Ref DC/21/1049/FUL, dated 10 May 2021, was refused by notice dated 9 September 2021.
 - The development proposed is described on the planning application form as 'Erection of detached dwelling (resubmission).'
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Decision

1. The appeal is allowed and planning permission is granted for 'Erection of detached dwelling (resubmission)' at Plot 19, Hall Drive, Lakenheath IP27 9JT in accordance with the terms of the application, Ref DC/21/1049/FUL, dated 10 May 2021, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area, with particular regard to the effect on protected trees and the Lakenheath Conservation Area (CA).

Reasons

3. The proposed development would be located on a site which comprises land within the historic grounds of Lakenheath Hall, which the Council states is a non-designated heritage asset. The appeal site is also located within the Lakenheath CA. The site and surrounding area have an attractive verdant character and accommodate a large number of trees which are protected by a Tree Preservation Order (TPO).
4. A number of large residential dwellings have recently been constructed. These occupy spacious plots on land surrounding Lakenheath Hall. The evidence also indicates that Lakenheath hall has been previously altered. Indeed, the historic character of this part of the CA has changed significantly.
5. The appeal site itself has been the subject of a number of planning applications for residential development and I have taken these into account in considering this appeal.
6. 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. The CA primarily derives

its significance from the consistency of its 18th and 19th century architectural forms set within verdant surrounds.

7. The TPO trees within the appeal site generally make a positive contribution to the character of the area, the significance of the CA and the setting of Lakenheath Hall. One tree is proposed for removal (T1334 as shown on the submitted site plan) to allow for the siting of the dwelling. This tree is identified within the submitted Arboricultural Report as a category C/B2 tree. It is smaller than many which surround it and the report confirms that the condition is fair with significant dead wood. Given that the tree is not widely visible within the context of surrounding trees and not prominent within the wider landscape, on its own it does not make any significant contribution to the character of the CA.
8. Whilst the tree has been assessed as 'recovering well', its loss could be mitigated through planting controlled by planning condition. To this extent its loss would result in a neutral impact and no harm would result to the significance or setting of the Conservation Area. Neither would its loss harm the setting of the non-designated heritage asset for the same reasons.
9. The Council has indicated that there would likely be significant future pressure for tree works and removal of trees, given the proximity of the proposed dwelling to those trees which would remain. Whilst I accept that the trees do mostly make a valuable contribution to the verdant setting of the CA and Lakenheath Hall, the distance between the development and the vast majority of the trees (with the exception of that to be removed) is such that it is not inevitable that such works would be required. In any case, any application for such work would need to be considered on its own merits.
10. Furthermore, I give significant weight to the appellant's assertion that prospective purchasers/occupiers would likely find the verdant setting attractive, given that it would be a defining feature of the dwellings character. As such, I consider it unreasonable to conclude that future occupiers would put pressure on the remaining protected trees. The Council has indicated that pressure may arise from lack of sunlight. However, my observations during the site visit confirmed that the canopy coverage would not infringe significantly in these terms and the proximity of the dwelling to the majority of trees is such that these concerns are unwarranted. Furthermore, the Council has not provided any substantive evidence to the contrary of this conclusion.
11. In more general terms, the proposed dwelling would be relatively large. However, the clearing is not dissimilar in size to neighbouring plots and the proposed scale of the development is similar to nearby residential development. Indeed, the character of the area has changed markedly with various dwellings recently constructed. Within this context the proposed development would not be out of keeping with the character and appearance of the area and it would result in no harm to the setting of the CA, nor Lakenheath Hall.
12. For the reasons outlines above, the proposed development accords with Local Plan¹ Policies DM2, DM13 and DM17. Together, these policies seek to ensure that new development is in keeping with local character and preserves the character and appearance of Conservation Areas.

¹ Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document February 2015

13. Core Strategy² Policy CS1 is not relevant to the main issue of this appeal as it relates to the principle of development. I have not therefore identified any conflict with it.
14. For the reasons outlined above, the proposal also accords with Framework Paragraph 130 which seeks in part to ensure that development is in keeping with local character. It also complies with the relevant provisions of the Framework in relation to heritage assets, given the absence of any harm in this regard.

Other Matters

15. Concerns have been raised by neighbouring occupiers with regard to drainage from site. The application form indicates that surface water will be disposed via a soakaway and that foul drainage will be disposed of via a package treatment plant. The Council has not recommended a planning condition with regard to foul and surface water drainage details. However, on the basis of the evidence before me I consider that such a condition is necessary in the interests of reducing flood risk.
16. Concern has been raised with regard to the use of the private drive and footpaths and the impact that this would have on privacy. Whilst shown on the site layout plan, these aspects of the wider development do not fall within the red-line application boundary, and they are not approved as part of this planning permission.
17. Various neighbouring residents suggest that they purchased nearby properties on the basis that the appeal site and surrounding land would not be developed. Whilst I am sympathetic to these concerns, this is a private matter as opposed to a public matter and as such it has no bearing on my decision. In any case, I have found that the proposal would preserve the character and appearance of the conservation area and would not result in harm to the setting of Lakenheath Hall.

Conditions

18. I have considered suggested conditions in light of advice contained in the Planning Practice Guidance and the tests within the Framework. As a result, I have amended some of the conditions so that they are enforceable, precise, relevant, necessary and reasonable in all other respects. With regard to Section 100ZA of the Town and Country Planning Act 1990 (as amended), the appellant has given written agreement to the pre-commencement conditions suggested by the Council and where I have modified these it has had no material bearing on their function.
19. Conditions relating to timeliness [1] and the identification of plans [2] are necessary to provide certainty.
20. It is necessary to impose conditions requiring further details of tree protection measures [3], materials [4], boundary treatments [5] and landscaping [6] in the interests of the character and appearance of the area.
21. A condition requiring details to be submitted in respect of foul and surface water drainage [7] is required for reasons already given.

