



Appeal Decision

Site visit made on 1 October 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2024

Appeal Ref: APP/D0515/W/23/3331045

14-16 Wenny Road, Chatteris, Cambridgeshire PE16 6UT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Hawthorne Properties against Fenland District Council.
 - The application Ref is F/YR22/1296/F.
 - The development proposed is described as demolition of existing buildings and erection of 10 No Dwellings, including access, parking & amenity space.
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Decision

1. The appeal is allowed and planning permission is granted for: erect 9 x dwellings (3 x 2-storey 4-bed and 6 x 3-storey 3-bed) and the formation of new accesses, involving the demolition of existing dwelling at 14-16 Wenny Road, Chatteris, Cambridgeshire PE16 6UT in accordance with the terms of the application, Ref F/YR22/1296/F, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. Notwithstanding the description of development set out above in the banner heading, which was taken from the application form, it is clear that a revised description of development was agreed between the parties following the submission of revised plans. This included a reduction in the number of dwellings from 10no to 9no. The Council dealt with the proposal on that basis and so shall I.
3. Since the start of this appeal, the Government published a revised National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been amended.
4. In addition, on 30 July 2024 the Government published a consultation on proposed reforms to the Framework and made a Written Ministerial Statement (WMS) titled "Building the homes we need". These proposed changes can only be given limited weight at this stage. Given that those parts of the draft Framework most relevant are not proposed to be amended I consider there is no requirement for me to seek further submissions on the Framework, the consultation or WMS. I am satisfied that no party's interests would be prejudiced by my taking this approach.

Background and Main Issue

5. This appeal was made on the basis of the Council's failure to determine the planning application within the statutory timescale. The Council issued a Decision Notice approving the proposal, subject to conditions, on 13 December 2023. However, this was issued by the Local Planning Authority (LPA) after the appeal was lodged. This is, therefore, not a valid decision as jurisdiction transfers from the LPA to the Secretary of State once notice of the appeal has been given.
6. In its Statement the LPA advise that they do not wish to contest the appeal in respect of the granting of permission. They express a view that the proposal is acceptable in policy terms, and that planning permission should be granted subject to conditions.
7. Notwithstanding the above, having regard to the representations of the parties, I consider that the main issue in this case is to be:
 - i) the suitability of the proposed access, with particular regard to maintenance arrangements.

Reasons

8. The appeal site is located to the southwest side of Wenny Road, at the junction with Ellingham Gardens. It comprises an existing property that fronts Wenny Road and a linear parcel of land which extends back from Wenny Road. At the time of my visit the site had a largely overgrown appearance.
9. The proposed dwellings would be accessed from Ellingham Gardens. From the evidence before me Ellingham Gardens is a private cul-de-sac. At my visit I observed the road to be a bound surface with some raised ironwork and the provision of a pedestrian footway to one side of the carriageway.
10. During the processing of the application the site boundary was extended to encompass the full street, to include all accesses to the proposed dwellings, including pedestrian visibility splays. At my site visit I observed the road to be suitable to accommodate additional vehicular movements.
11. Interested parties have raised concerns about the poor condition of Ellingham Gardens. The local highway authority is satisfied that the proposal would provide for an appropriate access subject to the imposition of a condition that requires the surfacing of Ellingham Gardens, stating that it would be to the benefit of existing and future occupiers. The appellant disputes the requirement for the condition to secure a 'wearing course' for the complete extent of Ellingham Gardens. Whilst I appreciate the concerns expressed regarding the surfacing of the road, it is not reasonable or necessary for the proposal to provide a betterment for existing occupiers alone. In any event, I observed the road, including its surfacing, to be suitable for use by a variety of vehicles. It is understood that there is a management company associated with the existing properties accessed from the road. However, as a private road, this is a civil matter, outside of the jurisdiction of my decision.
12. In this circumstance the proposal would result in vehicles accessing and serving the proposed dwellings by traversing Ellingham Gardens, and therefore I consider it reasonable and necessary for a condition requiring details of the

accesses, including their surfacing, to be submitted to, and approved in writing by the LPA.

13. My attention has been drawn to a permission under reference F/YR21/1150/F. From the information before me whilst this case related to development proximate to the appeal site, this case related to a smaller quantum of development. This limits the comparison to the proposal before me. In any event, I have determined the case on its own merits based on the evidence before me.
14. For the reasons stated, I am satisfied that the proposal would be provided with suitable access, with particular regard to maintenance arrangements. The proposal would accord with the provisions of Policy LP15 of the Fenland Local Plan and the Framework which collectively, seek the provision of a safe and suitable access for all.

