



Appeal Decision

Site visit made on 18 July 2023

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th November 2023

Appeal Ref: APP/W0530/W/22/3309726

90 High Street, Melbourn SG8 6AL

- 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 Mrs Cecilia Murphy-Roads against the decision of South Cambridgeshire District Council.
 - The application Ref 21/03616/FUL, dated 5 August 2021, was refused by notice dated 26 April 2022.
 - The development proposed is the construction of a new dwelling within the land to the rear of No 90 High Street & associated alterations to the existing site entrance.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a new dwelling within the land to the rear of No 90 High Street & associated alterations to the existing site entrance, at 90 High Street, Melbourn SG8 6AL in accordance with the terms of the application, Ref 21/03616/FUL, dated 5 August 2021, subject to conditions set out in the schedule below.

Preliminary Matters

2. Since the planning application was determined and statements received, the speed limit along High Street has changed. As evident from road signs and confirmed by the Council, the speed limit along High Street is now 20mph, as opposed to 30mph.
3. I have had confirmation from the appellant's ecology expert that the information contained within the Preliminary Ecological Assessment (PEA) dated January 2020 remains relevant and reflects the current status of the site in respect of protected species and habitats. I have no substantive basis to consider differently.
4. Since the appeal was submitted, a revised version of the National Planning Policy Framework (the Framework) has been published in September 2023. The revisions to the Framework do not however relate to matters of concern raised in this appeal.

Main Issues

5. The main issues are:
 - whether the proposed dwelling would be in an appropriate location, having regard to settlement policies within the local plan and,
 - the effect of the proposed development on highway safety, with particular regard to the access to and from the site.

Reasons

Location

6. The South Cambridgeshire Local Plan (2018) (SCLP) proposals map shows that the proposed dwelling house would lie outside the development framework boundary for the village of Melbourn. The explanation text of Policy S/7 of the SCLP sets out that the development frameworks define where policies for the built-up areas of settlements give way to policies for the countryside. Therefore, the appeal site, apart from the access onto High Street and the initial section of the proposed driveway, is within the countryside.
7. Policy S/7 of the SCLP sets out that outside development frameworks only allocations within Neighbourhood Plans that have come into force and development for agriculture, horticulture, forestry, outdoor recreation, and other uses which need to be located in the countryside or where supported by other policies in the plan will be permitted. The proposal is not a use that needs to be located in the countryside and is not allocated within a Neighbourhood Plan.
8. The appellant asserts that the proposal accords with Policy S/7, as it is supported by other policies of the plan, namely Policy H/16 of the SCLP, which relates to the development of residential gardens. Policy H/16 permits the development of land used or last used as residential gardens provided the development is for a one-to-one replacement dwelling under Policy H/14 and/or there would be no significant harm to the local area, taking into account criteria set out in Policy H/16 b.
9. The appeal site comprises an area of overgrown land, containing trees and shrubs. There is an outdoor swimming pool and outbuildings within the site, including a mix of timber structures, a metal outbuilding, and a derelict static caravan. Most of the outbuildings appear to be derelict and unused.
10. The appellant states that the appeal land forms part of the garden of 90 High Street (No 90), noting that its only function is as accommodation land to No 90. The Council however considers that whilst the land is associated with No 90, due to the distance separation between No 90 and the appeal site, the proposal is not deemed to form part of the residential curtilage of No 90.
11. Neither party has provided substantive evidence to justify why the development would or would not comprise development of land used or last used as residential gardens. The function as being related to No 90 is not clearly defined or evidenced, nor has any justification as to why a large distance separation would consequently mean the appeal site cannot be considered as forming part of the current or previous residential garden associated with No 90. Furthermore, I have no substantive evidence explaining why the appeal site must be related to the residential garden of No 90, rather than any other residential property.
12. Policy H/16 also refers to land last used as residential gardens and therefore, there is no necessity for the site to be currently used as garden. During my site visit I did not see a physical garden boundary between the

rear of No 90 and the appeal site. Also, as there are derelict outbuildings, a static caravan and outdoor swimming pool within the site, there is evidence of its previous domestic use. However, due to the general overgrown nature of the site, it does not appear to be currently in regular use as residential garden, despite recent shrub clearance works having taken place. There are informal footway routes through from the appeal site to the rear of No 90, yet there is a separate vehicular access from High Street to the appeal site, from that which appears to be principally used by the occupiers of No 90. Nevertheless, there is also no clear evidence of any other current use of the site.

13. The land registry plan provided by an interested party, shows a rear boundary to No 90, with a separate strip of land leading to High Street from the appeal site between Nos 90 and 86 High Street. This access link onto High Street is currently closed-off by a close boarded fence, but there is evidence of a previous vehicular accessway at this point, as there is a dropped kerb and brick pillars either side. This suggests that there may have been a separate planning unit on the appeal site, rather than forming part of the residential garden of No 90.
14. Whilst there is no substantial evidence of the previous or existing residential garden use of the appeal site being associated with No 90, there is evidence of it last being in domestic use, despite its significant distance from High Street and the rear of No 90 and its current overgrown appearance. Therefore, Policy H/16 of the SCLP is relevant to the appeal proposal, as it would involve the development of a dwelling on land last used as residential gardens. Accordingly, I have assessed the proposal having regard to the criteria under part b of Policy H/16 in reaching my decision.
15. All of the appeal site lies within the Melbourn Conservation Area (CA). It therefore rests with me as the decision maker to apply the intended protection for heritage assets as specified in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, which sets out the need to have special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
16. The CA is predominately a residential area, comprising of 1.5 to 2 storey dwellings focused along High Street with narrow lanes connecting thereto. The significance of the CA is derived from its wealth of historic, traditional buildings mixed with more modern buildings and the area is generally defined by trees, with numerous mature hedgerow boundaries, providing a verdant village character.
17. The South Cambridgeshire Development Affecting Conservation Areas SPD (January 2009) (SCDACA SPD) notes that the District Council is likely to refuse planning permission for backland development where the development would erode the character and/or undermine the pattern in a Conservation Area. The Visual Impact Assessment (VIA) however, concludes that the siting, access to and occupation of the proposed dwelling would have a negligible effect on the character of the surrounding area and CA. The Council's Conservation Officer furthermore assessed the effect on the CA and raised no objection to the proposal, subject to a condition related to materials and landscaping details.

18. In view of the context and location of the appeal site, the proposed dwelling would not be visible from the High Street. Also, there would only be glimpses of the roof of the new dwelling afforded through trees from the local nature reserve at the rear of the site, as confirmed by the VIA. The siting, design, scale, and massing of the proposed dwelling would be in keeping with the character and form of the local area. Subject to conditions, to ensure the retention of trees, appropriate external materials, landscaping and boundary treatments, the proposals would not cause harm to and so, would preserve the character and appearance of the CA. Consequently, there would also be no conflict with the guidance contained in the SCDACA SPD.
19. In respect of the other criteria set out in Policy H/16, the Council has not raised concerns regarding these matters, other than in relation to safe access, which is addressed further below. The proposal would meet the standards of the District Design Guide regarding the living conditions of neighbours, as there would be sufficient distance separation to neighbouring residential properties, to ensure no harm would be caused in this regard.
20. There would be adequate parking provision to meet the needs of the occupiers of the proposed dwelling. As the land to the rear/westerly direction and southern direction is part of a Local Green Space (LGS), outside the development framework boundary and not used or last used as residential gardens, there would unlikely be any potential to develop this land. Also, subject to conditions, to ensure adequate tree protection measures are in place during construction, important protected trees, that positively contribute to the character of the area, would be retained.
21. There is no substantial evidence to show there would be any risk caused to the three nearby SSSIs (Site of Special Scientific Interest). In relation to protected and priority species, having regard to the publicly available national Planning Practice Guidance (PPG), the information contained in the submitted Preliminary Ecological Appraisal (PEA) is not considered to be up to date, as the surveys were undertaken in November 2019. I therefore sought further clarification from the appellant, to ensure the survey work was reflective of the current status of any protected species and habitats within the site.
22. The appellants' ecologist revisited the site in early September 2023, and, in their opinion, there was no significant change in habitat type and no evidence of faunal species not already reported in the original PEA dated January 2020. As I have no substantive evidence to the contrary, subject to conditions to ensure the mitigation measures in the PEA and a biodiversity enhancement plan is secured, the proposals would unlikely have any harmful impacts on biodiversity.
23. I will conclude fully on this main issue, after considering highway safety, as this is one of the relevant criterium of Policy H/16.

