



Appeal Decision

Site visit made on 8 August 2023

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2023

Appeal Ref: APP/D0515/W/23/3317138

Land south east of Corner Barn, Mouth Lane, Guyhirn PE13 4EH

- 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 Love and Mr Gumbley against the decision of Fenland District Council.
 - The application Ref F/YR22/1133/F, dated 29 September 2022, was refused by notice dated 8 December 2022.
 - The development proposed is described as "Erect 2no dwellings (3-storey, 5-bed) including front boundary wall 1.2m (max)".
-

Decision

1. The appeal is allowed and planning permission is granted for 2no dwellings (3-storey, 5-bed) including front boundary wall 1.2m (max) at land south east of Corner Barn, Guyhirn PE13 4EH in accordance with the terms of the application, Ref F/YR22/1133/F, dated 29 September 2022, subject to the attached schedule of conditions.

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 site benefits from an extant outline planning permission¹ whereby the means of access was approved. The red line application boundary line differs from the extant permission, and this is a full planning application, not a reserved matters.

Main Issues

4. The main issues are:
 - i) the effect of the proposed development upon the character and appearance of the area; and
 - ii) the effect of the proposed development on the occupiers of the existing dwelling, The Stables.

Reasons

Character and appearance

5. The appeal site is a grassed parcel of land on the southern side of Mouth Lane. It sits between two existing detached dwellings of differing scale and

¹ F/YR20/1177/O

architectural detailing, Red Berry Manor being a two-storey dwelling and The Stables being a single storey dwelling. In the wider area dwellings vary in their size and architectural design, including a number of barn conversions.

6. The principle of residential development at the appeal site has been established. Whilst this is a full application it has been accepted that there would be some consolidation of development in this area by introducing development between two existing properties.
7. Within the locality dwellings vary in their scale and form. The footprint of the proposed dwellings would be comparable to the nearby Red Berry Manor. The proposed dwellings include single storey projections towards the front of the appeal site, setting back the bulk of the dwellings within the site which helps reduce their dominance.
8. The scale and height of Plot 2 would be similar to that of the neighbouring Red Berry Manor and would sit comfortably adjacent to it in terms of siting and design.
9. Plot 1 would be positioned adjacent to the boundary with The Stables. The overall height of Plot 1 would be significantly higher than this adjacent single-storey dwelling. The two-storey element of the proposed dwelling would be set back within the site. The proposed dwelling includes a single storey projection to the front of the property, which would provide for garaging and living accommodation. This element of the proposal would visually break up the mass of the dwelling and would provide some transition between the proposed two-storey element of the dwelling and the neighbouring property. As the proposed dwelling would be set back within the plot, and in from the shared boundary with some landscaping, the intervening space between the appeal site and The Stables would ensure the proposal would sit comfortably within the street scene.
10. Noting that the ground levels for the proposed dwellings would be elevated to mitigate flood risk the degree of architectural variation within the locality leads me to conclude that the height, siting and layout of the proposed development would achieve a satisfactory visual relationship to adjacent dwellings within the locality and would not be a discordant addition to the streetscene.
11. Both proposed dwellings would be set back from the highway on a similar alignment to the adjacent dwellings. Although a wall would be to the site frontage, owing to its limited height this would not be overly prominent. Consequently, the open aspect to the front of the appeal site would remain, and the siting of the dwellings would not appear unduly conspicuous within the street scene.
12. Dwellings in the locality are constructed of a variety of materials, including brick and timber clad. Brick and cladding are proposed for the external materials of construction of the proposed dwellings. This palette of materials would be reflective of those used locally and the mixed palette of materials would visually break up the mass of the buildings.
13. For the reasons outlined above, I conclude that the proposed dwellings would not be harmful to the character and appearance of the area and would accord with Policy LP16 of the Fenland Local Plan 2014 (LP). Amongst other things, this seeks development to make a positive contribution to local distinctiveness

and character of the area, reinforcing local identity and not adversely impacting in design or scale terms on the street scene, settlement pattern or the landscape character of the surrounding area. It would also accord with the National Planning Policy Framework (the Framework) which require developments to be sympathetic to local character.

