



Appeal Decision

Site visit made on 17 August 2024

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 9th September 2024

Appeal Ref: APP/V0510/W/24/3341431

Land to the North West of 9 Stretham Road, Wicken, CB7 5XH

- 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 Selica Sevigny against the decision of East Cambridgeshire District Council.
 - The application reference is 23/00894/FUL.
 - The development proposed is described as 'Full planning permission for change of use from Use Class B8 to C3 residential including the removal of storage containers, erection of four detached dwellings, along with associated works including closing and relocating the existing access.'
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Decision

1. The appeal is allowed and planning permission is granted for Full planning permission for change of use from Use Class B8 to C3 residential including the removal of storage containers, erection of four detached dwellings, along with associated works including closing and relocating the existing access; at Land to the North of 9 Stretham Road, Wicken, CB7 5XH in accordance with the terms of the application Reference 23/00894/FUL, subject to the conditions attached as annexe to this letter.

Procedural Matters

2. In proposing a small housing development on the appeal site, a number of other considerations were had such as those involving biodiversity, archaeology, loss of an employment site, amongst others which have been considered and have been discussed within the original planning application. As the only issue in dispute is with regards to the compliance with LP Policy GROWTH2, character and appearance and layout of the site, I have no reason to revisit all of the considerations involving the scheme. Consequently, this letter will focus only on those issues in dispute as referred to in the reason for refusal on the Council's Decision Notice.

Main issue

3. The main issue is whether the proposal would provide a suitable site for development, having regard to its location in conjunction with the Housing Strategy of the area, the character and appearance of the locality and the sustainability of the location.

Reasons

4. The appeal site consists of a parcel of land which has previously been used for industrial development and contains a large area of hardstanding. There is a

frontage and access to the appeal site located along Stretham Road, the main road that runs through the settlement of Wicken and provides direct connections to surrounding larger villages such as Soham and Stretham. Wicken is a small settlement with a number of dwellings which predominately follow the line of Stretham Road, which then turns into High Street and Church Road. Whilst the layout of the village is relatively linear along the line of Stretham road/ High St/ Church Road, there are a number of small cul-de-sacs leading off the main road and providing further dwellings to the rear. Services are very few with an infrequent bus service, a public house that serves food, a village hall and two churches.

5. Stretham Road at the point of the appeal site is a single width carriageway in both directions where vehicular traffic has a 30mph speed limit. Whilst there is no kerbing or footpath to the frontage of the appeal site, to the opposite side is raised kerbing from the road, a footpath leading into the village, along with street lighting. Whilst there are dwellings to the opposite side of the road and further along on the same side, the location of the appeal site is not built up, however did not have a feeling of being isolated or detached from the settlement of Wicken with the site feeling very much part of the settlement. As the site lies towards the ends of the settlement, a number of visual gaps from fields intersects and has a frontage to Stretham Road, reinforcing the views to open countryside beyond the form of the village. In this particular location there is an emphasis on spaciousness with larger setbacks and gaps in and around dwellings. These are some of the characteristics of the site which reinforces its local character and distinctiveness.
6. The East Cambridgeshire Local Plan (LP) Policy GROWTH2 is the main policy for the delivery of housing in the local area by providing a locational strategy. This policy seeks to implement the local level spatial strategy where development is focused towards settlements of Ely, Soham, and Littleport. Whilst the policy seeks to emphasise development within the confines of the settlements, for development outside settlements, there is a need to consider the impact upon the character of the countryside and that other LP policies are satisfied. Paragraph 83 of the National Planning Policy Framework (the Framework) and relevant Case Law¹ shows that development in countryside locations can enhance or maintain the vitality of rural communities where they are suitably located, which may not only be associated with the closest settlement, but other settlements surrounding. Paragraph 70 of the Framework also supports the delivery of small sites which can deliver housing and is an additional consideration to this scheme.
7. One of the main arguments put forward by the Council is in relation to the appeal site having a dwelling adjacent, where in this particular location there is not a significant depth of development where in this particular case there would be two double storey dwellings fronting the street and two bungalows behind. Having visited the site, the character is rural, but still feels organically as part of the village, with footpath opposite, low speed limit and dwellings diagonally opposite and adjacent. Given the varied nature of development along Stretham Road, there is no intrinsic linear or single depth character which is present. In my mind the emphasis of visual gaps and spaciousness in this location is an overriding characteristic that contributes to the positive qualities of local distinctiveness.