Highway safety

24. Since the application was refused the speed limit along High Street has been reduced from 30mph to 20 mph. Therefore, having regard to Manual for Streets, the visibility splay requirement for Y-distance is now 25 metres

as opposed to 45 metres in either direction. This reduced visibility splay can be accommodated within the appellant's land ownership and/or the public highway, as confirmed by the Council's local highway authority.

25. A neighbour has raised concern that there is restricted visibility due to a lamppost adjacent to the entrance. The lamppost is close to the existing driveway entrance to No 90, however this is at the back of the footpath, close to the front boundary hedge of No 90. Due to the position and thin nature of the lamppost, it would unlikely obstruct visibility and cause harm to highway safety. The Council's highway authority furthermore has not raised concerns about the lamppost.
26. In view of the above, the proposed vehicular access would provide adequate visibility splays and so would not cause harm to highway safety. The proposal would not conflict with Policies HQ/1 and TI/2 of the SCLP, which amongst other things, require development to provide safe vehicular access.

Overall conclusion on the main issues

27. In respect of the above, I have found that the proposed development would not cause harm to highway safety, as a safe means of access would be provided to and from the site. In view of this finding and for the above reasons the proposed development would be in an appropriate location having regard to settlement policies within the local plan relating to the first main issue. As such, it would accord with Policy S/7 and H/16 of the SCLP, together with Policies S/2, S/3, and S/6 which relate to the objectives of the Local Plan, the presumption in favour of sustainable development and the Development Strategy to 2031.

Other Matters

28. The Council note the appeal allowed in Pound Lane, Willingham; as evidenced by the appellant, is not comparable in terms of location and context to the appeal proposal. This example in Willingham also appears to lie outside a village framework boundary and assessment of Policies S/7 and H/16 were considered by the Inspector. However, in making my decision, I have had regard to the individual merits of the proposed development and found the proposals would be acceptable and accord with Policies S/7 and H/16 of the SCLP.
29. Beyond the rear and south-western side boundaries of the site is a Local Green Space (LGS) called Stockbridge Meadow, locally signposted as a Nature Reserve. The Preliminary Ecological Assessment (PEA) states there would be no harm caused to this local nature reserve. As I have no substantive evidence to the contrary, I concur with this conclusion.
30. Concerns relating to private rights of way, land ownership and the maintenance of private land are not material planning considerations, as they relate to private rather than public interests. Such matters would not therefore weigh against the proposal. The appellant has completed the appropriate certificate of ownership and I have no substantive evidence to the contrary on such ownership matters that weigh against the proposals.
31. No substantive evidence has been provided to demonstrate the proposed dwelling would lead to an increase in crime. The addition of a further

dwelling sharing the access driveway with 92 High Street, and that the driveway would be located close to the side of No 92, would unlikely cause harm to the living conditions of the occupiers of this property, in respect of disturbance, including noise, light and air pollution from vehicles and loss of privacy. Whilst I appreciate the proposal may cause anxiety to the occupiers of No 92, there is already a permitted access driveway close to the side of No 92 for the land to the rear of No 90. Furthermore, activity associated with one additional dwelling would likely have a limited impact on the living conditions of the occupiers of No 92 and so, would not weigh significantly against the proposal.

