



Appeal Decision

Site visit made on 30 April 2024

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2024

Appeal Ref: APP/H0520/W/23/3322811

26 Main Street, Yaxley, Cambridgeshire PE7 3LY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Alan Minns against the decision of Huntingdonshire District Council.
 - The application Ref is 22/01247/FUL.
 - The development proposed is the erection of a dwelling on land to the rear of 26 Main Street in Yaxley, for residential purposes. Application to include: amended site access, new parking provision for existing dwelling, new driveway and parking for new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023 and therefore I have referred to that revised document in my determination of this appeal. I am satisfied that the parts of the Framework most relevant to this appeal have not substantively changed from the previous iteration.
3. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Yaxley Conservation Area (CA).

Main Issues

4. The main issues are:
 - (i) The effect of the proposed development on the character and appearance of the area and on the CA.
 - (ii) The effect of the proposed development on the living conditions of the occupants of 24 and 26 Main Street with particular reference to noise and disturbance and privacy.
 - (iii) Whether the proposed development would provide for a safe access on to Main Street.
 - (iv) The effect of the proposed development on retained trees.

- (v) If any harm is caused in respect of issues (i) to (iv) whether such harm is outweighed by the appellant's personal circumstances and need for the proposed development.

Reasons

Character and appearance

5. The appeal site is located to the rear of the existing property on Main Street, on a notably higher ground level. At the present time the site has a dense covering of mainly mature trees, along with several small, low level, outbuildings and other structures. It is accessed via an existing track which runs between 24 and 26 Main Street. The significance of the CA in this location relates primarily to the linear settlement pattern along Main Street that Yaxley follows and the relationship of this part of it to Yaxley Fen, which forms the open land immediately opposite the appeal site to the south. There is much variation in the age and appearance of buildings, which means that architectural and historic design related considerations are of less significance in this part of the CA.
6. For the most part, the settlement pattern and arrangement of the primary buildings close to the appeal site follows this linear arrangement. There are only limited exceptions to this in the immediate vicinity, consisting of the adjacent commercial unit and parking area to the rear of the public house, and the terrace of dwellings which sits at right angles to Main Street and which marks the edge of the CA. Whilst there are also outbuildings in the rear gardens of some properties, my attention has not been brought to the presence of any dwellings in what could be considered to be backland locations. The proposed development would therefore sit as a notable exception to the prevailing linear form of the settlement, in particular in terms of the positioning of dwellings.
7. Although only single storey in height, the addition of what would be a large building in a location not characteristic of its surroundings and settlement pattern, on an elevated ground level and evident in some views from Main Street would cause harm to the character and appearance of both the area and the CA. The removal of 13 trees from the site would erode its verdant feel, which contributes positively to the surrounding area and provides a green buffer between the houses on Main Street and those on Badger Close. Although it may be possible to secure some replacement tree planting, this would not be likely to be comparable to the number of trees that would be lost.
8. Given the nature of the proposed development and that the harm would be localised, I consider that less than substantial harm to the CA would be caused. This being the case, it is necessary to weigh the public benefits of the proposal against the harm that would arise to the CA, in accordance with both Policy LP34 of the Huntingdonshire Local Plan 2019 (LP) and Paragraph 208 of the Framework.
9. In this regard, the appellant refers to the benefits of meeting housing need and their own personal needs. The latter consideration will be addressed later in this decision but does not represent a public benefit. In terms of meeting housing need, there is no evidence before me to suggest that housing need is not being met in the district. Nonetheless the provision of one dwelling would be a public benefit of moderate weight. However, I have a statutory duty to

pay special attention to the desirability of preserving or enhancing the character and appearance of the CA and the harm that I have found would arise to the designated area is a matter which carries considerable importance and weight. Therefore, whilst there would be some public benefit in terms of the delivery of a new dwelling, this does not outweigh the harm to the CA that would arise.

10. For these reasons, the proposal would fail to accord with Policies LP11, LP12 and LP34 of the LP where they seek to protect character and appearance and heritage assets. There would also be a conflict with the aims of the Huntingdonshire Design Guide 2017 and the National Design Guide 2021 where they seek to promote development that is appropriate for its surroundings. There would be a conflict with the Framework, where it seeks to achieve well-designed and beautiful places and because the harm to the CA is not outweighed by public benefits.

Living conditions

11. The access which serves the appeal site passes between 24 and 26 Main Street. It would provide access to both the proposed new dwelling and to two new parking spaces to serve the existing dwelling at No 26. It would pass particularly close to the main side elevation of No 24, on which there are two ground floor windows and two first floor windows. There are other windows on the front elevation of the dwelling which too are close to the track. It is stated in the submissions made by the adjoining occupier that these windows serve rooms that include bedrooms and the living room of the property.
12. The passing of vehicles and people associated with two dwellings would result in a significant number of movements adjacent to No 24. Given the close proximity to the windows of that property, this would cause harm to the occupants of No 24 from noise and disturbance. There would be some further impact in that respect resulting from the positioning of the bin store close to the side elevation and windows of No 24, and from a loss of privacy resulting from an increased number of people passing close to the windows in question and close to the rear garden area of the property.
13. I do not share the Council's concern as to the impact on the host property, No 26, as the configuration of windows on that property and its proximity to the access are materially different to No 24. I also note the terrace of properties further down Main Street that sit at a right angle to the public highway and which have a shared access running close to and in front of some of the properties. However, the fact that such an arrangement exists elsewhere does not justify the allowing of a new development that would result in harm to living conditions.
14. Accordingly, I find that the proposed development would cause harm to the living conditions of the occupiers of the adjacent dwelling at No 24. The proposal would therefore fail to accord with Policies LP14 and LP17 of the LP where they seek to protect living conditions. Whilst the appellant considers that LP14 refers to new housing areas, there is nothing in the wording of the policy to suggest that it is not relevant to the consideration of the proposal that is before me. The proposal would also fail to meet with the objectives of the Framework where it requires developments to create places with a high standard of amenity for existing users.

