



Appeal Decision

Site visit made on 26 March 2024

by **E Dade BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 May 2024

Appeal Ref: APP/W0530/W/23/3326989

**Land south of Green End/Heath Road, Gamlingay, Cambridgeshire
SG19 3JZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr David Barford on behalf of Wyboston Lakes Ltd against the decision of South Cambridgeshire District Council.
 - The application Ref is 22/05348/OUT.
 - The development proposed is outline planning application with all matters reserved (except for access) for two self/custom build residential dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council confirmed the site is not in an area of surface water flood risk and is no longer pursuing its reason for refusal relating to the effect of the development on flood risk. Therefore, I need not consider this matter further.
3. As the proposal relates to the setting of a listed building, I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

4. Having regard to the above, the main issues in this appeal are:
 - whether the proposed development would be in a suitable location having regard to the local development strategy;
 - the effect of the proposal on the character and appearance of the area, with particular regard to whether the proposal would preserve No 1 Dennis Green, a Grade II listed building, or its setting or any features of special architectural or historic interest which it possesses;
 - whether the proposal would preserve the on-site oak tree (Tree 4);
 - the effects of the proposal on biodiversity.

Reasons

Whether in a suitable location

5. The site lies beyond the built edge of the settlement and the Development Framework boundary defined by Policy S/7 of the South Cambridgeshire Local

Plan 2018 (LP). Outside Development Frameworks, Policy S/7 supports development for agriculture, horticulture, forestry, outdoor recreation, and other uses which need to in the countryside, or where supported by other LP policies or allocated in a Neighbourhood Plan.

6. The proposed development would provide two plots for the development of dwellings which meet The Housing and Planning Act 2016's definition of self-build and custom housebuilding, secured through planning obligations in a unilateral undertaking (UU). The proposed development would not therefore be of a type requiring a countryside location, as indicated by Policy S/7, and there are no other policies in the LP which support development of this type in this location. In addition, the site is not allocated for development by the Gamlingay Neighbourhood Plan 2022 (NP).
7. Having regard to the local development strategy, the proposed development would not be in a suitable location. The proposed development would conflict with LP Policy S/7 and NP Policy GAM3 which together direct housing development to land within the Development Framework boundary.

Character and appearance

8. The appeal site is undeveloped land comprising part of a former paddock. The Gamlingay Village Design Guide 2020 indicates the site is within an area of 'sensitive village edge', which is a landscape of distinctive meadow character and an important element in the village's landscape setting. A hedgerow and trees along the site's boundary with Heath Road serve to generally screen views into the site from the public highway.
9. The site adjoins land currently being developed to provide plots for self-build or custom housebuilding. At present the adjoining site is partly developed with a new access, internal roads, paths, and street lighting, services and drainage, and fence enclosures, and a footway connects the site to the village centre.
10. The site is situated between development at the village of Gamlingay and the built area of the hamlet of Dennis Green. The appeal site provides a break between development in those settlements, which the NP designates as a 'settlement gap'. NP Policy GAM3 places particular emphasis on the protection of identified settlement gaps to preserve the visual quality of the landscape and to retain the separate identities of settlements.
11. The appellant asserts the settlement gap designation is anomalous since it includes land with planning permission for development. However, given the recent appearance of the constructed features on the site, it is logical to conclude the designation reflects the contribution of the area to the landscape character at the time of the NP's preparation. In granting permission at the adjacent site, the Inspector's decision¹ notes the development would maintain a reasonably substantial area of open land in between the two settlements.
12. The appellant questions whether Dennis Green constitutes a hamlet. However, the NP describes Dennis Green as one of five hamlets within the parish and its geographical extent is demarcated on Map 5 of the NP. It is therefore evident from the NP that the community considers Dennis Green to possess a separate identity, distinct from other settlements within the parish.

¹ APP/W0530/W/19/3230103

13. No 1 Dennis Green, a Grade II listed building, is situated close to the appeal site's boundary. No 1 is a 17th century, two-storey, timber-framed house, cased in red brick and rendered on rebuilt brick plinth with an L-shaped plan form and plain-tiled roof. No 1, along with the small collection of houses and barns on the opposite side of Heath Road, form the historical hamlet of Dennis Green. The building's significance is therefore derived from its historic and architectural interest and its historic association with Dennis Green.
14. There is uncertainty regarding the appearance of the proposed development since this would form a reserved matter. Nonetheless, the development would change the appearance of the site from its meadow character to that of residential development and curtilage.
15. In considering the effects of the proposal on the setting of no 1, the rural, undeveloped character of surrounding land provides separation between the settlements and contributes to the listed building's significance. It is asserted that the siting of the dwellings could retain around 50m of separation from no 1. However, the appeal site would be separated from no 1's plot by a narrow strip of land. The development would therefore appear to infill the gap between the built area of Gamlingay and no 1, resulting in a perceived loss of the settlement gap which would harm the setting of no 1.
16. Furthermore, the site would extend to be almost parallel with the plot boundaries of existing dwellings Nos 2 and 4, situated on the northern side of Heath Road. Development of the appeal site would therefore erode the gap between Gamlingay and Dennis Green and would create the appearance of continuous development between the settlements.
17. Existing vegetation along with additional planting of the proposed woodland belt would reduce the visual impacts of the proposed development and serve to screen views between the appeal site and no 1, and such planting could be secured through a landscaping condition. However, due to the rising topography and seasonal variation in foliage density, it is uncertain whether such screening would adequately conceal views of the development within the setting of the village and hamlet. Irrespective of such landscaping proposals, the development would result in the physical coalescence of the settlements, thus eroding their separate identities.
18. As set out above, the proposal would result in the loss of undeveloped land which contributes to the landscape setting of Gamlingay and would permanently erode the settlement gap between Gamlingay and Dennis Green, resulting in the coalescence of those settlements. The proposal would therefore harm the character and appearance of the area. In addition, the proposed development would harm the rural, open character of the site which contributes to the significance of no 1, and therefore would fail to preserve the listed building's setting.
19. For these reasons, the proposal would conflict with NP Policy GAM3 which requires development be located to preserve the visual quality of the landscape and retain the separate identities of settlements. The proposal would also conflict with LP Policies HQ/1 and NH/14 which together require proposals preserve or enhance the character of the local urban and rural area, respond to its context in the wider landscape, conserve or enhance important historic assets and their setting, and sustain and enhance the special character and distinctiveness of the district's historic environment.