32. A safe means of vehicular access would also be provided for the proposed dwelling. It is unlikely that there would be conflict of movement of vehicles caused between No 92 and the proposed dwelling along the first part of the access driveway to warrant the need for a passing bay. Furthermore, the local highway authority has not raised concern about the access driveway nor identified a need for a passing bay. A condition requiring the first part of the driveway access from High Street to be a minimum of 5 metres width, would ensure vehicles are clear of the highway to accommodate any potential conflict with a vehicle approaching down the shared driveway. Also, due to the limited width of the access driveway, it is unlikely that vehicles would travel at speed and cause danger to pedestrians accessing the entrance to No 92.
33. No substantive evidence has been provided regarding the concerns raised about surface water drainage, the position of and impact on exiting drains or the impact on other services that would weigh against the proposals. However, suitable drainage and other services would need to be provided for a new dwelling, in accordance with other, non-planning legislation.
34. That there has been extensive development within the village and that there are other housing developments in the village boundary to meet local requirements, does not weigh against the proposals. I have found the proposed development would accord with Policies S/7 and H/16 of the SCLP. In allowing the appeal, it would not undermine spatial policies of the local plan that restrict development in rural areas, as development proposals would need to be considered having regard to their individual merits.
35. Limited public transport in the area and that the occupiers of the proposed dwelling would be reliant on car and cycle or traveling by foot are not factors covered under Policy H/16 of the SCLP. However, there are bus stops near to the appeal site along High Street and there are local facilities within the village, which would be within cycle or pedestrian walking distance.
36. Any disturbance or other problems related to the construction and construction traffic associated with the proposed dwelling would be short term and could be adequately controlled by condition, and so does not weigh against the proposals. Concerns related to potential obstruction of access to No 92 are noted, but I have no substantive basis to consider that would happen, at least to any significant extent. Furthermore, this is not a material planning consideration that would weigh against the proposal, as it would be a private civil matter between the relevant parties.

Conditions

37. I have considered the conditions suggested by the Council, in the event I allow the appeal, having regard to the advice contained within the PPG and the Framework. In addition to the standard implementation condition, it would be necessary for the avoidance of doubt and in the interests of certainty to define the plans with which the scheme should accord.
38. To protect the character and appearance of the surrounding area and CA, conditions would be necessary and relevant to ensure the development would have appropriate external materials, boundary treatments and landscaping, and that tree protection measures are put in place during construction and all the measures recommended within the Arboricultural Impact Assessment Report (AIAR) are adhered to.
39. To protect important retained trees, a condition requiring adherence to the submitted details of tree protection measures during construction would be necessary. Also, to preserve the character of the area and the living conditions of the occupiers of neighbouring dwellings, a condition requiring a Construction Environmental Management Plan would be necessary.
40. Due to the proximity of the proposed dwelling to neighbouring properties to the side of the site, removal of permitted development rights would be appropriate to protect the living conditions of neighbours. Also, there are a number of important protected trees, which make a positive contribution to the character and appearance of the CA that would be retained within the site as part of the proposal. It is appropriate and necessary that any further development within the appeal site is restricted, to ensure no damage or loss occurs to these trees and to protect the open character of the site, in view of its location within the countryside and CA. Therefore, removal of permitted development rights for alterations to the proposed dwelling and any structures or outbuildings other than those relating to the appeal proposal would be necessary.
41. In the interests of highway safety, conditions would be necessary to ensure the required visibility splays are provided and kept clear of obstruction; that the appropriate width of access is provided; that no drainage outfall goes onto the public highway; that any gates at the access are set back from and open away from the highway and no structures overhang the highway; and, that appropriate materials are used for the vehicular access onto High Street. Also, to ensure highway safety is maintained during construction, a Traffic Management Plan would be necessary.
42. Having regard to the habitat's legislation and biodiversity interests, conditions would be necessary to ensure the ecological measures in the PEA are carried out in full and that details of ecological enhancement would be provided and implemented.
43. Restricting the hours of certain construction activity and deliveries would be appropriate to protect the living conditions of neighbouring dwellings from undue noise and disturbance, in accordance with the requirements of part b of Policy CC/6 of the SCLP.
44. In accordance with Policies CC/3, CC/4, and TI/10 of the SCLP, conditions would be appropriate, to ensure the proposed dwelling meets the required

