



Appeal Decision

Site visit made on 8 May 2024

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 June 2024

Appeal Ref: APP/C1625/W/23/3328748

1 Garage Villas, Bristol Road, Cambridge, GL2 7AL

- 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 Mrs J Creed against the decision of Stroud District Council.
 - The application Ref is S.23/0896/FUL.
 - The development proposed is described as 'erection of 2 no. dwellings with associated works - (Resubmission of S.20/1294/FUL).'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In response to the Council's reason for refusal in relation to mitigation for the Severn Estuary Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar, and Cotswolds Beechwoods Special Area of Conservation (Cotswolds SAC) a two Unilateral Undertakings (UU) have been submitted by the appellant. The UUs secure a financial contribution for environmental and ecological mitigation measures on both sites.

Main Issues

3. The main issues are;
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on biodiversity;
 - The effect of the proposed development on the living conditions of nearby residents of 1 Garage Villas; and
 - Whether the proposed development would provide acceptable living conditions for future occupiers in relation to noise.

Reasons

Character and Appearance

4. The appeal site is located in an area with a mix of residential and commercial buildings. It forms part of the garden of a semi-detached dwelling. This pair of dwellings appear to be the last form of built development in the northern extent of Cambridge with agricultural fields located to the north and east, a commercial site to the south and the A38 to the west. Opposite the appeal site is a public house and caravan park.

5. The appeal site is set back from the A38 behind an extensive front garden, driveway and low post and rail which provides the immediate area with a spacious and open character. When travelling north along the A38 the appeal site provides a transition from the commercial and residential development to its south into the rural agricultural fields to its north.
6. Dwellings in the surrounding area vary in their design characteristics, scale, and plot size. Whilst properties are largely located fronting on to the highway, I saw during my site visit that there were several examples of dwellings and buildings located behind frontage development, such as at Ballards Lane and to the rear of Steeple View. Furthermore, there are examples of dwellings located to the side of existing dwellings, similar to those proposed, at Ryalls Lane adjacent to Tythe Cottage.
7. The proposal would introduce a triple garage close to the front boundary within the otherwise open space to the front of the dwelling. Most of the front garden area would be turned over to driveway and parking for the proposed and existing dwellings. As a result of its size and location, it would be a prominent feature within public views. Therefore, I find that that the proposed garage would erode the openness to the front of the dwellings, to the detriment of the street scene and therefore surrounding area.
8. Whilst the proposed dwellings would be located to the side and rear of the existing, their location would be similar to many examples throughout Cambridge. Furthermore, due to the existing single storey garage located on the site, the area where the dwellings would be built is largely screened from road and therefore does not contribute to the openness of the remaining garden area. As such, the introduction of dwellings into this space would not have a harmful impact on the character and appearance of the area.
9. In light of the above, whilst I have not found harm in relation to the location of the proposed dwellings, the siting of the garage would unacceptably affect the character and appearance of the surrounding area, contrary to Policies CP14 and HC1 of the Stroud District Local Plan (2015) (LP). These policies seek, amongst other things, to ensure that development protects, conserves, and enhances the built environment and is of a scale, density and layout that is compatible with the character of the area. The proposal would also conflict with the design aims of the National Planning Policy Framework (the Framework), including Paragraph 135, which are similar to those of the development plan set out above.

Biodiversity

10. During my site visit I noted that the appeal site was largely a well-tended garden with a pond, which was currently dry. Additionally, trees and bushes were located on the site, which adjoins an agricultural field to the rear.
11. The Council's concerns relate to Great Crested Newts (GCNs). GCNs are a protected species under the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). GCNs are also of 'principal importance' under the Natural Environment and Rural Communities Act 2006 (the NERC Act).

12. No ecological information has been submitted in support of the appeal. Standing advice by Natural England¹ explains that a survey should be produced where records suggest that GCNs may be present and there is a suitable water body up to five hundred metres from the development, even if it only holds water for some of the year. The advice goes on to state that a survey should be provided if the development site includes refuges, such as log piles, rubble, grassland, scrub, woodland, or hedgerows up to five hundred metres of suitable aquatic habitats.
13. The Council have indicated that the appeal site is located within the Red Impact Zones for Great Crested Newts. The appellant has disagreed with the Council's assessment detailing that the pond on the appeal site runs dry in summer months and when not topped up with water. Whilst I have had regard to this, the standing advice does detail that a water body, even if it is sometimes dry, should be assessed for potential GCN presence. Furthermore, the appeal site contains landscaping which could provide refuges and the River Cam is located close to the appeal site. I therefore have no evidence to disagree with the Council's finding in relation to potential presence of GCN.
14. Given the pond on the appeal site, albeit dry during my site visit, along with potential nearby habitats and refuges, the proposed development could impact on GCNs, including their terrestrial habitats. I consider that the additional surveys including mitigation and compensation measures is necessary in order to establish the likely effects of the proposal on GCNs.
15. Circular 06/20052 states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before planning permission is granted. On the basis of the evidence before me, I do not consider that it would be appropriate to condition the undertaking of further survey work. A condition to require mitigation in the absence of further surveying would also not be appropriate as there can be no certainty that the mitigation would acceptably address any harm to GCNs.
16. I have had regard to the appellants comments regarding the planning history of the site, and that the Council have not previously raised concerns regarding biodiversity. Whilst it is unfortunate that this has not been previously raised, as the evidence demonstrates potential refuges are located on the appeal site, the absence of previous concerns by the Council is not sufficient justification to allow the appeal without the appropriate surveys.
17. In light of the above, I am not satisfied that sufficient evidence has been provided in order to ascertain the effects of the proposed development on GCNs. Having regard to my duty under the Habitats Regulations and the NERC Act, I conclude that the proposal fails to demonstrate that its effects on the biodiversity of the site and the surrounding area would be acceptable. The proposed development is therefore contrary to CS policies CP14 and ES6 which seek, amongst other things, to ensure that developments contribute to the retention and enhancement of biodiversity interests. The proposal would also be contrary to Paragraph 186 of the Framework which seeks to ensure that proposals conserve and enhance biodiversity.

¹ Great crested newts: advice for making planning decisions (2022)

Living Conditions – Existing Residents

18. The proposed dwellings would be located close to the boundary with 1 Garage Villas. The proposed dwellings would be two-storey in height and would be located adjacent to the rear garden for No 1. The bulk of the proposed dwelling would be located to the side of the garden to No 1. Whilst the introduction of a two-storey dwelling would change the outlook from the rear windows and rear garden, the dwellings would be off set from the boundary and would not span the entire depth of the boundary. Open aspects to agricultural fields to the east from the garden and rear windows of No 1 would remain.
19. The side elevation closest to No 1 would not contain any side windows, as such there would no opportunities for overlooking.
20. I find that the proposed development would not harm the living conditions of the occupiers of No 1, with particular reference to outlook. The proposed development would therefore comply with CS policies ES3 and CP14 which seek, amongst other things, to ensure that development has no unacceptable adverse effect on the amenities of neighbouring occupants. The proposal would also comply with paragraph 135 of the Framework that seeks high standards of amenity for existing and future users.

Living Conditions – Future Occupiers

21. A Noise Assessment completed by Aran Acoustics has been submitted in support of the application. This report concludes that subject to appropriate glazing and ventilation both internal and external noise levels would be within the World Health Organisation guidelines.
22. The Council's concerns relate to the age of the report, being conducted in 2021. However, the appellant has detailed that the ownership of the adjacent commercial property has not changed, with haulage operations remaining on site. During my site visit I saw a lorry arrive and mechanical work being undertaken on some vehicles. Based on the evidence and my own observations I have no reason to doubt that the haulage operations in 2021 are similar to those currently.
23. Whilst full technical details of acoustic mitigation have not been submitted, if I were minded to allow the appeal then this could be conditioned. However, as I have found harm in relation to other issues, I have not pursued this matter further.
24. I am therefore satisfied that it has been demonstrated that noise from the adjoining commercial site will not cause unacceptable adverse impacts on the living conditions of future occupiers. The proposed development would therefore comply with CS policies ES3 and CP14 which seek, amongst other things, to ensure that noise sensitive developments are not located where it would be subject to unacceptable noise levels. The proposal would also comply with paragraph 135 of the Framework that seeks high standards of amenity for existing and future users.

Other Matters

25. In respect of the Severn Estuary SAC, SPA and Ramsar and the Cotswolds SAC, Habitats Regulation 63(1) states that a competent authority, before deciding to give permission, must make an appropriate assessment of the implications of the development of that site. Given my reasoning in respect of the main issues and that the appeal is dismissed, there is therefore no requirement upon me in that regard. Even if I were to find that the proposal was acceptable in this respect, it would be a neutral factor in my determination of the case.
26. The appellants submission details that paragraph 60 of the Framework states that it is the Government's objective to significantly boost the supply of homes. Boost housing supply. I have not been provided with any details pertaining to the Council being unable to demonstrate an sufficient housing land supply. If this were to be the case, I would be taken to paragraph 11 of the Framework. The most important policies would be out of date. As the erection of two dwellings, the proposal would make a very limited contribution to any housing undersupply. The scale of the scheme would accordingly limit its associated socio-economic benefits. I have found harm in relation to the character and appearance of the area and in relation to protected species. I ascribe significant weight to these harms which would be long lasting. Therefore, and in regard to the specific circumstances of this case, the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits. It would not therefore be sustainable development for which the presumption in favour applies.

Conclusion

27. The proposal would be contrary to the development plan and there are no other material considerations, including the approach of the Framework, which outweigh this finding. I therefore conclude that the appeal should be dismissed.

Tamsin Law

INSPECTOR