¹ Braintree District Council v Secretary of State for Communities and Local Government, Greyread Limited & Granville Developments Limited [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610
<https://www.gov.uk/planning-inspectorate>

8. In this proposed development, an access is positioned centrally with two detached double storey dwellings to the front in line with adjacent dwellings, whilst two further single storey dwellings would be located to the rear. The lower height of the bungalows to the rear enables a better transition to the open countryside beyond, whilst the dwellings are detached and enable spaces in and around dwellings to dominate the feeling and experience of the site which adequately blends in with the positive qualities of character and local distinctiveness as identified earlier.
9. I am also aware of comments from interested parties with regards to the development which predominantly arise from the development being outside of a defined settlement boundary. Paragraph 80 of the Framework, LP Policy GROWTH2 and Case Law as previously discussed does not seek that settlement boundaries are applied as a limit to growth, just that there are further considerations which revolve around sustainability, character and material considerations to consider amongst others. There are also comments regarding the need for more smaller dwellings in the area. Whilst this is not a large development of dwellings, the single storey nature of the 2 rear bungalows does add to the housing mix, particularly accessibility needs, with 3 bedrooms not being overly large, particularly if a dwelling is needing to cater for a resident, carer and a guest. Despite this, and whilst I agree with comments around the need and contribution that two bedroomed dwellings can contribute to the housing need and mix of the area; the LP Policy does not require a specific type of housing mix. I also note comments around infrastructure and capacity of sewerage systems. I have not been made aware of any detrimental impacts that the development would cause or contribute towards infrastructure, and conditions of the permission can ensure that there is a suitable waste scheme for the disposal of sewerage.
10. I am also aware of a number of benefits of the proposal which relate to socio-economic factors such as making available four dwellings, a varied housing mix with bungalow and double storey development; economic benefits in terms of short term employment opportunities from the construction of the scheme and expenditure locally from future occupants; increasing the vitality and vibrancy of nearby settlements and the local community. I also note other benefits such as environmental benefits from use of green energy and introduction of improvements to biodiversity within the site as compared to its previous industrial use; contributing to the supply of housing; the deliverability of small sites; the development of underused or under-utilised plots which improves the mix of housing. These benefits weigh strongly in favour of the development.
11. Taking the above into account, the development would be generally in conformity with the thrust and aims of LP Policy GROWTH2, and taken as a whole, would be a suitable site for residential development that reflects the local character and distinctiveness of the area. As such, and in conclusion of this matter, the scheme is made in accordance with LP Policy GROWTH2 as described previously

Conclusions and Conditions

12. For these reasons, and having considered all matters raised in evidence and from what I saw during my site visit, I conclude that the appeal should be allowed and planning permission granted.
13. The Council in their Appeal Form response detailed that should the appeal be allowed, that a number of conditions are placed on the decision notice. I have

considered the conditions as specified in the annexe of this letter in accordance with the Planning Practice Guidance (PPG). All pre-commencement conditions have been agreed upon by the Appellant² in accordance with Section 100ZA(5) of the Town and Country Planning Act 1990. Conditions 1 and 2 are standard conditions which notes the time limit of three years to commence the development and for the development to be in accordance with the approved plans which are necessary for the avoidance of doubt and in the interests of proper planning and meets the tests of conditions.