Living conditions

14. The Council's concern relates to the effect of Plot 1 upon the occupiers of the neighbouring dwelling, The Stables. The proposed dwelling would be positioned higher than The Stables due to the need to mitigate flood risk. The Stables has no habitable room windows on its eastern aspect which faces the shared boundary. The proposed dwelling would be set off the joint boundary with a single storey projection running parallel to this boundary. The two-storey element of the dwelling would be positioned sufficiently far away from The Stables such that the proposal would not appear unduly dominant or adversely harm outlook for the occupiers of the existing dwelling.
15. The gable roofline to the single storey projection would slope away from the shared boundary. Notwithstanding the length of this projection, given its height, roof design and the separation distance between the existing dwelling, Plot 1 would not be close enough to be over-bearing or result in a significant sense of enclosure for the occupants of The Stables. Whilst Plot 1 would be visible, where currently the land is free from development, for the above reasons, I consider the change in outlook for neighbouring occupiers would not be harmful.
16. With regards to the potential for overlooking, the proposed close board fence would prevent any direct overlooking of ground floor windows of the neighbouring property. Given its height and position relative to The Stables I do not concur with the view that the proposed fence would exacerbate the feeling of enclosure and be overbearing to the occupants of The Stables.
17. Although side hung casement windows are proposed to the elevation of the single storey projection facing towards the shared boundary with The Stables any overlooking would from the garage and utility windows above the fence line would be limited. In addition, given that the windows serve non-habitable rooms, there would not be significant harm to the living conditions of the occupiers of The Stables. The Appellant submits that they would be willing to obscure glaze the windows that directly face the shared boundary with The Stables. Whilst this would have the benefit of further reducing the perception of overlooking, as the windows would serve non-habitable room windows, it is not necessary for these windows to be obscure glazed to make the development acceptable.
18. The garden directly to the rear of The Stables is the most important in providing a private space for the occupiers of this property. The positioning of the proposed dwelling at Plot 1 would be such that its rear elevation windows would not result in a significant level of overlooking of this garden area. Any overlooking from the proposed first-floor rear windows would be at an oblique angle to the garden of The Stables and the living conditions of the occupiers of this neighbouring property would not be significantly harmed by way of overlooking.

19. Whilst re-grading of land for the proposed garden to Plot 1 is proposed the installation of a boundary fence on the new land levels would ensure that there would not be significant overlooking of the garden of The Stables.
20. Whilst I can understand the concerns of local residents regarding the perception of overlooking, for the above reasons I do not concur that the proposed development would result in an unacceptable harmful effect on the living conditions of the occupiers of the adjacent house and their garden by reason of overlooking.
21. For the above reasons, I conclude that the proposed development would provide satisfactory living conditions for the occupiers of the neighbouring dwelling known as The Stables, with particular regard to outlook and privacy. Accordingly, I find no conflict with Policies LP2 and LP16 of the LP which amongst others, requires development to not adversely impact on the amenity of neighbouring users including through loss of privacy. It would also accord with Paragraph 130 f) of the Framework which seeks a high standard of amenity for existing occupants of buildings.

Other Matters

22. Local residents have also expressed a wide range of concerns including, but not limited to the following: loss of light, over-development, overlooking and loss of privacy, impact on wildlife, potential flooding, increase in noise pollution, additional traffic, impact of construction traffic on the roads and de-valuation of property and creation of a precedent. However, I note that these matters were considered, where relevant, by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. There is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. I have considered this appeal proposal on its own merits and concluded that it would not cause harm for the reasons set out above.
23. I note the evolution of the scheme from a previously refused scheme. However, I have considered the appeal proposal on its own merits based on the evidence before me.