carbon emission levels and promotes renewable energy use; that the dwelling achieves at least minimum water efficiency requirements; and, that the proposed dwelling has broadband.

45. Wording of some of the conditions suggested by the Council would however need to be amended to be more precise and ensure implementation of the various requirements.

Conclusion

46. For the reasons given above, I conclude that the appeal should succeed, and that planning permission be granted, subject to conditions set out in the schedule below.

C Billings
INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.

2. The development hereby permitted shall be carried out in accordance with the approved plans 0508-000 REV P1, 0508-100 REV P1, 0508-101 REV P1, 0508-102 REV P1, 0508-103 REV P1, 0508-104 REV P1, 0508-105 REV P1, 0508-106 REV P1, 0508-108 REV P1, and Tree Protection (Proposed Layout) dated 17/01/2020.

3. No development hereby permitted shall commence until details of the following items have been submitted to and approved in writing by the local planning authority:

- (a) brick sample panel
- (b) roofing materials
- (c) timber cladding
- (d) full hard and soft landscaping plan.

The development hereby permitted shall thereafter be carried out in accordance with the approved details. Any approved soft landscaping shall be implemented in the first planting season following the completion of the development and, if any landscaping planted in accordance with the approved soft landscaping plan dies within 5 years of first planting, it shall be replaced.

4. No development hereby permitted shall commence until details of a Biodiversity Enhancement Layout (BEL), providing the finalised details and locations of the enhancement measures contained within the Preliminary Ecological Appraisal (Applied Ecology Ltd., January 2020) has been submitted to and approved in writing by the local planning authority. The enhancement measures contained within the BEL shall be implemented in accordance with the approved details and all features shall be retained as agreed thereafter.

5. No development hereby permitted (including any site clearance/preparation works) shall be carried out until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. Details within the CEMP shall include the following and the approved CEMP shall be adhered to throughout the period of the construction of the development.

- a) full details of any piling technique to be employed, if relevant,
- b) contact details for site manager, including how these details will be displayed on site.

6. Notwithstanding the details shown on approved plan 0508-106 REV P1, no development hereby approved shall commence until a revised plan showing two 2.0 x 2.0 metres pedestrian visibility splays has been submitted to and approved in writing by the local planning authority. The pedestrian visibility splays shall be included within the curtilage of the shared access to the dwelling hereby permitted and shall be provided prior to the first occupation of the proposed dwelling. The pedestrian visibility splay area shall thereafter be kept clear of all planting, fencing, walls or other structures exceeding 600mm high.

7. No demolition or construction works associated with the development hereby approved shall commence on site until a Traffic Management Plan (TMP) has been submitted to and agreed in writing by the local planning authority. The principal areas of concern that should be addressed within the TMP are:

- (a) Movements and control of muck away lorries (all loading and unloading shall be undertaken off the adopted highway).
- (b) Contractor parking; all such parking shall be within the curtilage of the site and not on the street.
- (c) Movements and control of all deliveries (all loading and unloading shall be undertaken off the adopted public highway).
- (d) Control of dust, mud, and debris, in relationship to the functioning of the adopted public highway.

The development hereby permitted shall be carried out and adhere to all measures contained within the approved TMP.