14. Condition 3 is a pre-commencement condition that seeks the submission of an archaeological assessment. This is considered to meet the tests of conditions given that nearby there is evidence of archaeological finds and the area is of archaeological interest for development. It is necessary for this condition to be imposed as a pre-commencement condition to understand as to whether any archaeological deposits are affected by the works prior to them commencing. Suggested condition 4 is a pre-commencement condition that seeks to understand whether any contamination exists and proposed remedial actions to address these. Given the previous use was industrial, the condition meets the tests of conditions to understand whether there are risks to the development caused by contamination and to agree any remedial actions prior to the commencement of the development. Condition 5 is a pre-commencement condition that seeks to agree on foul and surface water disposal. It is considered to meet the tests of conditions to agree these works prior to the development taking place and reasonable to seek that the works are implemented prior to the occupation of the dwellings.
15. Condition 6 is a pre-commencement condition that seeks an Arboricultural Method Statement (AMS) that seeks to understand any impacts to trees and necessary measures to protect trees during the works. Such a condition meets the tests of conditions, particularly when any protection measures need to be enacted prior to development commencing. Condition 7 is a pre-commencement condition regarding the need to approve a Construction Environmental Management Plan (CEMP) with regards to site clearance and construction. This is considered to meet the tests of conditions and required as a prior to commencement, given the principles of ecological impacts are needed to be managed prior, and during development phases. Condition 8 is a pre-commencement condition that seeks approval of a Precautionary Working Method Statement (PWMS) for protected species. The submission of these details meets the tests of conditions and is required to be prior to commencement given the need to establish an appropriate methodology prior to commencement of the development and to be utilised throughout the development.
16. Condition 9 is a pre-commencement condition that seeks to approve a Landscape Ecological Management Plan. The submission of these details is necessary and required to be prior to commencement given the need to establish an appropriate methodology prior to commencement of the development and to be utilised throughout the development. Condition 10 is a pre-commencement condition in the situation that the foundations require piling, which is uncertain at this stage. The condition meets the tests of conditions and requires to be a pre-commencement condition in order to approve and development ways of noise and vibration mitigation.

² Email received from Appellant to the Planning Inspectorate, 28/08/2024

17. Condition 11 seeks that a energy and sustainability strategy for the development is approved prior to the above ground construction taking place. This condition meets the tests of conditions and is not a condition preventing ground works from occurring. Condition 12 seeks the submission of hard landscaping. Whilst the positions of hardscape are indicated on the site plan, the details of the materials to be used have not been indicated. As such this condition meets the tests of conditions given the need to blend in with the character and appearance of the locality. It is also appropriate that this condition be prior to the above ground construction taking place. Condition 13 seeks the approval of materials to be used on the dwellings. This is a prior to commencement of above ground development which is considered to meets the tests of conditions for the scheme to blend in with the character and appearance of the locality.
18. Condition 14 seeks the submission of soft landscaping details prior to the first occupation of the development and Condition 15 seeks biodiversity measures prior to occupation. The sequencing of the details and the need for the conditions are considered to meet the tests of conditions given that the details are required to blend in with the character and appearance as well as address biodiversity net gain for the site. Condition 16 seeks details of the proposed footway to the front of the site to be submitted and approved prior to occupation. This condition meets the tests of conditions in that the footpath is required to meet highway standards and to be constructed accordingly and for it to be in place prior to the occupation of the development. Condition 17 relates to construction times which is considered to meet the tests of conditions in order to avoid detriment to living conditions of surrounding neighbours as a result of the development
19. Condition 18 relates to the actions that the developer needs to undertake if contamination is found. Given that the existing site has an industrial use, this condition is considered to meet the tests of conditions in order to avoid impacts to the new residents. Condition 19 relates to the operation of air source heat pumps which should comply with the British Standard. This condition is considered to meet the tests of conditions in order to protect the living conditions of occupiers and surrounding residents.
20. Conditions 20 and 21 seek to remove permitted development rights from the development. This would mean that the residents would not be able to extend, erect buildings in gardens, hardstanding or build additional storeys, amongst others without the need to apply for planning consent. Given the multi dwelling site and the need to carefully plan for any expansions and alterations of the site, these conditions are considered to meet the tests of conditions.
21. I note that the Council has suggested a condition for the submission of boundary and fence details. The Fence detail plan³ and Site/Location Plan⁴ show adequate details of the fencing in terms of their elevation, material and positioning within the site. As such these details have been approved as part of Condition 2, and therefore an additional condition is unnecessary to seek compliance with. This condition would not meet the tests of conditions and is not taken forward.

