



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: 19 February 2024

Appeal Ref: APP/D0515/W/23/3322060

Land west of 27-35 New Street, Doddington, March PE15 0SP

- 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 Adrian Garrett against the decision of Fenland District Council.
 - The application Ref F/YR22/0345/F, dated 16 January 2022, was refused by notice dated 17 November 2022.
 - The development proposed is the erection of a pair of semi-detached 3-bed, 2-storey dwellings and a detached 4 bed, 2-storey dwelling with detached double garage involving demolition of outbuildings and entrance gate brick piers within a conservation area.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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.
3. Having regard to the Council's second reason for refusal, in relation to the impact on amenity space provision, the appellant has submitted an amended plan¹ with the appeal. The 'Procedural Guide – Planning Appeals – England' advises that if an appeal is made, the appeal process should not be used to evolve a scheme and that where amendments are proposed during the appeals process, the Planning Inspectorate will consider whether, exceptionally, to accept them.
4. Although the amendment seeks to address the matter of amenity space provision, it has resulted in a series of small incremental amendments to the scheme, including, amongst other things, the repositioning of parking spaces, alterations to, and the extent of, the driveway, and the increase in boundary walls. Collectively, these amendments amount to a substantial difference.
5. If accepted, this would cause unlawful procedural unfairness to interested parties whose comments were made on the original proposals and not the amended proposals.

¹ Drawing Number CAD 566/2 Rev D

6. Therefore, having regard to the judgement in *Holborn Studios Ltd v The Council of the London Borough of Hackney* (2018), which refined the “Wheatcroft principles” set out in *Bernard Wheatcroft v Secretary of State for the Environment* (1982), I will determine the appeal based on the plans considered by the Council which were subject to the statutory consultation as required.

Main Issues

7. The main issues are 1) whether the proposed development would preserve or enhance the character and appearance of the Doddington Conservation Area and its setting, and 2) whether or not the proposed development would provide acceptable living conditions for the occupants of 35 New Street with regard to amenity space provision.

Reasons

Character and appearance of the Doddington Conservation Area and its setting

8. The appeal site is located to the rear of nos. 27-35 New Street. These existing residential properties are two-storeys in height, with nos. 27 and 29 forming a pair of semi-detached properties, and nos. 31 to 35 forming a short terrace of three properties. These properties, and part of the appeal site comprising land between nos. 35 and 37 New Street are within the Doddington Conservation Area (DCA) with the remainder of the appeal site, comprising land to the rear, being just outside the DCA.
9. The DCA is characterised by encompassing much of the ancient Fenland village of Doddington. It is characterised by its rural village atmosphere with agricultural land and undeveloped open spaces along much of its periphery. These open spaces define the setting of the DCA and positively contribute to its significance. The form of the DCA is defined by the principal historic routes of Ingles Lane, Church Lane, High Street and New Street. The key features include the ancient St Mary’s Church, Doddington Hall and the Clock Tower.
10. The proposed development would take its access from New Street where there is an existing opening between two brick piers that are proposed to be demolished to widen the access. The dwellings would be constructed on land to the rear which is currently undeveloped open land. The site contains a number of trees and hedges, some of which are proposed to be removed to facilitate the proposed development. The development would also include the demolition of some outbuildings to the rear of no. 35 New Street, and the reconfiguration of the private amenity space and its enclosure with a 2.1m high wall.
11. Nos. 27 to 35 New Street, together with nos. 25 and 37, are fine examples of historic dwellings in the DCA. They incorporate significant architectural brick detailing which is not evident on the dwellings further to the south on this side of New Street. Nos 31 to 35 display a very pleasing bend in their building line to reflect the curvature of the road at this point. The dwellings make a positive contribution to the character and appearance of the DCA.
12. The proposed development would represent a form of backland development. The Doddington Conservation Area Character Appraisal (the appraisal) (October 2011) identifies that the absence of backland development along much of the western side of New Street defines the long-term boundary of the

village and contributes positively to the Conservation Area's historic setting and character.