Conditions

24. The Council has suggested several conditions. I have included those which meet the six tests set out in the Framework and the Planning Practice Guide (PPG), reworded, where necessary, for clarity. In addition to the statutory commencement condition, a condition is necessary to ensure that the development complies with the submitted plans in the interests of clarity.
25. Given the potential for archaeological interest I will impose a condition for a Written Scheme of Investigation (WSI) to be undertaken. A pre-commencement condition is required in relation to the requirement for finished floor levels.
26. In the interests of managing the risk of flooding I have attached a condition which requires the development to be carried out in accordance with the Flood Risk Assessment.
27. In the interests of highway safety conditions would secure an appropriate access, including no gates within 5m of the access and parking arrangements.

A condition for the incorporation of drainage measures is also necessary to aid surface water run-off.

28. A condition for hard and soft landscaping is required to assimilate the development into its surroundings.
29. The Council has suggested a condition for the provision of a materials storage and an area for parking and turning of construction vehicles clear of the highway. Having regard to the PPG given the scale of the development and the extent of the appeal site I do not consider this is reasonable or necessary.
30. The Council suggests a condition for the garage and utility room windows to both Plots 1 and 2 to be obscure glazed. The appellant is agreeable to a condition. The Council suggests that in addition to the obscure glazing that they should be high-level opening only. Having regard to the Framework and the PPG bearing in mind that the windows would not serve habitable rooms I do not consider this is reasonable or necessary.
31. The Council has suggested a condition for the removal of rights to extend or alter the property under the Town and Country Planning (General Permitted Development) (England) Order 2015. The Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In this circumstance I do not consider conditions further limiting these rights to be necessary or relevant to the development permitted.

Conclusion

32. For the reasons given above, and having regard to all other matters, I conclude that the development would comply with the Framework and the development plan as a whole. The appeal is therefore allowed.

R Gee

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no 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:
 - SE-1690 – 100 Rev C - Location plan and site survey – A1
 - SE-1690 – PP1000 Rev H - Proposed location and site plan– A1
 - SE-1690 – PP1002 Rev H - Existing and proposed street scene and street scene A1
 - SE-1690 – PP1003 Rev C - Plot 1 – Proposed plans elevations and section – A1
 - SE-1690 – PP1001 Rev D – Plot 2 – Proposed plans elevations and section – A1
- 3) No development shall commence until a programme of archaeological work has been secured in accordance with a written scheme of investigation (WSI), which has been submitted to and approved by the Local Planning Authority in writing.

The approved programme shall then be implemented in accordance with the approved details and timetable prior to any other works taking place on site.

- 4) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels.
 - 5) The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA) carried out by Ellingham Consulting Ltd (Report Ref: ECL0366c/Swann Edwards Architecture) dated September 2022 and the following mitigation measures detailed within the FRA shall be adhered to:
 - Finished floor levels to be set no lower than 1.65m Above Ordnance Datum (AOD);
 - The development to have at least two storeys; and
 - Flood resilient construction to a height of 0.5m above the finished floor level.
- The mitigation measures shall be fully implemented prior to occupation and thereafter retained.
- 6) Prior to the occupation of the dwellings, the vehicular access shall be constructed to include the provision of a metalled/sealed surface for a minimum length of 5m from the existing carriageway edge.
 - 7) The dwellings shall not be occupied until space has been laid out within the site in accordance with approved drawings for vehicle parking and turning. The spaces shall thereafter be kept available at all times for the parking of vehicles and manoeuvring.
 - 8) The approved access and hardstanding within the site shall be constructed with adequate drainage measures to prevent surface water run-off onto the adjacent public highway and retained in perpetuity.
 - 9) Prior to the first occupation of the development hereby approved any gate or gates to the vehicular access shall be set back 5 metres from the near edge of the highway carriageway, hung to open inwards, and retained in perpetuity thereafter.
 - 10) All hard and soft landscaping shall be carried out in accordance with the approved details. 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.

*****End of Schedule*****