Other Matters

15. Local residents and the Town Council have expressed a wide range of concerns. The appeal site is situated within the confines of the settlement of Chatteris, and the principle of development is not contested. Having regard to the scale, design and position of the proposed dwellings, and their relationship to neighbouring properties, I am satisfied that there would be no material harm to the living conditions of the occupiers of the neighbouring properties by reason of loss of light or privacy. I am also satisfied that the future occupiers of the dwellings would be provided with satisfactory private amenity space. Satisfactory drainage, parking and turning to serve the future occupiers of the development would be provided. I have no substantive evidence before me that the existing trees or proposed planting would be detrimentally affected by the proposals.
16. An interested party has asserted that the development would result in the loss of views across the site. However, a change of view from a private window is not in itself regarded as a planning consideration.
17. I have had special regard to whether the settings of nearby listed buildings would be preserved, notably, Nos 4, 6 and 19 Wenny Road, 19 East Park Street and No 1 Wood Street. However, the location of the appeal scheme and the nature of the proposals relative to these listed buildings leads me to the view that their settings would be preserved. I note this is a view shared by the Council.
18. The appeal site is located outside of, but adjacent to, the Chatteris Conservation Area (CA). The appeal site is generally overgrown and currently detracts from the visual appearance of the locality. Based on the plans before me, and as observed at my site visit, the proposal would provide for a high quality development that would be in-keeping with its immediate and wider context and would enhance the setting of the CA.

Conditions

19. I have had regard to the conditions suggested by the Council, the comments of the appellant, and the advice in the Planning Practice Guidance. I have amended the wording where necessary in the interests of clarity or to meet the tests in the Guidance.

20. The pre-commencement conditions set out in the conditions schedule below are appropriate and are necessary to make the development acceptable in planning terms.
21. In addition to the statutory commencement condition, a condition is necessary to ensure that the development complies with the submitted plans in the interests of clarity.
22. Conditions to manage any risks associated with foul and surface water and drainage are necessary to ensure no environmental harm arises. A condition regarding lighting is necessary to prevent light pollution and protect biodiversity. I have included an external materials condition in the interests of preserving the character and appearance of the area.
23. A pre-commencement condition to secure a Construction Environmental Management Plan (CEMP) is necessary to ensure that the effects of construction are minimised so as to not adversely affect the living conditions of the occupants of nearby residents or cause environmental harm. A pre-commencement condition for contamination is necessary in the interests of protecting human health.
24. In the interests of highway safety conditions would secure appropriate refuse collection, accesses, pedestrian visibility splays and car parking provision.
25. From the evidence before me the appeal site lies within the historic core of Chatteris and that remains of previous historic structures, shown on the 1st edition of OS maps in 1885, could be present. While the appellant suggests that the site has been disturbed, including being subject to extensive farming over the years such that any underground heritage assets be unlikely, I have no substantive evidence to that effect. The appellant considers the need for a full programme of archaeological investigation to be onerous and unnecessary, stating that such investigations were not sought for the adjoining development. The appellant suggests that an initial desk top study is undertaken instead. I am not aware of the information before the decision maker in respect of the nearby development referred to. Nevertheless, having regard to the evidence before me, including the comments of the appellant, and the PPG, I shall impose a condition for a Written Scheme of Investigation. In my view, a condition to this effect would meet the tests, as set out in the PPG as, amongst other things, such a condition would be proportionate, reasonable and necessary given the archaeological potential of the site has not been investigated.
26. A condition to secure the submission and implementation of biodiversity enhancement measures is required to help assimilate the development into the area and enhance biodiversity. A condition regarding the timings for site clearance is necessary to protect birds.
27. The Council has suggested a condition for the provision of a fire hydrant. However, no robust justification has been provided. Having regard to the PPG, in the absence of a clear and precise reason for this condition, I do not consider that this request meets the tests.

Conclusion

28. For the reasons given above, and having regard to all other matters, I conclude that the development would comply with the development plan as a whole. The appeal is therefore allowed, and planning permission is granted.

R Gee

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.
2. Prior to the construction above damp-proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out and completed in accordance with the approved scheme.
3. No development shall take place above slab level until a Landscape Environmental Management Scheme which includes full hard and soft landscaping of the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of levels across the site. Subsequently, these works shall be carried out as approved. The soft landscaping shall be carried out in the first planting season and any loss of plants thereafter shall be replaced within 5 years of first occupation of the development.
4. Prior to occupation, a lighting plan with full details of external lighting and its management, including to the parking court area shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, these works shall be carried out as approved.
5. No development shall take place above slab level until details of external materials for the development have been submitted to and approved in writing by the Local Planning Authority. Subsequently, these works shall be carried out as approved.
6. Prior to commencement of the development, a construction environmental management plan shall be submitted to and approved in writing by the Local Planning Authority (LPA). The details and management arrangements thereby approved shall thereafter be followed and carried out as agreed, unless otherwise agreed by the LPA. This plan shall include:
 - An appropriate construction access,
 - Adequate turning and off-loading facilities for delivery/construction vehicles,
 - An adequate parking area clear of the highway for those employed in developing the site,
 - Measures indicating how additional surface water run-off from the site will be avoided during the construction works,
 - Method of prevention of mud and detritus being carried onto the highway,