³ CH22/LBA/619/FP-1-106

⁴ CH22/LBA/619/FP-1-100

J Somers

INSPECTOR

ANNEXE: SCHEDULE OF CONDITIONS

1) The development hereby permitted shall be commenced within 3 years of the date of this permission.

2) Development shall be carried out in accordance with the drawings and documents listed below:

- Proposed Site Layout/ Location Plan, Drawing No. CH22/LBA/619/FP-1-100, Dated January 2023;
- Proposed Floor Plans, Proposed Elevations, Proposed Section A-A, and Roof Plan; Drawing No.CH22/LBA/619/FP-1-101 Plot 1, Dated January 2023;
- Proposed Floor Plans, Proposed Elevations, Proposed Section A-A, and Roof Plan CH22/LBA/619/FP-1-102 Plot 2, Dated January 2023;
- Proposed Floor Plans, Proposed Elevations, Proposed Section A-A, and Roof Plan CH22/LBA/619/FP-1-103 Plot 3, Dated January 2023;
- Proposed Floor Plans, Proposed Elevations, Proposed Section A-A, and Roof Plan CH22/LBA/619/FP-1-104 Plot 4, Dated January 2023;
- Proposed Fence Details, CH22/LBA/619/FP-1-106, Dated March 2023;
- Proposed Street Elevation, Existing and Proposed Site Sections, Drawing No. CH22/LBA/619/FP-1-105, Dated January 2023;
- Renewable Energy and Water Consumption Issue 1
- Ecological Impact assessment, By Eight Versa, Dated 02/08/2023
- Arboricultural Impact Assessment. By Haydens Arboricultural Consultants, Project No. 10141, Dated 21/03/2023
- TS and AIA, 10141-D-AIA, Dated 17/03/2023

3) No development shall take place within the red line boundary until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

4) No development shall take place until an investigation and risk assessment of the nature and extent of any contamination on the site, whether or not it originates on the site, has been undertaken. The investigation and risk assessment must be undertaken by competent persons, and a written report of the findings must be submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

- (i) A survey of the extent, scale and nature of contamination;
- (ii) An assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; groundwaters and surface waters; ecological systems; archaeological sites and ancient monuments;
- (iii) An appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with 'Land Contamination Risk Management' (LCRM), Environment Agency, 2020. Any remediation works proposed shall be carried

out in accordance with the approved details and timeframe as agreed in writing by the Local Planning Authority.

5) No development shall take place until a scheme to dispose of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme(s) shall be implemented prior to first occupation of the hereby approved development.

6) No development shall take place until a detailed Arboricultural Method Statement (AMS) and Tree Protection Plan has been submitted and approved in writing by the Local Planning Authority. The AMS shall include justification and mitigation for any tree removal proposed and details of how trees will be protected at all stages of the development. Recommendations for tree surgery works and details of any tree surgery works necessary to implement the permission will be required as will the method and location of tree protection measures, the phasing of protection methods where demolition or construction activities are essential within root protection areas and design solutions for all problems encountered that could adversely impact trees (e.g. hand digging or thrust-boring trenches, porous hard surfaces, use of geotextiles, location of site compounds, office, parking, site access, storage etc.). All works shall be carried out in accordance with the agreed AMS.

