The Planning Inspectorate

Appeal Decision

Site visit made on 2 January 2024

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2024

Appeal Ref: APP/W0530/W/23/3324121
Land on the west side of Station Road, Willingham CB24 5HG

- 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 Millen against the decision of South Cambridgeshire District Council.
- The application Ref 23/01065/FUL, dated 20 March 2023, was refused by notice dated 31 May 2023.
- The development proposed is described as 'development of 2 detached passive 4 bedroom dwellings on land on the west side of Station Road, Willingham.'

Decision

1. The appeal is allowed and planning permission is granted for 2 detached passive 4 bedroom dwellings on Land on the West Side of Station Road, Willingham CB24 5HG in accordance with the terms of the application, Ref 23/01065/FUL, dated 20 March 2023 and subject to the conditions in the attached Schedule.

Preliminary Matters

2. Since the Council issued its decision notice, the National Planning Policy Framework (the Framework) has been revised, with the latest version published on 19 December and updated on 20 December 2023. There have been no significant changes to those parts of the Framework most relevant to this appeal. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party has been prejudiced by my approach.

Main Issues

3. The main issue is the effect of the proposed development on biodiversity.

Reasons

4. The appeal site relates to a parcel of land, which is located at the edge of the village of Willingham. There is residential development on either side of the appeal site and on the opposite side of the road. The site has recently been cleared and is largely devoid of vegetation, except around the side and rear boundaries, where trees and hedgerow are present. The front boundary is largely free from vegetation. There is a watercourse adjacent to the front boundary of the site which has been culverted. To the rear of the site is a field.

5. The proposal seeks to provide 2 detached passive dwellings. The site benefits from an extant planning permission for 2 detached dwellings, which was

allowed on appeal in November 2022[1], which is the fallback scheme. In comparison with the consented scheme, the design and layout of the proposed dwellings have been amended, but the dwellings are broadly in the same location.

6. Policy NH/4 of the South Cambridgeshire Local Plan September 2018 (the Local Plan) requires that new development aims to maintain, enhance, restore or add to biodiversity. Policy NH/4 states that where there are grounds to believe that a proposal may affect a Protected Species, Priority Species or Priority Habitat, an adequate level of survey information and site assessment is required prior to the determination an application, in order to establish the extent of a potential impact.

7. The appeal scheme is accompanied by a Preliminary Ecological Appraisal (PEA) dated February 2021 and a Biodiversity Enhancement Strategy (BES) dated December 2021. These documents were considered as part of the consented scheme. The proposed Landscaping Plan, which includes a Biodiversity Enhancement Plan is also similar to that previously deemed acceptable in the consented scheme. The Council in their Statement of Case for the previous appeal confirmed that the PEA provided sufficient information on protected species and their habitats. The Council also found that the biodiversity enhancement measures recommended in the BES would achieve a 10% net gain for biodiversity.

8. The PEA confirms that the proposal would not affect any statutory sites, Sites of Special Scientific Interest, Priority Habitats or Local Wildlife Sites. However, the Council advises that the site lies within the Impact Risk Zone of a nearby statutory site. Nevertheless, the appeal scheme did not meet the criteria to require consultation with Natural England. The Council raises no objection to the scheme in respect to statutory sites and I have no reason to reach a contrary conclusion on this matter. Overall, the PEA concludes that the habitats on site are limited in scale and diversity and have a low ecological value at a site level only. The PEA found that the site did not have potential for protected species, except for nesting birds in the boundary vegetation, which would be retained and enhanced as part of the scheme.

9. At the date of submission of the planning application to the Council, the PEA was just over 2 years old. Prior to the PEA being carried out, the site had been largely cleared of vegetation. The appellant's ecologist states that prior to clearance the site comprised of bramble scrub, which was mostly impenetrable and provided limited ecological benefit. At the time of my site visit, the site had again been recently cleared. The Chartered Institute for Ecology and Environmental Management Advice Note on the Lifespan of Ecological Reports and Surveys dated April 2019 (the Advice Note) states that the likelihood of surveys needing to be updated increases with time. The Advice Note states that surveys that are between 18 months to 3 years old may require updating, particularly when there have been significant changes to the habitats present.

