



Appeal Decision

Site visit made on 2 May 2023

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 9th June 2023

Appeal Ref: APP/V0510/W/22/3306702

Frolic Farm, Lode Fen, Lode, Cambridgeshire CB25 9HF

- 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 ECH Wright against the decision of East Cambridgeshire District Council.
 - The application Ref 22/00531/FUL, dated 27 April 2022, was refused by notice dated 22 June 2022.
 - The development proposed is residential development containing five dwellings along with access, car parking, landscaping and associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The fourth reason for refusal given by the Council related to insufficient information in relation to sustainable design and construction and the reduction of greenhouse gas emissions. However, the Council have now confirmed that sufficient information was received as part of the appellant's Design and Access Statement and the Council have stated that they no longer wish to pursue this reason for refusal. Based on the evidence before me I have no reason to disagree with the Council on this point and therefore the fourth reason for refusal will not be considered as a matter of dispute in this appeal.
3. The two buildings proposed to be demolished as part of the appeal proposal are subject to an extant permission for prior approval under Council reference 21/00753/ARN for conversion of agricultural buildings to five dwellings determined on the 10 August 2021.
4. The Council have queried the use of the buildings subject to the prior approval in their appeal statement and whether they are agricultural or equine in use. Within the context of an appeal under section 78 of the Town and Country Planning Act 1990 it is not within my remit to formally determine the lawful use of an appeal site. There is no substantive evidence before me to suggest that the extant permission could not be lawfully implemented.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposed development would be in a suitable location, having regard to the relevant policies of the development plan; and

- whether suitable vehicular access can be achieved.

Reasons

Character and appearance

6. The appeal site is located within the fenland landscape. To one side of the appeal site is a single storey timber clad dwelling called Peepers Lodge. To the other side is a complex of converted brick and timber clad agricultural buildings with a further black stained timber clad dwelling further along the road to the southwest. A further building which is agricultural in appearance is situated directly to the west of the appeal site. Beyond the built form that immediately surrounds the appeal site is open countryside.
7. The existing agricultural buildings that would be demolished as part of the appeal proposal comprise of an enclosed timber clad building and a steel clad building which is open at the front and partially open to one side. They are both set back some distance from the road which creates an open farmyard style character. Given the siting, the backdrop of further buildings of an agricultural appearance and the utilitarian design they do not appear to be visually prominent. The existing buildings harmonise with and contribute positively to the rural character of the surrounding area.
8. The appeal proposal seeks the demolition of the two agricultural buildings and replacement with one pair of semi-detached two storey dwellings and a terrace of three two storey dwellings.
9. The projecting gable feature in the front elevation and the single storey lean to element to the rear of the proposed terrace along with the two juliet balconies included in the proposed semi-detached dwellings and the porches on both buildings would result in a domestic appearance which is suburban in character, rather than agricultural. Also, the partial hipped roofs are not a feature I witnessed within the surrounding area. Whilst I recognise that the black stained timber cladding proposed would be in keeping with other buildings located within the surrounding countryside, the design of the proposal would have an urbanising effect on the countryside.
10. The proposed pair of semi-detached dwellings would largely sit within the footprint of the existing open fronted agricultural building and would be of a smaller footprint overall. The proposed terrace would be located to the east of the timber clad agricultural building which would result in it being sited closer to the road. The terrace would not sit forward of the front building lines of the neighbouring barn conversion or Peepers Lodge. However, the proposed height which would be traditional two storey and the overall design of the terrace means that it would appear much more dominant than the neighbouring dwellings and the existing building it seeks to replace. The proposed siting would not reflect the original layout of the farmyard, which currently contributes to the agricultural character and spaciousness of the appeal site.
11. The Council have provided me with the details of the extant prior approval scheme. The fallback position would see the conversion of the two existing buildings and would see a limited amount of external space utilised for garden and amenity areas. The spaciousness of the farmyard would be retained to the front of the appeal site which contributes to the more sporadic nature of built form in the open countryside. The fallback position, unlike the appeal proposal,

would respect the existing layout of the farmyard and would have less visual impact on the countryside location utilising the established built form which is of agricultural character and appearance. Consequently, I afford the fallback position limited weight in support of the proposal in this regard.

12. The appellant has provided a number of examples of built form in the surrounding countryside. I have little information before me as to the planning history that has resulted in these buildings being developed. In any case, whilst there are some similarities of certain characteristics to that proposed, all of these examples appear from the evidence to be detached dwellings that sit within large plots, with the exception of the outbuilding. The proposal is distinguishable from these examples in terms of the layout and type of development proposed, given the provision of a terrace and a pair of semi-detached dwellings set within more limited plots. In any event, I must determine the appeal based on its individual merits.
13. I therefore find that the proposal would be harmful to the character and appearance of the area. It would be contrary to policies ENV1 and ENV2 of the East Cambridgeshire Local Plan April 2015 (LP). These policies seek, amongst other things, to ensure development is informed by and is sympathetic to landscape character and that developments will enhance and complement local distinctiveness. The proposal would also conflict with the requirements of paragraph 130 of The National Planning Policy Framework (the Framework) which seeks, amongst other things, to ensure that developments are sympathetic to local character including surrounding built form and the landscape setting.

Suitable Location

14. Policy GROWTH 2 of the LP sets out the locational strategy for development across the district and focusses the majority of development in the three market towns of Ely, Soham and Littleport. It identifies that more limited development will take place in villages which have a defined development envelope with development in areas outside the defined development envelopes being strictly controlled in order to protect the countryside and the setting of towns and villages. The parties agree that the site is outside any development envelope.
15. Policy GROWTH 2 does identify some exceptions where development will be permitted outside of the defined development envelopes, but none of these exceptions include market housing such as that proposed. The proposal therefore conflicts with the requirements of Policy GROWTH 2 and is contrary to the Council's locational strategy.
16. However, the appeal site benefits from an extant permission¹ under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for the conversion of the two barns to five dwellings.
17. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 sets out that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In this case I find that there is a real possibility that the extant permission under Schedule 2, Part 3, Class

¹ Council Reference: 21/00753/ARN

Q of the GPDO would be implemented should this appeal fail. This is also evidenced by the condition of the buildings that I witnessed on site. Consequently, the fallback position is an important material consideration in the determination of this appeal.

18. I note the Council has raised concerns about the different red line boundary provided in the appeal proposal compared with the extant prior approval. Whilst I acknowledge that the current red line boundary does encompass a wider site area, the land it includes in addition is intrinsically linked to the operational use of the agricultural buildings. I therefore do not consider that in isolation, the amended red line boundary diminishes the weight attached to the fallback position as a material consideration.
19. In this case, having regard to the above, the development would not be in a suitable location with regard to the development plan. However, I find that the conflict with Policy GROWTH 2 in respect of the location of the proposal is outweighed by the fact an extant permission is in place for the same number of dwellings to be delivered.
20. I have considered the views of the main parties about whether or not Policy GROWTH 2 is up to date and the appeal decisions referred to that have dealt with this issue previously. However, given that I have found that the fallback outweighs the conflict with the policy in any case, I have not had to reach a finding on this matter.

Vehicular access

21. The proposal seeks to remove the existing vehicular access and create a new vehicular access towards the corner of the appeal site, resulting in the same number of access points as the existing situation. The Council have raised concerns about the ability of the vehicular access to be carried out in the manner proposed due to the red line boundary on the site location plan not extending to the public highway. The appellant has stated in their evidence, that they own the land along the frontage that adjoins the public highway and that the provision of the new access would be achievable.
22. During my site visit I noted that the appeal site has frontage onto the road along the entire width. Works would be required to cross the ditch that runs alongside the road where the access point is proposed. However, I consider that it would be feasible for these works to be carried out, subject to any other consents required being obtained.
23. I therefore find that a suitable vehicular access could be achieved. The proposal would therefore comply in this regard with policy COM7 of the LP. This policy seeks, amongst other things, to ensure development proposals provide safe and convenient access to the highway network. The proposal would also comply with paragraph 110 of the Framework, which states at criteria b) that it should be ensured that safe and suitable access to the site can be achieved for all users.

Other Matters

24. The appellant asserts that there would be a reduction in the amount of built form on the site in terms of footprint and volume, that the proposal would lead to a betterment in terms of the quality of the resultant scheme and the layout, the provision of larger gardens, more energy efficient homes and that the

proposal would enable residential and agricultural uses to be separated. Whilst these considerations may provide some benefits in comparison to the fallback scheme, they would be limited and would not outweigh the harm I have identified above.

25. The appellant states that due to the fallback position allowing for the conversion of the buildings to provide five dwellings, Policy HOU 8 which looks at supporting the replacement of dwellings in the countryside is relevant. However, the conversion works have not taken place and therefore there are no dwellings in situ that would currently constitute a dwelling that could fall under the requirements of Policy HOU 8. I therefore do not attribute weight to this consideration.
26. The appellant has stated that the proposed scheme would exceed space standards, provide sufficient car parking, cycle parking and bin storage and that generous rear gardens would be provided for all future occupants. A lack of harm in respect of these considerations does not weigh in favour of the proposal.
27. The appellant suggests Policy GROWTH 2 is out of date. However, even if I were to accept this, other development plan policies referred to above are consistent with the Framework and so are not out of date. Therefore, overall, paragraph 11d of the Framework does not apply, and even if it did, the harm to the character and appearance of the area significantly and demonstrably outweighs the benefits in this case.

Conclusion

28. For the reasons set out above, the proposal would conflict with the development plan, when read as a whole. Material considerations, including the Framework do not indicate that a decision should be taken other than in accordance with the development plan. Having considered all matters raised, I therefore conclude that the appeal should be dismissed.

G Dring

INSPECTOR