² Forest Heath Local Development Framework Core Strategy Development Plan Document 2001 – 2026 (with housing projections to 2031) Adopted May 2010

22. Conditions requiring an electrical vehicle charging point [8], biodiversity enhancement measures [9], laying out of parking [10] and details of bin storage [11] are necessary, prior to first occupation, in the interest of sustainable modes of transport, biodiversity, highway safety and character and appearance respectively.
23. Conditions limiting construction hours [12] and requiring adherence to the sound insulation report [13] are necessary in the interest of ensuring satisfactory living conditions.
24. Conditions requiring adherence to the submitted lighting design [14] and preliminary ecological appraisal [15] are necessary in the interests of conserving biodiversity.
25. Water consumption is restricted [16] in the interest of using water efficiently.
26. The Council suggested a condition removing permitted development rights for installation of windows and other openings in the south-eastern elevation of the dwelling. However, the Council's Officer Report confirms that the distance to neighbouring properties is in excess of 30 metres. As such, insufficient justification has been provided to demonstrate that this condition is necessary to protect neighbouring living conditions.

Conclusion

27. The proposed development complies with the development plan taken as a whole. There are no material considerations raised which indicate that a decision should be made other than in accordance with the development plan. The appeal is therefore allowed.

Luke Simpson

INSPECTOR

CONDITIONS SCHEDULE

- 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: GL7099D/SITE PLAN/P/001 Rev A and GL7099D/P19/001.
- 3) No development shall take place until a scheme for the protection during construction of the trees on the site, in accordance with BS 5837:2012 - Trees in relation to construction - Recommendations, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall show the extent of root protection areas and details of ground protection measures and fencing to be erected around the trees, including the type and position of these. The protective measures contained with the scheme shall be implemented prior to commencement of any development, site works or clearance in accordance with the approved details, and shall be maintained and retained until the development is completed. Within the root protection areas the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant, machinery or surplus soil shall be placed or stored thereon. If any trenches for services are required within the fenced areas they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25mm or more shall be left unsevered.
- 4) No development above slab level shall commence until samples of the materials to be used in the construction of the facing and roofing of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out and retained in accordance with the approved samples.
- 5) No development above ground level shall take place until details of the treatment of the boundaries of the site have been submitted to and approved in writing by the Local Planning Authority. The details shall include a timetable for implementation. Any planting removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by soft landscaping of similar size and species to those originally required to be planted in the first available planting season thereafter. The works shall be completed in accordance with the approved details and timetable and retained as such thereafter.
- 6) No development above ground level shall take place until a scheme of hard and soft landscaping and a timetable for its implementation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include accurate indications of the position, species, girth, canopy spread and height of all existing trees and hedgerows on and adjacent to the site and details of any to be retained. Any retained trees removed, dying or becoming seriously damaged or diseased within five years of commencement shall be replaced within the first available planting season thereafter with planting of similar size and species. The works shall be completed in accordance with the approved plans and timetable and retained as such thereafter.

- 7) No development above slab level shall take place until a foul and surface water drainage scheme has been submitted to the local planning authority and approved in writing. The scheme shall be implemented in accordance with the approved details prior to first occupation of the dwelling hereby approved and thereafter retained and maintained as approved.
- 8) Prior to first occupation of the dwelling hereby approved an operational electric vehicle charge point shall be provided at an accessible location, with an electric supply to the charge point capable of providing a 7kW charge. The charging point shall be retained thereafter.
- 9) Prior to occupation of the dwelling hereby approved, 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.
- 10) Prior to first occupation of the dwelling hereby approved, the area within the site shown on drawing number GL7099D/SITE PLAN/P/001 Rev A for the purposes of manoeuvring and parking of vehicles and secure cycle storage shall be laid out and thereafter retained in accordance with the approved plan and used for no other purposes.
- 11) Prior to occupation of the dwelling hereby approved details of the areas to be provided for storage and presentation of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented prior to first occupation of the dwelling hereby approved and shall thereafter be retained in accordance with the approved details.
- 12) Demolition, preparation and construction works shall take place only between the hours of 0800 and 1800 between Mondays and Fridays (inclusive) and between the hours of 0800 to 1330 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 13) The details set out within the Sound Insulation Report Ref. Rev. 01, prepared by Sound Licensing Limited on 17 December 2019 and received by the Council on 26 May 2021 shall be implemented in their entirety prior to first occupation of the dwelling hereby approved, with the measures retained thereafter.
- 14) External lighting shall be installed in accordance with the External Lighting Assessment dated April 2021, including Drawing No. 4855/E/101 'External Lighting Layout', prior to occupation of the dwelling hereby approved. The development shall thereafter be retained in accordance with these approved details.
- 15) Construction of the development hereby approved shall be carried out in accordance with the recommendations set out at Section 4 of the Preliminary Ecological Appraisal (Applied Ecology Ltd, April 2021).

- 16) The development hereby approved shall be designed and built to achieve a water consumption rate of no more than 105 litres/person/day. All required water conservation measures installed to achieve this rate shall be retained/ upgraded to ensure the required water consumption rate is not exceeded for the lifetime of the development.