13. Due to the siting of the dwellings (nos. 29 to 37) there exists a number of gaps between the dwellings to which views of the appeal site and the countryside beyond are afforded. The appraisal identifies that a key aspect of Doddington's historic morphology was that the rear gardens of houses on the village's principal streets characteristically backed directly onto the surrounding open farmland. The dwellings on this section of New Street represents one of the few areas where this historic settlement pattern survives unchanged. The appraisal identifies that these parcels of open farmland, although generally outside the proposed extended Conservation Area boundaries, make essential contributions to the setting, integrity and special interest of the historic Conservation Area and are considered worthy of designation as Important Open Spaces. This designation as important space includes the whole of the appeal site².
14. The appraisal³ identifies several important views and vistas as contributing to the special character, appearance, architectural and historical interest of the DCA. Such views identified include those to the side and rear of no.35 New Street, as being out over historic open farmland, highlighted as an Important Open Space. These are identified as being particularly notable and contribute to the historic sense of place within this part of the DCA.
15. The proposed development would result in the creation of backland development, the absence of which positively contributes to the character and appearance of the DCA. The development would breach the evident settlement boundary and erode the historic character of the DCA in this regard. It would result in the loss of open land which is identified as 'important space' which makes an essential contribution to the setting, integrity and special interest of the DCA.
16. Due to its overall size, scale and siting, the proposed development would also cause harm to the identified important views that exist from within the DCA towards the open countryside. It would remove the visual evidence of the historic formation of the settlement and the DCA and of the natural backdrop that is experienced in this transition zone between the built form of the settlement and the open countryside beyond. Although, as the appellant highlights, much of the view would be experienced in a 'kinetic manner' and for a short distance, it would nevertheless be significantly curtailed, and even if such factors reduce the visual impact in terms of appearance, it would be by a small amount, and would not overcome the harm to the character of the DCA which goes beyond the visual implications of the development.
17. The fact that the land does not appear to be used as 'farmland' as suggested does not alter my consideration of the impact. The Council's evidence also acknowledges the fact. It is, however, clear that much of the appeal site forms open countryside, and I have identified that this is a positive feature of the DCA and its setting, which would be harmed by the development.
18. I have been referred to the modern development at Thistledown, which, like the proposed development, appears to constitute backland development. The Council and the appellant both identify that this development causes harm to

² Map B - Doddington Conservation Area Character Appraisal (October 2011)

³ Map D - Doddington Conservation Area Character Appraisal (October 2011)

the DCA, however the appellant considers that this is in relation to the design and materials.

19. The appraisal makes specific reference to Thistledown as serving to further isolate the historic village core from its original historic context immediately adjacent to open farmland. It is also recognised that the character of New Street and the setting of individual buildings has been detrimentally affected by the erection of the development, due to its scale and the dominant use of red-brick.
20. I agree with the appellant that the design and materials are one aspect of the Thistledown development that causes harm, however it is clear that its presence has resulted in the creation of very similar harm to that which I have identified with the appeal proposal in relation to the character and appearance of the DCA and its setting.
21. I do not consider that the Thistledown development justifies allowing further harm to be caused to the character and appearance of the DCA and its setting. It is also pertinent that the Thistledown development predates the current local plan and the appraisal. The evidence in the historic maps also appears to suggest that the site was previously developed land.
22. Having regard to the other elements of the development in relation to the DCA, these include the removal of the brick piers to the frontage and the demolition of part of the outbuildings to the rear of no. 35.
23. In terms of the brick piers, although these appear to be of similar brickwork to that used in the terrace of dwellings, the evidence outlines that these are not original features. They nevertheless provide a positive aspect to the street scene and their loss weighs against the development, albeit in a very minor way. The development would also result in the loss of part of the outbuildings to the rear of no. 35. The outbuildings are identified in the appraisal as being buildings of local interest. I find that they make a limited positive contribution to the character and appearance of the DCA, reflecting the historic evolution and use of the property. Much of the outbuilding would however be retained, and therefore similarly, the loss weighs against the development, albeit in an equally very minor way.
24. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial or less than substantial harm to its significance.
25. Having regard to paragraph 208 of the Framework, I find that as the proposed development would affect a limited part of the conservation area, the harm to the conservation area is relatively localised, and therefore the proposed development would cause less than substantial harm to the significance of the designated heritage asset. Under such circumstances the Framework advises that this harm should be weighed against the public benefits of the proposal. The identified public benefits in the other considerations part of this decision below would not outweigh such harm.
26. Taking the overall development into account, I therefore find that it would cause harm to the DCA and its setting, and thereby fail to preserve or enhance

