



Appeal Decision

Site visit made on 10 December 2024

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 19 December 2024

Appeal Ref: APP/H0520/W/24/3342522

10 Green End, Great Stukeley, Cambridgeshire PE28 4AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs A Beaver against the decision of Huntingdonshire District Council.
 - The application Ref 23/01076/S73, dated 13 June 2023, was refused by notice dated 12 January 2024.
 - The application sought planning permission for 2 no. detached dwellings with attached carports and site access without complying with a condition attached to planning permission Ref 22/00810/FUL, dated 2 May 2023.
 - The condition in dispute is No 13 which states that: Prior to the first occupation of the development hereby permitted the off-site highway improvement works in the form of a connecting footway 1.8m in width to the existing footway network to the southwest shall be completed to the written satisfaction of the local planning authority in consultation with the highway authority.
 - The reason given for the condition is: To ensure that the highway network is adequate to cater for the development proposed.
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Decision

1. The appeal is allowed and planning permission is granted for 2 no. detached dwellings with attached carports and site access without complying with condition No 13 previously imposed on planning permission Ref 22/00810/FUL, dated 2 May 2023, subject to the attached schedule of conditions.

Main Issue

2. The main issue is whether Condition No 13 is necessary to provide an adequate highway network to serve the dwellings.

Reasons

3. In May 2023 planning permission was granted for two detached dwellings adjacent to No 10 Green End subject to the construction of a 1.8 m wide footway across an area of grass to the west of the site entrance. Green End is a short dead end country lane providing access to perhaps 20-30 dwellings scattered along its length. There are no footways along the lane so pedestrians walk along the carriageway to reach Ermine Street where bus services and a continuous footway provide access to Huntingdon one way and the Stukeleys and Alconbury Weald the other.

4. Condition No 13 seeks the provision of a short section of footway, about 25 m long, to provide a direct link between the lane and the footway along Ermine Street to the north. The grass is trampled along the route indicating a clear desire line, because the alternative is to follow the carriageway a little further to join the footway along Ermine Street to the south, but this is restricted in width between a hedgerow and barn and thus more hazardous.
5. Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. In this case the proposed footway is relevant to planning and to the development, linked to occupation and thus enforceable and precise enough to be understood.
6. However, the footway is not necessary to allow the two new dwellings to go ahead because the pedestrian route to Ermine Street would be no more dangerous than for all the other dwellings on Green End. The increase in the number of pedestrians would also only be marginal, so it would not lead to a significantly increased highway risk.
7. The footway would certainly be beneficial, providing a more useable safe route to Ermine Street instead of the route across grass. However, this would benefit all the residents of Green End, and the occupiers of the two new dwellings would only form a small proportion of those who would benefit. In the circumstances it is not reasonable to require the footway to be provided as part of the development of the two dwellings adjacent to No 10. If the footway is needed, use of other funds, perhaps the Community Infrastructure Levy, raised from all development along the lane, would be more appropriate.

Conclusion

8. For these reasons Condition No 13 is not necessary to provide an adequate highway network to serve the dwellings and consequently is not necessary to make the two dwellings acceptable. It would also be unreasonable to impose the condition on the planning permission concerned. The condition conflicts with the tests of necessity and reasonableness set out in paragraph 57 of the National Planning Policy Framework and should therefore be deleted.
9. The effect of this decision is to create a new planning permission. Since the original permission has not yet been implemented, the previous conditions should be reattached in full except for No 13.
10. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before 2 May 2026.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990, as amended.

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2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Tree Protection Plan Received 05.04.2022

Other 22046_008 Received 05.04.2022

Location and Site Plan 22046_01 Version B Received 31.01.2023

Floor Plan/s 22046_02 Received 05.04.2022

Elevations 22046_03 Received 05.04.2022

Floor Plan/s 22046_04 Received 05.04.2022

Elevations 22046_05 Received 05.04.2022

Reason: For the avoidance of doubt to ensure that the development is carried out in accordance with the approved plans.

3. No development above slab level shall take place until full details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity in accordance with Policy En25 of the Huntingdonshire Local Plan, 1995.

4. The development hereby permitted shall be carried out in accordance with the submitted tree protection measures referenced greenwillows associates ltd Tree Protection Plan received by the Local Planning Authority on 5 April 2022. The measures shall be implemented prior to the commencement of any development, demolition, clearance or other preparatory operations including excavations and shall be retained intact for the duration of the construction works. Any trees, shrubs or hedges covered by the protection measures which die or become severely damaged within five years from the completion of the construction works shall be replaced with trees, shrubs or hedge plants of similar size and species.

Reason: To safeguard the retained trees, shrubs and hedges on and adjacent to the site and in the interests of visual amenity, and to enhance the character and appearance of the site in accordance with Policies LP 12 and LP 31 of the Huntingdonshire Local Plan to 2036.