- Method of suppressing dust arising from demolition and construction activities,
 - Hours of operation,
 - Delivery times,
 - Removal and management of material which remains on site following the demolition of the pre-existing building,
 - Details of construction hoarding/ screening to protect adjacent neighbouring amenity.
7. Prior to the commencement of the development hereby approved a scheme and timetable to deal with contamination of land and/or groundwater shall be submitted to, and approved in writing by, the Local Planning Authority (LPA). The approved scheme and timetable shall then be implemented on site. The scheme shall include all of the following measures unless the LPA dispenses with any such requirement specifically and in writing:
1. A desk-top study carried out by a competent person to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. This should include a conceptual model, and pollutant linkage assessment for the site. Two full copies of the desk-top study and a non-technical summary shall be submitted to and approved in writing by the LPA. If during development any previously unsuspected contamination is discovered then the LPA must be informed immediately. A contingency plan for this situation must be in place and submitted with the desk study. If a desk study indicates that further information will be required to grant permission then the applicant must provide, to the LPA:
 2. A site investigation and recognised risk assessment carried out by a competent person, to fully and effectively characterise the nature and extent of any land and/or groundwater contamination, and its implications. The site investigation shall not be commenced until:
 - (i) A desk-top study has been completed, satisfying the requirements of paragraph (1) above.;
 - (ii) The requirements of the LPA for site investigations have been fully established, and
 - (iii) The extent and methodology have been submitted to and approved in writing by the LPA.A report on the completed site investigation shall be submitted to and approved in writing by the LPA.
 3. A written method statement for the remediation of land and/or groundwater contamination affecting the site. This shall be based upon the findings of the site investigation and results of the risk assessment. No deviation shall be made from this scheme without the express written agreement of the LPA.
 4. The provision of a full completion report confirming the objectives, methods, results and conclusions of all remediation works, together with any requirements for longer-term monitoring and pollutant linkages, maintenance and arrangements for contingency action shall be submitted and approved in writing by the LPA.
8. No development (including demolition) shall take place until:
- (i) An archaeological Written Scheme of Investigation (WSI) been submitted to and approved in writing by the Local Planning Authority (LPA); and
 - (ii) Any necessary safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the WSI have been undertaken in accordance with a

specification and timetable that shall first have been submitted to and approved in writing by the LPA. The development should be carried out in full accordance with the approved details within the WSI.

9. No laying of services, creation of hard surfaces or erection of a building shall commence until a detailed design of the surface water drainage of the site and its management has been submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.
10. Prior to the first occupation of the development hereby approved a refuse collection strategy including details of bin stores shall be submitted to and approved in writing by the Local Planning Authority. The approved refuse collection strategy shall be implemented in accordance with the agreed details in full and thereafter be retained in perpetuity unless otherwise agreed in writing.
11. Prior to first occupation of the development, 2m x 2m pedestrian visibility splays, measured to the back of footway, shall be provided and retained free from at least a height of 0.6m where a private driveway crosses a footway. Such splays need to be retained free in perpetuity.
12. The approved access and hardstanding within the site shall be constructed with adequate drainage measures to prevent surface water run-off onto the adjacent public highway and retained in perpetuity.
13. Prior to first occupation of the development, precise details of the accesses from Ellingham Gardens to the hereby approved dwellings, including their surfacing, shall be submitted to and approved in writing by the Local Planning Authority. The works shall be implemented in accordance with the approved scheme prior to the occupation of the respective dwelling and maintained as such for the life of the development.
14. Prior to the first occupation of the development hereby permitted, a Biodiversity Enhancement Scheme that includes enhancement measures as prescribed in the Ecological Impact Assessment approved shall be submitted to and approved in writing. These measures will thereafter be delivered and retained in perpetuity prior to first occupation of the development.
15. No removal of nests on buildings, hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately before the vegetation is cleared or building disturbed and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.
16. Prior to first occupation of any dwelling, the car parking as approved for that dwelling shall be provided in accordance with the approved plans and retained for that purpose thereafter.

17. The development shall be carried out in accordance with the following approved drawings:

- 21-169-06 Elevations and Floor Plans (revision Rev B)
- 21-169-07 Elevations and Floor Plans (revision Rev C)
- 21-169-DS Drainage Strategy (revision Rev D)
- 21-169-01 Location Plan, Existing & Proposed Site Plans (revision Rev E)
- 21-169-02 Proposed Highways & Manoeuvring Plan (revision Rev D)
- 21-169-03 Proposed Plans & Elevations Plots 1 & 2 (revision Rev C)
- 21-169-04 Proposed Plans & Elevations Plot 3 (revision Rev C)

*****End of Schedule*****