the DCA and its setting. It would be contrary to Policies LP16 and LP18 of the Fenland Local Plan (2014). These policies require, amongst other things, that development protects and enhances any affected heritage assets and their settings, using up-to-date conservation area appraisals in the determination of planning applications.

Living conditions

27. The proposed development would result in the loss of part of the private amenity space for no. 35 New Street. From my observations on my site visit, the double fronted no. 35 appears to be a family sized dwelling. It is greater in size than the smaller nos. 31 and 33 which complete the terrace.
28. Policy LP16 of the local plan sets out that developments should provide sufficient private amenity space at a minimum of a third of the plot curtilage. The policy states that this is a guide and dependant on the local character of the area.
29. The submitted evidence shows that generally, in terms of private amenity space, the local character is that most properties in the area have generous areas of private amenity space. The Council consider that the resulting area of private amenity space would be materially below the amount prescribed in Policy LP16. As a dwelling capable of family occupation, private amenity space of sufficient size would be of greatest need with a requirement for outdoor play, recreation and socialising.
30. Having regard to the local character and the size of the dwelling, the resultant amount of private amenity space, due to its overall size, would cause harm to the living conditions of the occupants.
31. The appellant suggests that the outbuildings could be used for amenity purposes. Whilst this may be the case, they would not serve the same function as private amenity space.
32. I acknowledge, like the Council, that it is likely that an acceptable solution could be found. To this end, although I have not accepted the amended plan, this would go a considerable way to resolving the matter. Nevertheless, given my finding in relation to the DCA and its setting, an acceptable solution would not have changed the outcome of the appeal.
33. I therefore find that the proposed development would fail to provide acceptable living conditions for the occupants of no. 35 New Street in relation to the provision of private amenity space. It would be contrary to Policy LP16 of the Fenland Local Plan (2014) which requires that developments provide high quality environments.

Other Considerations

34. The proposal would result in a small increase in the supply of housing. The contribution from three additional residential units would be a moderate social and public benefit. In addition, the development would be in a sustainable location and would be of some social and public benefit.
35. There would be some economic and public benefits from construction employment, albeit that this would be short lived. Additional residents of the

development would also seek to use local facilities and services and that this in turn would lead to some positive economic benefits in the public interest.

36. It is also outlined that the four-bedroom dwelling would be built to disabled accessible standards and would be occupied by the appellant who is in need of such a dwelling due to their medical circumstances and does not wish to leave the village. I have considered these matters in accordance with the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.
37. Although the provision of a disabled accessible dwelling for the appellant is a material consideration that weighs strongly in favour of the development, this would apply to only one of the three dwellings that are proposed. It is not clear why the remaining dwellings would be required in order to achieve this benefit. This reduces the weight to be given to such circumstances.
38. It therefore does not follow from the PSED that the appeal should succeed. I am required to pay special attention to the desirability of preserving or enhancing the character and appearance of the DCA in accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. Therefore, whilst I have given weight to these matters, they do not outweigh the harm that would be created were the appeal to be allowed.
39. Collectively, I afford the above benefits positive weight in the overall planning balance.
40. I acknowledge that several letters of support were received to the proposed development. In addition to the benefits I have considered above, it is suggested that there would not be harm to highways or local services as a result of the small number of dwellings proposed. However, neither issue was in dispute, and the absence of harm is a neutral factor in the balance.

Planning Balance and Conclusion

41. I have concluded that less than substantial harm would be caused to the identified designated heritage assets, but that this would not be outweighed by the identified public benefits. I afford great weight to the conservation of the designated heritage assets. The proposed development would also cause harm to living conditions.
42. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.
43. 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