Access

15. Drawings showing the proposed access along with an Access Appraisal were provided with the planning application submission. Those drawings have subsequently been amended at appeal stage and a further Technical Note (TN) has been provided and has been subject to comment from the Highway Authority. On the basis of the details that have been provided, it has not been demonstrated that the visibility splays of 2.4m x 43m that are set out in Manual for Streets can be achieved at the junction with Main Street. The speed survey that has been undertaken found 85th percentile speeds do not support a reduction in this visibility requirement. No data has been provided to suggest that the number of traffic movements along Main Street might support a relaxation of the usual visibility requirements.
16. In mitigation, the TN sets out that the existing access is currently used for two or more vehicles to park and that the only way those vehicles can exit is to reverse onto Main Street. There would indeed be some benefit in avoiding the need to reverse out, but the benefit that would arise is balanced against what would still be substandard visibility for vehicles leaving the site, which as they would be associated with two dwellings would be more frequent than currently exists. The benefit outlined in that respect does not outweigh the failure to provide the required visibility splays.
17. Due to parking being on the southern side of Main Street, the northern side of the carriageway remains free from obstruction. I acknowledge that this means that visibility for oncoming vehicles passing the access and being able to observe if a vehicle is leaving the appeal site would be good, however it remains that the visibility for drivers pulling out of the proposed access onto the carriageway would not be. Whilst the TN further refers to the access being only for a single dwelling and that visibility splays are not generally sought on such accesses, it would also provide access to the two spaces to be provided for the existing dwelling at No 26 and thus serve two dwellings not one. Other examples of existing accesses which do not provide the required visibility do not justify another sub-standard access.
18. In conclusion, the proposed development would fail to provide a safe access owing to the failure to provide the necessary visibility splays to serve two dwellings in this location. It would therefore not accord with Policy LP16 of the LP where it requires a safe physical access from the public highway. There would also be a conflict with the aims of the Framework in the same respect and because there would be an unacceptable impact on highway safety.

Trees

19. An amended Arboricultural Impact Assessment (AIA) has been provided with the appeal and the Council's Tree Officer considers that this demonstrates that adequate tree protection measures could be put in place to safeguard the health of those trees that would be retained. Concerns remain as to the tension that might arise in terms of those trees being retained and their potential overshadowing of the proposed new dwelling in the future. However, the positioning and number of trees that would remain would not be likely to give rise to significant concerns with respect to overshadowing. Therefore, the proposal would accord with Policy LP31 of the LP where it seeks to avoid adverse impacts on trees, in terms of those which would be retained.

Other considerations

20. The proposed development would boost the supply of housing on a small site, which are aims of the Framework and in doing so would deliver windfall housing within the district. There would also be some economic and social benefits arising during the construction of the proposed new dwelling and after its occupation. Given that only one new dwelling would be provided which would limit the scale of the benefits, these considerations collectively carry moderate weight in support of the proposal.
21. I accept that the curtilage of No 26 is somewhat disproportionate to the size of the dwelling and that it is larger than the gardens of other nearby properties. At the time of my visit the appeal site was to some extent overgrown at ground level, and I note the reasons that have been set out as to why the appellant is unable to maintain it. However, the overgrown state of the site is not readily apparent other than when positioned close to it, and this consideration would not justify the permitting of an otherwise harmful development.

Personal circumstances and the planning balance

22. The proposed development would meet the needs of the appellant by providing more suitable accommodation tailored to his personal requirements. In particular, it would present an opportunity to design and build a new dwelling of a layout that would meet those needs. All accommodation would be provided on the ground floor, whereas the existing dwelling which they reside in at No 26 is a terraced property of two storeys in height. This would enable the family to maintain residence in their desired location, surrounded by their family, friends and support network. There would in those regards be a clear benefit to them in being able to move to the proposed dwelling, in comparison to remaining in their existing house. These are personal circumstances to which I afford weight in favour of the appeal.
23. In weighing the personal circumstances in the balance, this has to be considered against the harm that would be caused to the character and appearance of the area and the CA, the harm to the living conditions of the occupants of No 24 and the harm by virtue of not being able to provide a safe access to serve two dwellings, which are impacts that would be significant in their scope. The conflict with the policies I have outlined in those respects means that the proposal would fail to accord with the development plan taken as a whole. The moderate benefits associated with the provision of one new dwelling do not outweigh the harm that would be caused and the conflict with the development plan.
24. I have had due regard to the Public Sector Equality Duty 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 1998.
25. In respect of the above, a refusal of planning permission is a proportionate and necessary approach to the legitimate aim of ensuring that harm to the character and appearance of the area and CA is avoided, that the living conditions of the occupants of the adjacent dwelling are safeguarded and that development is not permitted that fails to provide a safe access onto the public

highway. Furthermore, the protection of the public interest cannot be achieved by means that are less interfering with the appellant's human rights. Therefore, whilst I acknowledge the personal circumstances of the appellant, I conclude that they do not outweigh the harm that would be caused by the proposal in respect of the three aforementioned main issues.

Conclusion

26. For the reasons given above, the appeal should be dismissed.

Graham Wraight

INSPECTOR