



Appeal Decision

Site visit made on 28 March 2023

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 April 2023

Appeal Ref: APP/W0530/W/22/3299246

Land adjacent to 55 Hillside, Orwell SG8 5RA

- 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 Smith against the decision of South Cambridgeshire District Council.
 - The application Ref 21/04955/FUL, dated 9 November 2021, was refused by notice dated 4 May 2022.
 - The development proposed is a detached dwelling house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. It has been suggested that there is an error on the Council's decision notice, in that a revised plan is not listed. However, the Council has provided written confirmation that this plan was not submitted prior to the application for planning permission being determined. Nonetheless, this revised plan, in broad summary, consists of amendments to the proposed site access arrangements. Given the nature of these changes, I do not believe it would cause prejudice to any party to decide this appeal with regards to this amended plan. I have therefore proceeded on this basis.

Main Issues

3. The main issues relevant to this appeal are:
 - the suitability of the site as a location for a proposed residential development, with particular reference to the requirements of the development plan; and
 - the effect of the development upon biodiversity.

Reasons

Suitability of the site

4. The appeal site consists of an undeveloped site, outside of the allocated boundaries of the settlement of Orwell. The appeal site is accessed via the nearby road, which does not feature separate pavements for use by pedestrians. In addition, the speed limit of this road is 50 miles per hour.
5. Although the appeal site is located near to the settlement, and therefore is not isolated; the services that are within it are typically located some distance

away from the appeal site. Therefore, the residents of the proposed development would need to travel a notable distance in order to access those facilities that are available within the general vicinity of the site.

6. This causes a concern as the road network nearest to the appeal site does not feature separate environments for pedestrians and cyclists. Therefore, should any residents look to travel by such means, they would need to travel within the highway itself. This is likely to deter residents from travelling in such ways given that the approaching vehicles might be travelling at a notable speed. Furthermore, the surrounding road network does not feature any streetlighting.
7. Therefore, in the absence of a welcoming environment for pedestrians and cyclists, it is likely that these means of travelling would be deterred, and, in turn, the proposal would likely result in the encouragement of travelling by private vehicles.
8. There is some debate regarding the distance between the appeal site and existing pavements. However, irrespective of this debate, on my site visit, I noted that it was a comparatively short distance. Nonetheless, the grassed area has an uneven nature, is unlit and pedestrians would need to travel close to vehicles moving at notable speeds. Therefore, irrespective of the length that people would need to travel, this environment is likely to deter walking or travelling by bicycle.
9. I understand that the development boundaries have been extended to include some new dwellings. Whilst this may be the case, the appeal site is near to several open areas. This gives the appeal site, and the surroundings, the appearance of not being in a settlement. In consequence, I do not find that the recent amendments to the settlement boundaries are sufficient to overcome my previous considerations.
10. Therefore, the proposed development would represent an incursion into the countryside. Given that the planning system should be plan-lead, it would not be appropriate for me to assess whether the development boundaries should be amended as part of this appeal process.
11. In addition, although there are some dwellings near to the appeal site, these are accessed from a different section of the road. Therefore, their access is closer to areas of pavements and street lighting. This is notably different from the appeal site.
12. It has been suggested that had I been minded to allow this appeal, I could have imposed a condition that would have resulted in an upgrade of local pavements in order to link the appeal site with pavements elsewhere. However, whilst such a provision might not be overly long, it appears that the pavement would need to run over land that is not within the control of the appellant.
13. Therefore, I cannot be certain that it would be possible for the appellant to deliver a pavement at a suitable trigger point and for this to be retained throughout the life of the development. In addition, I cannot be certain that the proposed development would provide a pavement of an appropriate width. Therefore, I cannot be certain that a suitable pavement could be provided. In consequence, such a condition would not overcome my previous concerns.
14. I therefore conclude that the appeal site represents an unsuitable location for a residential development. The development, in this regard, would conflict with

the requirements of Policies S/3; S/7 and T1/2 of the South Cambridgeshire Local Plan (2018) (the Local Plan). Amongst other matters, these seek to ensure that there is the necessary infrastructure capacity to support the development; developments are sustainable; and that developments be located and designed to reduce the need to travel, particularly by car.

Biodiversity

15. The appeal site is generally free from built structures and is predominantly given over to grassland. There are some mature trees and hedges near to the boundaries of the appeal site. A notable proportion of the surrounding area is undeveloped and includes some landscaping features, such as trees and hedges, that may be an attractive habitat for wildlife. The evidence before me indicates that the area surrounding the appeal site features wildlife including badgers, bats and owls.
16. Given the nature of the appeal site and the generally undeveloped nature of much of the surrounding area, there is a likelihood that it could be utilised for foraging by wildlife. In consequence, the development of the site and the erection of a new dwelling would result in a reduction in the level of grassed areas. This would mean that there would be a diminished level of space for animals. In consequence, the development would result in an adverse effect upon biodiversity.
17. These adverse effects are particularly concerning as the planning application and the appeal documentation does not include any form of survey. Therefore, it is not possible to conclude that the development would not result in harm to the foraging areas for wildlife. This is particularly notable given that the surrounding areas are primarily open. Therefore, there is a significant likelihood that the notable species would be present in the surrounding area.
18. The proposed development would not result in a reduction in the level of trees and hedges on the site. However, the proposal would result in a reduction in the overall level of grassed areas. In consequence, the proposed development would have an adverse effect upon the land available for foraging.
19. In addition, I have given consideration as to whether a condition could be imposed that would ensure the provision of mitigation. However, without certainty regarding the precise species in the surrounding area and the level of activity, it is not possible to draft a condition with sufficient precision to ensure an adequate level of mitigation. Therefore, this does not allow me to disregard my previous findings.
20. I therefore conclude that the proposed development would have an adverse effect on biodiversity. The development, in this regard, would conflict with the requirements of Policy NH/4 of the Local Plan. Amongst other matters, this seeks to ensure that new developments must aim to maintain, enhance, restore or add to biodiversity.

Other Matters

21. The evidence before me indicates that the proposed development would not have an adverse effect on matters including the highway system and the living conditions of the occupiers of neighbouring properties. Although these are matters of note, they are only some of all the issues that must be considered. Therefore, they do not outweigh my findings in respect of the main issues.

22. Concerns regarding the manner in which the planning application was considered by the Council fall outside of the scope of this decision.

Conclusion

23. The proposed development would be unsuitably located and would have an adverse effect on biodiversity. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the Framework, which indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR