



Appeal Decision

Site visit made on 4 October 2023

by P B Jarvis BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15.12.2023

Appeal Ref: APP/W0530/W/23/3319987

Land to rear of 33 Church Street, Gamlingay, Cambs SG19 3JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for full planning permission.
 - The appeal is made by MDH Investments Ltd against the South Cambridgeshire District Council.
 - The application Ref 3/23/0146/HH is dated 17 August 2022.
 - The proposed development is demolition of existing commercial buildings and erection of 5 new dwellings with associated parking, amenity space and landscaping.
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Procedural Matters

1. The adjoining resident of No. 33 Church Street objects to the site being described as 'land to rear of 33 Church Street' as it does not relate to their property. However, the plans are clear that the appeal site does not include any part of that property and the use of the phrase 'land to rear of' implies reference to a separate area of land.
2. The Appellant has provided details of an application for prior approval relating to the change of use and conversion from Class E to Class C3 use as three self-contained dwellings at the appeal site.¹ The application was not determined within the set determination period, an extension of time having been agreed by the Appellant, and therefore a deemed permission exists for this use provided the conditions in the General Permitted Development Order are met, as confirmed by the Council's decision letter dated 16 November 2023. This is a material consideration in terms of providing a fall-back position and is taken into account in the decision below.

Decision

3. The appeal is dismissed.

Main Issues

4. The main issues are (a) whether the loss of the employment site is justified and (b) the impact on the character and appearance of the area including the Gamlingay Conservation Area and setting of nearby listed buildings.

Reasons

5. The appeal site comprises a range of single storey commercial buildings located on a 'backland' site to the rear of properties fronting the main road through the centre of the village. It is accessed via a surfaced road that runs between Nos.

¹ Planning ref. no. 23/02882/PRIOR

33 and 37 Church Street. The former is an 18th century timber framed, two storey residential property, extended to the rear, which also uses the site entrance to gain vehicular access to the rear of the property; the Gamlingay Conservation Area Appraisal (2000) (CAA) notes that it is a Grade II listed building, though the Council appears to suggest that it is not listed – however, the Appellant also notes it as a listed building, therefore I have assumed that the CAA is correct. No. 37 is a two-storey property containing a shop (currently pharmacy) on the ground floor and is identified CAA as a building of local note with classical shop front and parapet.

6. A larger modern, commercial building, which is accessed via the same driveway as the buildings on the appeal site, adjoins to the north. This building appeared to be part of the wider site though not under the control of the Appellant. All buildings were vacant at the time of my site visit.
7. To the south-east is 39 Church Street (Maypole House), which is also Grade II listed; it is a large, two-storey detached 'villa' of more generous proportions than the majority of the buildings around it. A property called The Coach House lies to the rear of No. 39, located to the east of the appeal site; there are single storey outbuildings within this site located on the appeal site boundary adjoining the access. Coach House Court, comprising a courtyard of barn-style dwellings, also adjoins to the east accessed off The Maltings, a modern attractive development of traditionally designed terraces and detached properties.
8. To the north and north-east lies Avendells Way comprising predominantly of modern single storey residential properties; to the west is a modern telephone exchange building, which appeared to be vacant. There is a public footpath connecting Church Street to Avendells Way that runs to the west of the telephone exchange site with partial views of the appeal site and the buildings on it.
9. The Gamlingay Conservation Area (CA) adjoins the southern and eastern boundaries of the main part of the appeal site with the main access road wholly within it. The CA also encompasses Nos. 33, 37, 39, The Coach House, Coach House Court and the first part of The Maltings.

Loss of employment site

10. Policy E/14 of the South Cambridgeshire Local Plan (2018) (SCLP) states that the redevelopment of existing employment sites will be resisted unless one of a list of three criteria is met. In summary, these are firstly, that the site is inappropriate for any employment use having regard to market demand which needs to be supported by evidence of marketing for at least 12 months, secondly, that the overall benefit of the proposal to the community outweighs any adverse effect on employment opportunities and the range of available land and premises and thirdly, that the existing use is generating environmental problems that would continue if put to any other employment use. In addition, proposals which propose the loss of all employment uses will need to demonstrate why an element of employment development cannot be delivered as part of the scheme.
11. In respect of the first criterion, the Appellant confirms that following a marketing exercise for 7 months, whilst there had been a number of enquiries from employment related users, none progressed. After only 4 months

- negotiations with the Appellant commenced and 3 months later an option to buy was being entered into meaning that the site would no longer be available for purchase; marketing ceased at that point.
12. It is clear that the period of marketing did not meet the policy criteria, but the Appellant further contends, in any event, that the buildings are unsuitable for their lawful use or for modern commercial use and do not comply with EPC requirements thus deeming them unsuitable for continued employment use. However, that appears to be on the basis that the current owner is unable to fund the cost of upgrading the buildings, not that it would be impossible to do so. It seems to me that anyone interested in leasing or purchasing the buildings would have been aware that such upgrading was needed; indeed, the policy is clear that the marketing exercise should reflect the lawful use and condition of the premises.
 13. It is unclear why the marketing exercise was 'cut short' other than to enable the Appellant to proceed with the option to buy. In my view, as a result, the evidence does not demonstrate that the site is inappropriate for any employment use as required by criterion (a) of SCLP Policy E/14 and its specific requirements in this respect.
 14. In respect of the second criterion, the Appellant appears to contend that this is satisfied but has provided little evidence regarding the effects on employment opportunities or the range of available employment land and premises. In this respect I note that the supporting text to the policy states that employment sites at villages are a scarce resource and provide local employment reducing the need to travel.
 15. I acknowledge that the proposal would bring significant community benefits through the provision of housing, particularly smaller housing as sought by SCLP Policy H/9 and Policy GAM1 of the Gamlingay Neighbourhood Plan (2021) (GNP). In addition, it would likely result in a reduction in traffic movements, particularly including larger commercial vehicles, and would be of sustainable design and construction in an accessible location. However, the lack of information regarding the wider supply and quality of existing employment sites and the impact of the appeal proposal on them means that it is not possible to assess whether such benefits do indeed outweigh any adverse effects in this regard. Thus I do not find that criterion (b) of SCLP Policy E/14 is satisfied.
 16. The Appellant has not suggested that criterion (c) would be satisfied nor provided any evidence to that effect, except insofar as noting a change to traffic movements. The commercial building to the rear of the site would be retained thus maintaining an element of employment on the wider site.
 17. GNP Policy GAM4 states that proposals for the improvement, enhancement and development of the local employment sites, including the appeal site, will be supported to protect local jobs provided there is no adverse impact on the rural environment or amenity of nearby residents. I consider that this policy reflects the general approach of CLP policy E/14 in positively supporting existing employment sites and note the supporting text refers to safeguarding and supporting such sites within the village framework.
 18. The Appellant has provided an extract from the GNP Examiners Report which states that the above policy does not attempt to restrict the opportunity for

proposals for alternative uses to come forward within the context of CLP Policy E/14. I would concur with that but do not agree with the Appellant that in this case that means there would be no conflict with Policy GAM4. I have found that the proposal does not satisfy Policy E/14 and there is no justification for the loss of the existing employment site. On that basis it seems to me that it does follow that there is also conflict with GNP Policy GAM4 as these two policies work together to achieve the same aims, to safeguard existing employment sites unless there is clear justification their loss.

19. I therefore find that the proposal would result in the unjustified loss of a local employment site in conflict with SCLP Policy E/14 and GNP Policy GAM4.

Character and appearance

20. As noted above, the site lies within the village centre and is partly within and otherwise adjoins the CA. The whole of Church Street lies within the CA and the CAA notes that it is a thoroughfare of exceptional visual quality with a high proportion of listed buildings. Church Street is also noted as having a very urban built-up frontage with glimpses through gaps to large rural plots behind with rustic outbuildings, formerly used for agriculture. The Gamlingay Village Design Guide (2020) (VDG) also identifies Church Street as comprising of mostly continuous buildings lines with occasional long views through gaps to plots behind.
21. The single storey buildings located on the boundary of the Coach House, to the east of the appeal site, can be seen in the view looking down the access road to the main part of the appeal site. However, the existing buildings within the main part of the appeal site are not readily visible due to their height and that they are screened to a great extent by the mature trees that lie along the access road and within the garden area of the adjoining property, No. 33 Church Street. This results in the view appearing somewhat 'semi-rural' in character in contrast to the built-up appearance of Church Street albeit is clearly part of the built-up area of the village.
22. Whilst the CAA does not identify a 'view' along the access road it seems to me that the 'semi-rural' character of this view is important to its significance. Local policy seeks to ensure that development sustains and enhances the special character and distinctiveness of the district's historic environment and the significance of heritage assets. The VDG also emphasises that development should be of characterful design that draws upon the vernacular quality of the historic village and the Council's Development Affecting Conservation Areas SPD notes that it is important that the scale of individual buildings within a development reflects the predominant scale of buildings found in adjacent conservation areas.
23. The span depth of the original part of the buildings either side of the access road into the site reflect the generally narrow dimensions found within this part of the conservation area, notwithstanding that they have both been extended to the rear. The relatively low height of the buildings within the adjoining Coach House grounds and design buildings in Coach House Court reflect the 'semi-rural' character of the areas to the rear.
24. In contrast, the overall height of the new dwellings when taken together their scale and form would introduce buildings of greater bulk and massing than currently exists on adjacent sites and within the nearest part of the