10. In this case, the habitats and management of the site do not appear to have changed since the PEA was undertaken. The site remains largely devoid of vegetation, except around the site boundaries. While the Council's Ecologist notes that some protected species have been recorded in the locality, with the exception of the boundary vegetation, the site offers limited habitats for

[1] Ref: APP/W0530/W/22/3290243

protected species. Although a watercourse is present to the front of the site, this is culverted, which restricts wildlife movements. As a result, the appellant's ecologist advises that the watercourse has limited potential for protected species, such as water voles. Based on the evidence before me, I have no reason to reach a different finding on this matter. While a third party reports badger activity within a neighbouring garden, there is limited evidence before me of badger activity on the appeal site. Nevertheless, the proposal would have no greater impact on protected species when compared to the fallback scheme.

11. The Biodiversity Enhancement Plan confirms that the proposal would provide 180 linear metres of new semi-mature native tree species and 180 linear metres of new species rich hedging, which would benefit bird species. A new wildflower meadow is proposed along with two new ponds. Log piles are proposed adjacent to the ponds. Green roofs, a living driveway, bird boxes and bat boxes are also proposed. While I have not been provided with the Metric, the appellant's ecologist advises that the proposed measures will provide a significant ecological net gain. Based on the evidence before me, I have no reason to reach a contrary conclusion on this matter.

12. The Council's Biodiversity Supplementary Planning Document (SPD) February 2022 advises that if site clearance was carried out after January 2020, then any biodiversity net gain should be calculated based on the habitats present prior to clearance. This SPD was adopted prior to the determination of the consented scheme. Based on the evidence before me, I am unable to ascertain the date that the appeal site was first cleared. Nevertheless, the proposed Biodiversity Enhancement Plan is essentially the same as that deemed acceptable in the consented scheme.

13. There have been no material changes in planning policy since the previous appeal was allowed. The habitats and management of the site appear unchanged from when the PEA was undertaken. The appellant could implement the extant scheme without carrying out any further surveys. As a result, I have no reason to reach a contrary conclusion on biodiversity matters to that found on the consented scheme.

14. For the reasons given above, I conclude that the proposed development would not be harmful to biodiversity and would achieve a net gain for biodiversity. The proposal would accord with Policy NH/4 of the Local Plan, which requires that new development must aim to maintain, enhance, restore or add to biodiversity. The proposal would also comply with the objectives of the SPD, which seeks to conserve and enhance biodiversity. The proposal would also accord with the Framework, which requires that planning decisions minimise impacts on and provide net gains for biodiversity.

Other Matters

15. The Council's Arboricultural Officer states that their desktop study suggests the site consists of dense wooded vegetation. However, it is clear from the ecological information before me and my site visit that the only trees on site are those around the site boundaries. A third party also raises concerns about the loss of the front hedge; however, the frontage of the site was largely free from vegetation at the time of my visit. The proposal seeks to retain the existing trees and includes significant tree and hedge planting. As a result, I

consider that the proposal would result in an enhancement of tree and hedgerow cover on the site.

16. Concerns have been raised by a third party in respect to matters not addressed above, including highway safety and the provision of a shared driveway. Based on the evidence before me and my site visit, I find no reason to reach a contrary conclusion to the Council on these matters.

Conditions

17. In addition to the standard time limit condition, in the interests of certainty, I have included a condition specifying the approved plans. Pre-commencement conditions relating to foul and surface water drainage and flood mitigation are required, in order to ensure satisfactory drainage and prevent flooding. To ensure a satisfactory external appearance, conditions are imposed regarding external materials and boundary treatment. In the interests of biodiversity and to protect the character and appearance of the area, a condition is required to ensure that the submitted landscaping and biodiversity enhancement scheme is implemented and maintained. In order to mitigate the impacts of construction noise on the living conditions of neighbouring occupants, an hours of construction condition is necessary.

18. For highway safety reasons, conditions are necessary to ensure a bound material is used for the proposed access and appropriate visibility splays are provided. In the interests of resource efficiency and connectivity, conditions are required to reduce carbon emissions, increase water efficiency and provide broadband to the proposed development.