Trees

20. The Preliminary Arboricultural Impact Assessment for Outline Planning Application (PAA), November 2022, identifies an early-mature oak tree (Tree 4) which is in good condition and located in a prominent position within the site. Tree 4 is visible from the public highway and from the adjacent development site and contributes to the quality of the immediate landscape setting.
21. The PAA notes Tree 4 importance as a potential future landmark specimen with an estimated remaining contribution of 40+ years. Through its health and longevity, Tree 4 would continue to make a positive contribution to the character of the landscape throughout the lifetime of the development.
22. The layout of the access within the development area will be a reserved matter for future consideration. However, the block plan indicates the plots would be accessed via a 4-metre-wide drive connecting to the adjacent development's access road. The PAA suggests the current extent of Tree 4's Root Protection Area is coterminous with the area of its crown spread. The driveway would be outside the current root protection area and area of canopy spread, and the PAA identifies no tree constraints.
23. It is unclear whether there would be conflict between the access and Tree 4 as the tree matures and grows larger in size. I note that the mature oak tree (Tree 3) located near the site's road frontage has a significantly larger crown spread and Root Protection Area than Tree 4, and I have no evidence to suggest Tree 4 would not grow to a similar size to this specimen.
24. The proposal therefore fails to demonstrate the access arrangement would not harm Tree 4 over the lifetime of the development. The proposal would therefore conflict with LP Policy HQ/1 which requires development proposals conserve or enhance important natural assets.

Biodiversity

25. The Greater Cambridge Shared Planning Biodiversity SPD 2022 encourages development sites provide Biodiversity Net Gain (BNG) of 20%. However, certain types of development are exempt from BNG by paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024. Such exemptions include self-build and custom build developments.
26. The Biodiversity SPD expects proposals demonstrate they are compliant with all relevant legislation. As set out above, I am satisfied the proposed development would provide two self-build or custom-build dwellings, secured via the completed UU. Therefore, I must conclude the proposal is exempt from mandatory BNG, and BNG in line the authorities Biodiversity SPD would not be required.
27. The Ecological Impact Assessment 2022 (EIA) found the proposal would result in the loss of poor-quality grassland and indicates the site has limited habitats and species diversity. The EIA found there was no definitive evidence of protected or notable species and habitats offer limited suitability to support such species. However, a badger sett and digging activity within the site require further investigation, and the assessment notes that further evaluation of potential constraints arising from badger activity would be required through

a planning condition. Overall, the EIA concludes the potential impacts of the development could be mitigated and would not constrain development.

28. Consequently, the proposal demonstrates there would be no adverse impact on biodiversity. The proposal would therefore comply with LP Policy NH/4 which requires development proposals maintain biodiversity.

Planning and Heritage Balance

29. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
30. Paragraph 205 of the National Planning Policy (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through development within the asset's setting and that this should have a clear and convincing justification.
31. Given the harm would arise through the loss of the settlement gap, which contributes to the setting of the listed building, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
32. The appellant is of the opinion that the proposal would be beneficial because it would contribute two plots for self-build or custom-build dwellings. Paragraph 70b) of the Framework supports small sites to come forward for self-build and custom-build housing. The Housing and Planning Act of 2016 provides a duty to grant planning permission for enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area. The Council's published data identifies a shortfall of 261 plots between 2016 and 2022, equivalent to around 47% of the requirement. The shortfall in permissions granted for self-build/custom-build plots is therefore significant, and the need for housing of this type is not disputed by the Council.
33. I note planning permission has been granted for development beyond the Development Framework boundary at the adjoining site to east. The Inspector's decision did not suggest Policy S/7 is of diminished status but considered the contribution of up to 9 self-build dwellings would amount to a material consideration which warrants departure from the development plan. The circumstances of the appeal proposal are materially different from the adjoining site since the appeal proposal would fail to retain the settlement gap. In addition, I have identified harm to an important tree on the site.
34. The quantum of development would be substantially lesser than the adjoining scheme. Even taking into account the identified shortfall, the addition of two plots would amount to a small contribution toward meeting the Housing and Planning Act's duty and would attract only moderate weight in its favour.
35. Given the above, I conclude the proposal would fail to preserve the setting of the Grade II listed building, no 1 Dennis Green, and the public benefits of the proposal would not outweigh this harm which carries great weight. The

proposal would therefore fail to satisfy the requirements of the Act, and paragraph 205 of the Framework.

Conclusion

36. For the reasons set out above, having regard to the development plan taken as a whole and all other relevant material considerations, I conclude the appeal should be dismissed.

E Dade

INSPECTOR