conservation area. In particular, the deep central element of the terrace with long sloping roof would contrast awkwardly with the roofs of the adjoining dwellings introducing a terrace that does not appear to reflect the traditional proportions of building within the wider area.

25. I note that No. 39 Church Street is of a larger scale than many of the buildings around it but it sits within a large plot with mature landscaping and, fronting onto the main road, provides a 'breathing space' along Church Street itself as noted in the VDG. The context of the appeal site is more defined by the buildings either side of the access road which, as noted above, are of smaller scale with narrow spans.
26. The Appellant emphasises that the new dwellings would generally occupy the same footprint as the existing buildings and therefore would not be visible in views from Church Street. However, whilst as noted above the mature trees adjoining the site do provide an effective screen, that may well change in winter months when the trees lose their leaves. In any event, their reduced visibility does not mean that they should not respond to and be sympathetic to the traditional character of the adjoining CA.
27. Overall, I find that the proposal would introduce development that would not sustain or enhance the character of the site and the role it plays complementing the significance of the conservation area and wider area. It would therefore have a harmful effect and would fail to preserve the character and appearance of the CA and the setting of nearby listed buildings. The proposal would thus conflict with SCLP Policies NH/14 and HQ/1 and GNP policy GAM3 which, in addition to the points noted above, seek to ensure that housing development draws upon the scale, form, materiality and massing of existing vernacular buildings as described in the Village Design Statement.

Other Matters

28. The National Planning Policy Framework (the Framework) states that significant weight should be placed on the need to support economic growth and decisions should encourage sustainable economic growth and support a prosperous rural economy. For the reasons set out above I find that compliance with these policies has not been demonstrated.
29. In relation to the historic environment, the Framework states that great weight should be given to the asset's conservation and in determining applications, the desirability of sustaining and enhancing the significance of the heritage asset should be taken into account, amongst other things. In this context and for the reasons set out above I find that the proposal would lead to less than substantial harm to the significance of the conservation area and the setting of adjoining listed buildings; as such, paragraph 202 states that this harm should be weighed against the public benefits of the proposal. I have acknowledged the benefits that the appeal scheme would bring, particularly through the provision of smaller housing, thus significantly contributing to the social objectives of the Framework, including to boost the supply of housing, and to a lesser extent, its economic objectives. However, bearing in mind the weight to be given to the conservation of the heritage assets and the level of harm that would arise, these benefits are not sufficient to outweigh the harm identified.
30. Whilst the proposal would satisfy other policies of the Framework, overall, I find that it does not comply with it.

31. The Appellant has referred to the 'fall back' position provided by the recent deemed permission for the conversion of the existing buildings to residential as noted above. Whilst this is a material consideration to be taken into account, and as part of the permitted development rights available mean that the policies that seek to prevent the unjustified loss of employment land would not apply, I note that the appearance and prominence of the buildings would be unlikely to change significantly and, as a result, would arguably have a neutral impact on the historic environment. Having regard to my findings above, it does not therefore provide justification for the scheme now proposed.
32. I have taken into account third party comments, but most concerns have been addressed above. In terms of traffic generation, I agree with the Council that these are likely to reduce and the existing access would provide a safe and suitable access to the development. I also agree that there would not be an unacceptable impact on the living conditions of neighbouring properties given the relative orientation and distance from existing properties of the proposed dwellings. The existence of any asbestos within the existing buildings would be dealt with under other legislation.
33. The Council has referred to GNP Policy GAM10 which relates to contributions towards providing new infrastructure for walking, cycling and horse riding. Whilst the policy is clear that it relates to housing developments, there is no information detailing the impact of the proposed development in this regard therefore it is unclear what if any contribution should be made. In these circumstances, I am unable to conclude that the absence of a unilateral undertaking to secure such contributions should be taken into account.

Conclusions

34. Overall, I find that the proposal would fail to accord with the development plan and there are no material considerations that indicate a decision otherwise. I therefore conclude that this appeal should be dismissed and planning permission refused.

P B Jarvis

INSPECTOR