19. Given the small-scale nature of the proposed development, a construction environmental management plan and traffic management plan are not required. Conditions relating to the layout and surfacing of the parking/turning areas and access are not necessary as sufficient detail is shown on the submitted plans. As each dwelling has its own private curtilage where bicycles and refuse could be stored, conditions regarding cycle and refuse storage are not deemed necessary.

20. Given the proposed plans show that the access would be constructed with a permeable material and details of surface water drainage are required under a separate condition, a further condition requiring details of drainage for the access is not deemed necessary. There is no clear justification before me to demonstrate why it is necessary to remove permitted development rights and as a result such a condition would fail to comply with Paragraph 54 of the Framework.

Conclusion

21. For the reasons given above, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed, subject to conditions.

A James

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: STRC001 Rev 1: Site Layout Plan; STRC002 Rev 2: Location Block and Section; STRC004 Rev 1: Landscaping Plan; and, NR 3H 005 Rev 1: Plans and Elevations.

3) Prior to the commencement of the development hereby approved, a scheme for the disposal of surface water and foul water that can be maintained for the lifetime of the development shall be submitted to and approved in writing by the local planning authority. The scheme shall include:

   a) The existing drainage arrangement of the site, including discharge location and rate where appropriate;

   b) The proposed discharge location, in accordance with the drainage hierarchy and reasonable evidence that this can be achieved;

   c) A site plan identifying indicative locations for sustainable drainage features;

   d) Measures to prevent surface water run-off onto the public highway;

   e) Evidence to support b) which must include infiltration/percolation testing or written confirmation from the appropriate water authority/ third party that a discharge to its drainage system is acceptable; and,

   f) Details of foul discharge location or treatment plan and discharge location.

   The foul and surface water drainage scheme shall be carried out in accordance with the approved details prior to the first occupation of the development hereby approved.

4) Prior to the commencement of the development hereby approved, a scheme for flood resilient/resistant construction shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, prior to the first occupation of the development hereby approved.

5) Prior to the commencement of above ground works, details of external materials to be used in the construction of the development hereby approved, shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.

6) Prior to the commencement of above ground works, an Energy Statement shall be submitted to and approved in writing by the local planning authority. The Statement shall demonstrate that a minimum of 10% carbon emissions can be reduced through the use of on-site renewable energy and low carbon technologies. This shall be calculated by reference to the baseline for the anticipated carbon emissions for the property as defined by Building Regulations. The approved scheme shall be fully installed and operational prior to the occupation of the dwelling in which it relates and thereafter retained.

7) Prior to the first occupation of the development hereby approved, the biodiversity enhancement measures and landscaping scheme as shown on drawing number STRC004 Rev 1 and set out in the Biodiversity Enhancement Strategy (Hybrid Ecology Ltd, December 2021) shall be implemented in full. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. The biodiversity enhancement measures shall be retained for the lifetime of the development.

8) Prior to the first occupation of the development hereby approved, a water efficiency specification, which demonstrates that each dwelling is able to achieve a design standard of water use of no more than 110 litres/person/day, in accordance with Part G of the Building Regulations 2010 (as amended 2016) shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details, prior to the first occupation of the dwelling in which it relates.

9) Prior to the first occupation of the development hereby approved, infrastructure to enable the delivery of broadband services, to industry standards, shall be provided for each dwelling and thereafter retained.

10) Prior to the first occupation of the development hereby approved, pedestrian visibility splays of 2m x 2m shall be provided each side of the vehicular access measured from and along the highway boundary. Such splays shall be within the red line of the site and shall thereafter be maintained free from obstruction exceeding 0.6m above the level of the public highway.

11) Prior to the first occupation of the development hereby approved, the vehicular access shall be constructed using a bound material for the first 5 metres from the boundary of the adopted public highway into the site and thereafter retained.

12) Prior to the installation of any boundary treatment, details of boundary treatment (including gaps for hedgehogs) indicating the type, position, height and materials shall be submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.

13) Construction works shall take place only between 0800 hours and 1800 hours on Monday to Friday, 0800 hours and 1300 hours on Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.