

Appeal Decision

Site visit made on 12 January 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2024

Appeal Ref: APP/D0515/W/23/3321498

Land north of 125a West End, March PE15 8FL

- 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 Mr P Gumbley against the decision of Fenland District Council.
 - The application Ref F/YR22/0994/O, dated 18 July 2022, was refused by notice dated 13 March 2023.
 - The development proposed is the erection of a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters reserved save for access. I have determined the appeal on this basis. A plan has been submitted as part of the appeal which indicates how a dwelling could be accommodated on the site. I have taken this plan into account for indicative purposes only.
3. On 20 December 2023 the Government published a revised National Planning Policy Framework (the Framework). The revised Framework was accompanied by a written ministerial statement (WMS). Having regard to the main issues in this appeal, it has not been necessary to invite submissions from the parties on the revisions that have been made to the Framework.

Main Issues

4. The main issues are the effect of the proposed development on 1) the character and appearance of the area, and 2) biodiversity.

Reasons

Character and appearance

5. The appeal site is an area of open land within a planned housing development. It sits adjacent to a private driveway which accesses residential properties on West End, beyond which is a short terrace of three two-storey properties. On the other side is the garden and access for a further property which is located on West End. Opposite the appeal site is the access to the parking area which serves a three-storey block of flats.
6. The residential properties in the surrounding area are predominantly formed of terraced and semi-detached properties as part of a planned development. The proposed development would form a detached property and would be at odds

with the existing arrangement. Nevertheless, the fact that the existing make-up is primarily of terraced and semi-detached properties makes a limited positive contribution in terms of the character and appearance of the area. It is not of such significance to the character and appearance of the area that a form of development which would depart from this arrangement would cause harm as a matter of principle, provided the resulting dwelling is of an appropriate design, scale and siting.

7. Although matters of appearance, layout and scale are reserved for future approval, an indicative plan has been submitted showing how a dwelling could be designed and positioned on the site. The indicative dwelling would broadly follow the established building line of the street and would be similar in appearance and scale to the existing dwellings on Lake Close.
8. Although it would be detached, it would sit in close proximity to the existing terrace such that from most viewpoints it would be viewed in conjunction with the existing properties and would not appear isolated or incongruous. The resulting gaps would be most apparent from views in close proximity, however I do not find that this would cause unreasonable harm given that it has been demonstrated an acceptable approach to scale and appearance could be used.
9. The proposed development would therefore not harm the character and appearance of the area. It would comply with Policy LP16 of the Fenland Local Plan (2014) which requires, amongst other things, that developments create high quality environments which make a positive contribution to the local distinctiveness and character of the area.
10. It would also comply with the requirement of the Framework that developments are of high-quality design, sympathetic to local character.

Biodiversity

11. There is a prominent line of trees that run adjacent to the eastern boundary of the appeal site. These trees are close to, but not within, the appeal site. It is not clear in the submission whether or not these trees are required to be removed to facilitate the development, with conflicting information in the submitted reports and plans. These trees have the potential for significant ecological and landscape value. There is limited analysis in relation to their ecological and landscape value, or the implications of the proposed development on them.
12. The evidence refers to the presence of bats in the area. A Preliminary Ecological Appraisal has been carried out that identifies that the site supports good bat foraging and commuting suitability. The evidence also suggests that a large bat roost resides within the residential property to the south of the appeal site.
13. The appraisal recommends that a series of three surveys should be sufficient in determining the use of the habitat by these local bat populations. It is further outlined how the eastern aspect of the trees could not be assessed due to lack of access to the adjacent area of land. It recommends that access onto the adjacent area of land should be undertaken to perform a ground-level assessment to the eastern aspect of the boundary trees. This will determine the requirement of any further surveys in respect to these trees.

14. In addition to the impact on protected species, representations have referred to the potential loss of trees as a result of the development. I observed on my site visit that the prominent mature trees running parallel to the site boundary overhang the site and it is also likely that their rooting zones extend to within the site.
15. The appellant considers that these trees, being located outside the appeal site, would not be affected by the proposed development. I acknowledge that they are outside the appeal site, however, given that the canopies, and highly likely the rooting zones, extend over the site, I do not share the appellant's view, particularly in the absence of any substantive evidence to support such an argument.
16. Although the application is in outline and layout is a reserved matter, due to the narrowness of the site it would be difficult to position a dwelling on site without there being implications for these trees and their ecological and landscape value. In the absence of suitable surveys in relation to both bats and trees I cannot be certain that the proposed development would not adversely affect biodiversity or trees.
17. The appellant considers that such matters could be addressed in the reserved matters submission. Given that any outline consent is the planning permission, when considering the confines of the site and its close proximity to these trees, I do not consider that it would be appropriate to consider such matters at the reserved matters stage.
18. Therefore, based on the evidence before me, I am unable to conclude that the development would not cause harm to protected species and landscape features. It would therefore be contrary to Policies LP16 and LP19 of the Fenland Local Plan (2014) which aim to protect and enhance biodiversity on, and surrounding, the application site, and conserve, enhance, and promote the biodiversity interest of the natural environment.

Other Matters

19. I acknowledge that the application was recommended for approval by March Town Council. There is, however, no substantive analysis presented in the representation, and in any event, it does not overcome the harm I have identified. I therefore give this limited weight in the appeal.
20. The appellant highlights that there were no concerns in relation to highways, flood risk, drainage or the impact on neighbouring properties. Whilst this may have been the case in terms of the Council's assessment, the absence of harm is a neutral factor in the balance.

Conclusion

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 outlines that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
22. The proposed development would result in a minor increase in the Council's overall housing number. It would be within a sustainable location and would also bring a small number of additional residents to the area who would contribute to the local economy. I give these factors moderate weight in favour of the development.

23. However, the harm that I have identified that would be caused to biodiversity attracts significant weight that outweighs the benefits associated with the proposed development.

24. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.

25. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR