



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: 16th February 2024

Appeal Ref: APP/D0515/W/23/3321786

Land west of 73-73b, The Avenue, March PE15 9PS

- 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 Carol Morton and Mrs Gabrielle Enoch against the decision of Fenland District Council.
 - The application Ref F/YR22/1119/O, dated 7 September 2022, was refused by notice dated 12 December 2022.
 - The development proposed is the erection of one, two-storey four bed house with a double garage and private garden area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is made in outline with all matters reserved. 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. Under Article 5(3) of the Order¹, where access is a reserved matter, the outline application must state the area or areas where access points to the development proposed will be situated. This is shown on the submitted plans.
4. 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

5. The main issues are the effect of the proposed development on 1) the character and appearance of the area, and 2) highway safety.

Reasons

Character and appearance

6. The appeal site is situated to the rear of nos. 73, 73a and 73b The Avenue. There is a public house car park to the south, open countryside to the west and a rear garden of a residential property to the north.

¹ The Town and Country Planning (Development Management Procedure) (England) Order 2015

7. The surrounding area is characterised by a range of uses including the adjacent public house, a large secondary school and a petrol filling station. These uses are located on the relatively busy B1101 which runs through March, from which access to the appeal site is proposed.
8. The appeal site is currently undeveloped open space with overgrown vegetation. The Council have outlined how the site forms part of the allocated BCP site for West March where access to this parcel of land is expected to be taken from within the BCP site and not directly from The Avenue as proposed.
9. In the surrounding area there are residential properties that have been developed in small clusters leading from the main road and from secondary roads. Such examples include a small row of recently constructed properties to the south of the appeal site that are accessed from Church Street. Further afield, residential developments around Church Close, Job's Lane and Coronation Close have also resulted in a more dispersed and random pattern of development.
10. In this context, the proposed development would be consistent with a more general approach to dwellings being positioned on land that extends back from the main roads and secondary roads. I acknowledge that it would form a singular dwelling in a backland setting, as opposed to a wider planned development, however I do not consider that this element of contradiction would be to the extent whereby harm is caused to the character and appearance of the area.
11. The site would be broadly in line with the residential curtilages of properties to the north and would not extend further into the open countryside than the residential properties to the south. When combined with the wider site allocation, I am satisfied that a well-designed dwelling could be accommodated on the site without causing harm to matters of character and appearance.
12. I also acknowledge the Council's concern in terms of departing from the wider site allocation. I have considered the implications of the site access below, however the severance of the site from the allocated land does not lead me to a conclusion that harm would be caused in terms of character and appearance.
13. 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.
14. It would also comply with the requirement of the Framework that developments are of high-quality design, sympathetic to local character.

Highway safety

15. In this appeal, access is a reserved matter. The PPG identifies that access is the accessibility to and within the site, for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network. An application for outline planning permission must however also indicate the area or areas where access points to the development will be situated, even if access has been reserved.

16. Therefore, in terms of parking and turning within the site, these are not within the confines of the application, other than to say that the size of the site would allow for satisfactory parking and turning to be provided within the appeal site, and this would be subject to future consideration.
17. In terms of the access point to the development, this would utilise an existing vehicular access situated between no. 73b The Avenue and the public house. This existing access serves the rear of the three existing dwellings and provides access to existing garages.
18. Although not specifically referred to in the Council's reasons for refusal, the officer report and appeal statement consider the visibility from the existing access. I was also able to appreciate the visibility on my site visit. Due to the position of the public house building, there is extremely limited visibility of northbound traffic on the road. This is of greatest significance given that there is a junction with Church Street close to the access point, and the access is situated at a point where the designated cycle lane merges with the footpath to become a shared surface. Such factors require drivers to have high levels of visibility that would not be provided for in this case. This would increase the risk of collision between vehicles egressing the site and vehicles on the roadway, and cyclists and pedestrians on the shared path. It is also pertinent that whilst visibility of southbound traffic is not as restricted, the appellant does not have control over securing the visibility splay which encompasses the front garden area of no. 73b The Avenue.
19. The width of the access is also of such that it would be unable to accommodate two-way traffic. Any vehicles accessing the site, if confronted with a vehicle egressing the site, would be required to stop in the live carriageway whilst the vehicle egressing the site, with its poor visibility, exits the site. This arrangement would also lead to unacceptable highway safety conditions.
20. I acknowledge that the access is existing and that it is currently utilised by a small number of residents and their vehicles. Nevertheless, the proposed development would increase the use of the access and would exacerbate an already existing unacceptable arrangement. I do not consider that this justifies allowing further harmful vehicular movements to occur.
21. I also acknowledge that Cambridgeshire County Council highways did not raise an objection to the development, however there is no reasoned analysis of the proposed development to justify the viewpoint. The lack of objection therefore does not overcome the harm identified by the District Council in their assessment and from my own observations on my site visit.
22. I therefore conclude that the proposed development would have an unacceptable impact on highway safety and would increase the risk of collision and conflict between pedestrians, cyclists and vehicles. It would be contrary to Policy LP15 of the Fenland Local Plan (2014) which requires, amongst other things, that development schemes should provide well designed, safe and convenient access.
23. The development would also be contrary to the Framework, which requires, amongst other things, that developments should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety and that applications for development should minimise the scope for conflict between pedestrians, cyclists and vehicles.

Conclusion

24. 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.
25. 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.
26. However, the harm that I have identified that would be caused to highway safety attracts significant weight that outweighs the benefits associated with the proposed development.
27. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.
28. 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