



Appeal Decision

Site visit made on 1 February 2023

by J Wellstead BA(Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Appeal Ref: APP/D0515/W/22/3301398

LAND SOUTH OF GILLINGHAM LODGE, THE CHASE, MARCH PE15 9RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Wendy Carver against the decision of Fenland District Council.
 - The application Ref F/YR21/0819/FDL, dated 12 July 2021, was refused by notice dated 20 January 2022.
 - The development proposed is the erection of a single dwelling involving demolition of sheds and setting footpath along the chase.
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This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 5 June 2023.

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of a single dwelling involving demolition of sheds and setting footpath along the chase in accordance with the terms of the application, Ref: F/YR21/0819/FDL, dated 12 July 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Council has drawn my attention to the draft Local Plan. However, this is only at consultation stage, and has not yet been subject to an examination process to determine its soundness. As such, this has only limited weight in my decision.
3. The application was submitted in outline. The application form indicates that approval was sought for one dwelling with matters committed in relation to access to be determined at this stage only, with details regarding the proposed appearance, landscaping, layout and scale of the dwelling to be dealt with in a future, separate application. I have determined the appeal on that basis. However, the appellant has submitted an indicative proposed site plan, Ref H6887/02c, which I have taken into consideration.

Main Issues

4. The main issues of this appeal are the effect of the proposed development on:
 - the character and appearance of the area with particular reference to the proposed changes to the existing wall at the junction of The Chase and

Gaul Road and the proposed widening of the carriageway of The Chase, and;

- highway safety.

Reasons

5. The appeal site comprises a parcel of land which is positioned within the middle of a residential area on the edge of the centre of Fenland town in March and is not within the March Conservation Area.
6. The existing character and appearance of the residential properties in the immediate area is predominantly characterised by bungalows that are set back from The Chase Road behind front gardens and driveways. There are also some two-storey detached dwellings.
7. The appeal site is bounded by bungalows to the north and east, a derelict chalet bungalow to the south and The Chase to the west. The Chase is a narrow, single lane tarmac track owned by the Council. It features a grass verge to one side of the track which is bounded by a high-level brick wall.
8. The outline proposal would introduce a new detached dwelling, sited in what is currently an overgrown parcel of land containing a number of dilapidated outbuildings and trees. My site observations and the appellant's statement indicated there has been vandalism within the parcel of land.
9. The appeal site was historically used as parking for a neighbouring property, Gillingham Lodge, but was sold as a separate plot and has been the subject of two refused planning applications¹. The most recent application for the erection of one dwelling was subsequently dismissed at appeal² on the grounds of inadequate vehicle access and highway safety in relation to the junction with Gaul Road. Both the most recent and this appeal are for 1 residential dwelling, however this appeal proposal differs from the previous one, including in respect of now incorporating highway changes. While taking the previous appeal into consideration, I have determined this appeal on its own merits.

Character and appearance

10. The proposed development involves the demolition of a section of the high-level brick boundary wall near to the junction to the west of The Chase, to achieve greater visibility, and replacing it with a 1.2m high wall.
11. Policy LP16 of the Fenland Local Plan Adopted May 2014 (the Local Plan) refers to delivering and protecting high quality inclusive design as well as protecting and enhancing the natural and historic environment.
12. The Council's Officer's Report refers to an application³ granted for 7 dwellings accessed via Gaul Road which states that the repair, future maintenance and alterations to the boundary wall should be approved by the Local Planning Authority. I do not have the details of this case in front of me, however, in determining this appeal on its merits there is little evidence before me relating to the historic value of this wall which I also observed has visual defects. It therefore offers limited benefit in terms of its quality to the character and

¹ F/YR02/0830/O AND F/97/0503/O

² APP/D0515/A/03/1109548

³ F/YR18/0947/F

appearance of the area. Furthermore, the demolition of part of this existing wall and replacement with a new lower one, at the junction of Gaul Road and The Chase, would be modest in scale and a relatively short section. Additionally, there would be scope to secure appropriate materials for the proposed new section of wall by condition.

13. The soft green verge provides a natural landscape feature to The Chase and a minor positive benefit to the character and appearance of the area. Although I appreciate it does add to the verdant feel of the lane, I consider this to be a low-quality landscape feature and what is proposed here would not significantly detract from the character of the area. Moreover, while the tarmac would remove this softer landscaping, this would relate to an area of verge already degraded by vehicles encroaching on it when driving through The Chase.
14. Therefore, for the above reasons the proposed development would not harm the character and appearance of the area with particular reference the proposed changes to the existing wall at the junction of The Chase and Gaul Road and the proposed widening of the carriageway of The Chase. As such, the proposal in respect of this issue would accord with Policy LP16 of the Local Plan.

Highway Safety

15. The development proposes to widen The Chase tarmac surface by 1.5m and replace the wall to achieve greater visibility and re-align the bell mouth junction arrangement.
16. Based on the evidence before me and my own site observations, The Chase is used as a pedestrian footpath and cycle link to the West End Park, March Town Centre and surrounding schools. It also provides vehicular access to other existing residential dwellings along The Chase.
17. Representations have been made by interested parties raising concerns regarding the impact of the increased vehicular use of the Chase which would lead to greater vehicular and pedestrian conflict.
18. The previous Inspector's decision⁴ refers to the visibility for vehicles exiting the Chase onto Gaul Road, and vice versa, which is very poor due to the height and position of the high wall. This appeal scheme has sought to overcome the previous highway objections relating to the creation of an additional dwelling on The Chase: specifically, the 3m width of the tarmac track, which is too narrow for two cars to pass each other, and visibility for vehicles exiting The Chase onto Gaul Road. The appeal scheme seeks to widen the track to 4.5m, a sufficient width for two cars to pass, albeit at low speeds, thereby overcoming the first issue. The proposed junction works would realign the bell mouth and remove a section of high wall that currently impedes visibility at the junction with Gaul Road, overcoming the second issue. Furthermore, the Local Highways Authority (LHA) consider these aspects to have overcome the width and visibility concerns detailed in the previous Inspector's decision and I have no substantive basis to consider differently.
19. The Chase is currently not wide enough to allow vehicles to pass without encroachment onto the verge. Furthermore, as The Chase links with West End Park recreation area and passes a number of dwellings there are likely to be a

⁴ APP/D0515/A/03/1109548

number of people walking, cycling and driving along this lane. Accordingly, the lane would be a shared space with use by pedestrians, cyclists and vehicles, which the Council contend could lead to conflict between these users. The Council's concerns are also repeated in third party representations. No data appertaining to the actual level of users of The Chase has been submitted.

20. My site observations albeit acknowledged as a snapshot, indicated a number of pedestrians and cyclists using The Chase at the time of my site visit, and the speed of vehicles is generally low given the need to encroach on the soft verges. No evidence has been presented to me concerning accident history associated with access to The Chase or vehicle movements. The proposal would be likely to add to the use of The Chase having regard to potential increased highway risks. Furthermore, I acknowledge concerns raised about vehicles reversing on The Chase, albeit not raised as an objection by the LHA. However, given the proposal is only for one dwelling, that increased use of and manoeuvring within The Chase would be likely to be marginal. Furthermore, the proposed works facilitating the reduction to vehicle/pedestrian conflict would be a significant improvement that would be likely to mitigate that marginal increase.
21. Representations have been received demonstrating strong support for use of The Chase as a footpath and I acknowledge that it serves as a pleasant and well-used route for pedestrian access. The Council indicate that although it is not recorded on the Definitive Map and Statement as a public footpath, it has been used as such for at least 20 years without restriction. The appeal scheme would not result in a loss of this asset, but conversely would widen it significantly and furthermore improve highway safety for existing users.
22. For the above reasons, the proposed development would be unlikely to pose a risk to highway safety. As such it would accord with Policies LP15 and LP16 of the Local Plan which together seek, amongst other things, to ensure that development proposals provide safe access for all and safe environments.

Other Matters

23. Additional representations have been made raising concerns regarding details of the design and character of the proposed dwelling and overlooking. There is no substantive evidence to indicate that these matters could not be addressed at the detailed reserved matters stage. Having regards to concerns over a precedent being set by this proposal, I have determined this appeal on its merits based on all of the evidence before me as would be the case for any other future development.
24. There would only be a low risk of flooding, albeit that details of drainage could reasonably be considered at reserved matters stage.
25. Loss of view was also raised in the representations. Notwithstanding the detailed consideration of the outstanding reserved matters, loss of view in itself is not a planning consideration.
26. There is a large Norwegian pine located within the northern part of the appeal site. Although the tree has value and is visible to the general public, the Council's arboricultural officer sets out that there would be no impact of the proposed development on this tree, and I have no reason to disagree with this.

Furthermore, measures to protect those trees intended to be retained on the site could be secured by condition.

Conditions

27. I have assessed the list of conditions supplied to me by the Council against the tests of the Framework and made amendments to their wording, where necessary, in the interests of clarity and precision. I have omitted the Council's proposed condition restricting development to 1 dwelling as it is unnecessary, because it is clear from the description of the development and submitted details that the proposal relates to a single dwelling.
28. For the avoidance of doubt and in the interests of proper planning a condition is necessary to ensure that the proposed development is carried out in accordance with the approved plans. I have omitted reference to drawing H6887/02c as this is only indicative at this outline stage.
29. Conditions 2, 3, 4 and 5 are required to consider the detailing of the scheme at reserved matters stage and in the interests of clarity, including in relation to timing of submissions and subsequent commencement of development.
30. Condition 6 is necessary to ensure that details of the widening of The Chase and improvements to the junction of The Chase and Gaul Road and works to the boundary wall near the junction, are implemented prior to occupation of the dwelling.
31. Condition 7 is required to ensure there are no unacceptable risks posed to the future occupiers of the proposed development as a result of any potential contamination on the site.
32. I note that the Council's Wildlife Officer has recommended a condition relating to the protection of birds. However, this is something that could reasonably be expected to be considered at the reserved matters stage.

Conclusion

33. For the above reasons, and having had regard to all other matters raised, the proposed development would accord with the development plan and the Framework. The appeal is allowed.

J Wellstead

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be carried out in accordance with the following approved plans: H6887/01C and H6887/03E.
2. Details of the layout, scale, appearance and landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority prior to the commencement of development and the development shall be carried out as approved.
3. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

4. The development hereby permitted shall begin before the expiration of 2 years from the date of approval of the last of the Reserved Matters to be approved.
5. The details submitted in accordance with Condition 01 of this permission shall include:
 - i. an accurate survey including levels of the site, such survey to indicate precisely the positions and species of all trees and the extent of their canopies, including those on adjoining land that could be impacted by the development.
 - ii. a plan and schedule of all trees, indicating which are to be retained, felled, lopped or topped.
 - iii. a plan and schedule for the planting of trees and shrubs, their types and distribution on the site, hard landscaping, and the areas to be seeded or turfed.
 - iv. a programme of the timing of the landscape work having regard to the timing of the commencement of any part of the development hereby permitted.
 - v. an indication of the measures to be taken during the course of development operations to protect those trees which it is intended to retain.
 - vi. proposed finished site and floor levels.
 - vii. means of enclosure.
 - viii. hard surfacing, other hard landscape features and materials.
 - ix. full details of proposed wall at the junction with The Chase and Gaul Road including elevational drawings and materials.
6. The dwelling hereby permitted shall not be occupied until the widening of The Chase and alterations of the junction of The Chase and Gaul Road shown on plan H6887/03 rev E have been sited and constructed in accordance with a detailed scheme to be submitted to and approved in writing by the local planning authority. Such a scheme shall include full details of the wall to be altered, details of any demarcation and all materials to be used. The development shall then be undertaken in accordance with the approved details and retained as such in perpetuity.
7. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted to, and obtained written approval from, the Local Planning Authority details as to how this unsuspected contamination shall be dealt with. The development shall then be carried out in full accordance with the approved remediation strategy.

---END OF CONDITIONS---