8. No development hereby approved shall take place or commence above ground level (excluding demolition works) until a plan indicating the positions, design, materials and type of boundary treatments (including gaps for hedgehogs) to be erected between the approved development and No 90 High Street, Melbourn have been submitted to and approved in writing by the local planning authority. The approved boundary treatment shall be completed in accordance with the approved details prior to the first occupation of the dwelling hereby approved and retained as approved thereafter.

9. No development hereby approved shall take place above ground level until an Energy Statement has been submitted to and approved in writing by the local planning authority. The Energy Statement shall demonstrate that a minimum of 10% carbon emissions (to be calculated by reference to a baseline for the anticipated carbon emissions for the property as defined by Building Regulations) can be reduced through the use of on-site renewable energy and low carbon technologies. The approved scheme shall be fully installed and operational prior to the first occupation of the development hereby approved and thereafter maintained in accordance with the approved details for the lifetime of the dwelling. Where grid capacity issues subsequently arise, written evidence from the District Network

Operator confirming the detail of grid capacity and a revised Energy Statement to take account of this shall be submitted to and approved in writing by the local planning authority. The revised Energy Statement shall be implemented and thereafter maintained in accordance with the approved details.

10. The dwelling hereby approved shall not be occupied until a water efficiency specification for the dwelling, based on the Water Efficiency Calculator Methodology or the Fitting Approach set out in Part G of the Building Regulations 2010 (2015 edition) has been submitted to and approved in writing by the local planning authority. This shall demonstrate that the dwelling is able to achieve a design standard of water use of no more than 110 litres/person/day. The development shall be carried out in accordance with the approved details.

11. The dwelling hereby approved shall not be occupied until infrastructure to enable the delivery of broadband services, to industry standards, has been provided for the dwelling.

12. The dwelling hereby approved shall not be occupied until two inter-vehicle visibility splays of 2.4 metres by 25 metres have been provided at the site access junction onto High Street. The area within each splay shall be kept clear of any obstruction (planting, fencing, walls and other structures) exceeding 0.6 metres in height above the level of the maintained public highway for the lifetime of the development.

13. The shared access onto High Street shall be a minimum width of 5m, for a minimum distance of 5m measured from the near edge of the highway boundary.

14. The access driveway to the dwelling hereby approved shall be constructed so that its falls and levels are such that no private water from the site drains across or onto the adopted public highway. This shall include the use of appropriate permeable surfacing materials together with physical measures to prevent in future years water from draining onto or across the adopted public highway.

15. The access to the dwelling hereby approved shall be constructed using a bound material, for the first five metres from the boundary of the adopted public highway into the site, to prevent debris spreading onto the adopted public highway.

16. No part of any structure shall overhang or encroach under or upon the public highway including the footings for the proposed wall or piers.

17. Any gate or gates to the vehicular access of the dwelling hereby approved shall be set back a minimum of 5m from the near edge of the highway boundary and not carriageway edge. Any access gate or gates shall be hung to open inwards and not open over the public highway.

18. All ecological measures and/or works shall be carried out in accordance with the details and timescales contained within the Preliminary Ecological Appraisal (Applied Ecology Ltd., January 2020).

19. All arboricultural works shall be carried out in accordance with the details contained in the Arboricultural Impact Assessment Report (version 2, December 2019, Greenwillows Associates Ltd.), Tree Protection Proposed Layout and Tree Constraints and Removals Plan.

20. No construction site machinery or plant shall be operated, and no construction related deliveries taken at or dispatched from the site except between the hours of 0800-1800 Monday to Fridays, 0800-1300 Saturdays and not at any time on Sundays or Bank or Public Holidays.

21. Notwithstanding the provisions of Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that order with or without modification), no enlargement, improvement or other alteration shall be carried out to the dwelling house hereby approved.

22. Notwithstanding the provisions of Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that order with or without modification), no building or enclosure, swimming pool or other pool or structure shall be constructed within the curtilage of the dwelling hereby approved, other than those expressly authorised by this permission.