7) Prior to any work commencing on the site, a Construction Environmental Management Plan (CEMP) based on the principles outlined within the Ecological Impact Assessment, prepared by eight versa, shall be submitted to, and approved in writing by, the Local Planning Authority. The CEMP shall be adhered to at all times during site clearance and construction.

Reason: To protect and enhance species in accordance with policies ENV1, ENV2 and ENV7 of the East Cambridgeshire Local Plan 2015 (as amended 2023) and the Natural Environment SPD, 2020.

8) Prior to any work commencing on the site, a Precautionary Working Method Statement (PWMS) for protected/priority species shall be submitted to, and approved in writing by, the Local Planning Authority. The PWMS shall be adhered to at all times during site clearance and construction.

9) Prior to any work commencing on the site, a Landscape Ecological Management Plan (LEMP) which ensures the created ecological habitats are managed, maintained and monitored for a minimum of 30 years, shall be submitted to, and approved in writing by, the Local Planning Authority. The LEMP shall be adhered to in accordance with the details provided within it.

10) In the event of the foundations from the proposed development requiring piling, prior to the commencement of development the applicant shall submit a report/method statement to the Local Planning Authority, for approval in writing, detailing the type of piling and mitigation measures to be taken to protect local residents from noise and/or vibration. Noise and vibration control on the development shall be carried out in accordance with the approved details.

11) Prior to above ground construction, an energy and sustainability strategy for the development, including details of any on site renewable energy technology and energy efficiency measures, shall be submitted to and approved in writing by the Local Planning

Authority. The development shall be carried out in accordance with the approved strategy.

12) No above ground construction shall commence until full details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include all hard surfacing materials for the shared surface driveway, parking areas and patio areas. The works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with an implementation programme submitted to and approved in writing with the Local Planning Authority prior to first occupation.

13) No above ground construction shall take place on site until details of the external materials to be used on the development have been submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved details.

14) Prior to first occupation of the hereby approved development, a full schedule of all soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include, planting plans, a written specification; schedules of plants noting species, plant sizes, proposed numbers/densities; and a detailed implementation programme. It shall also indicate all existing trees and hedgerows on the land and details of any to be retained. The works shall be carried out in accordance with the approved details prior to the end of the first planting season following occupation of the development. If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless the Local Planning Authority gives its written consent to any variation.

15) Prior to first occupation of the hereby approved development, a scheme of biodiversity improvements shall be submitted to and agreed in writing with the Local Planning Authority. The biodiversity improvements shall be installed prior to the first occupation of the hereby approved development and thereafter maintained in perpetuity.

16) Prior to first occupation of the hereby approved development, a detailed scheme for the new footway as shown on CH22/LBA/619/FP-1-100, shall be submitted to, and agreed in writing by, the Local Planning Authority. The footway shall be installed within the public highway, in accordance with the approved scheme, prior to first occupation of the hereby approved dwellings.

17) Construction times and deliveries, with the exception of fit-out, shall be limited to the following hours: 0730 to 1800 each day Monday - Friday, 0730 to 1300 Saturdays and none on Sundays, Bank Holidays and Public Holidays.

18) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported to the Local Planning Authority within 48 hours. No further works shall take place until an investigation and risk assessment has been undertaken and submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. The necessary remediation works shall be undertaken, and following completion of measures identified

in the approved remediation scheme a verification report must be prepared, and approved in writing by the Local Planning Authority.

19) The specific rated noise level emitted from the air source heat pumps shall not exceed the existing background noise level. The free field sound level shall be measured and/or calculated at the boundary of the nearest noise sensitive property. The noise level shall be measured and/or calculated in accordance with BS 4142:2014+A1:2019.

20) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modifications), no development within Classes A, AA, B, E or F of Part 1 of Schedule 2 of the Order shall take place on site unless expressly authorised by planning permission granted by the Local Planning Authority.

21) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modifications), no development within Class A of Part 2 of Schedule 2 of the Order shall take place on site unless expressly authorised by planning permission granted by the Local Planning Authority.

END OF SECTION