5. No demolition/development shall commence until the applicant, or their agents or successors in title, has implemented a programme of archaeological work, commencing with the evaluation of the application area, that has been secured in accordance with a Written Scheme of Investigation (WSI) that has been submitted to and approved by the Local Planning Authority in writing. For land that is included within the WSI, no demolition/development shall take place other than under the provisions of the agreed WSI, which shall include:
- a) the statement of significance and research objectives;
 - b) the programme and methodology of investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works;
 - c) the timetable for the field investigation as part of the development programme;
 - d) the programme and timetable for the analysis, publication & dissemination and deposition of resulting material and digital archives.

Reason: To safeguard archaeological assets within the approved development boundary from impacts relating to any demolitions or groundworks associated with the development scheme and to ensure the proper and timely preservation and/or investigation, recording, reporting, archiving and presentation of archaeological assets affected by this development, in accordance with national policies contained in the National Planning Policy Framework (MHCLG 2019).

6. No development shall commence until details of the foul and surface water drainage for the site have been submitted to and approved in writing by the Local Planning Authority. The drainage works shall be constructed in accordance with the approved details prior to the occupation of any part of the development hereby approved.

Reason: To ensure sustainable design and use of water and to minimise the risk of flooding due to surface water run-off in accordance with Policies LP12 and LP15 of the Huntingdonshire Local Plan to 2036.

7. No development above slab level shall take place in connection with the development hereby approved until full details of:
 - (i) Hard landscape works, to include but not be limited to, full details of boundary treatments (including the position, height, design, material) to be erected and paved surfaces (including manufacturer, type, colour and size);
 - (ii) Soft landscape works, to include planting plans (which show the relationship to all underground services and the drainage layout), written specifications (including cultivation and other operations associated with plant and grass establishment), schedules of plants noting species, plant sizes, proposed numbers and densities, tree pit details (where appropriate) including, but not limited to, locations, soil volume in cubic metres, cross sections and dimensions.
 - (iii) Full details of landscape maintenance regimes;
 - (iv) An implementation programme for the landscape works;have been submitted to and approved in writing by the Local Planning Authority. These works shall be carried out in full in accordance with the approved details.

Any trees or plants which are planted in connection with the approved soft landscape details which within a period of five years from planting, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of the same size and species as those originally approved.

Reason: In the interests of visual amenity and to enhance the character and appearance of the site in accordance with Policies LP10, LP11 and LP12 of the Huntingdonshire Local Plan to 2036.

8. No development above slab level shall take place in connection with the development hereby approved until full details of the landscaping buffer, identified as retained grassland and buffer zone on the proposed site layout and location plan (22046_01 Rev B) has been submitted to and approved in writing by the Local Planning Authority. This shall include full details of the future maintenance of this area. These works shall be carried out in full in accordance with the approved details. This area shall remain a landscape buffer in perpetuity.

Any trees or plants which are planted in connection with the approved

details which within a period of five years from planting, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of the same size and species as those originally approved.

Reason: in the interests of visual amenity and biodiversity and to enhance the character and appearance of the site in accordance with Policies LP10, LP11, LP12 and LP30 of the Huntingdonshire Local Plan to 2036.

9. No development above slab level shall take place until a detailed Biodiversity Enhancement scheme has been submitted to and approved in writing by the Local Planning Authority. The details shall include but not be limited to: specification, location, timing, an implementation programme, maintenance, and monitoring. The development shall be carried out in accordance with the approved details.

Reason: To help minimise the impact of the development upon biodiversity and seek to secure a net gain in biodiversity in accordance with Policy LP 30 of the Huntingdonshire Local Plan to 2036.

10. The development shall be carried out in accordance with the precautionary measures set out in section 5.2 of the accompanying Preliminary Ecological Appraisal and Protected Species Assessment carried out by Skilled Ecology Consultancy Ltd (dated June 2021) received 5th April 2022.

Reason: In the interest of conserving protected species in accordance with Policy LP 30 of the Huntingdonshire Local Plan to 2026.

11. Prior to the commencement of the first use the vehicular access where it crosses the public highway shall be laid out and constructed in accordance with the Cambridgeshire County Council construction specification.

Reason: In the interests of highway safety and to ensure satisfactory access into the site.

12. The access shall be constructed with adequate drainage measures to prevent surface water run-off onto the adjacent public highway, in accordance with a scheme submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent surface water discharging to the highway.

13. Deleted

14. Prior to the occupation of the development hereby permitted, full details of cycle and bin stores shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to occupation of the development.

Reason: In the interests of neighbour and visual amenity in accordance with the requirements of Policies LP12 and LP14 of the Huntingdonshire Local Plan to 2036.

15. The residential dwelling(s) hereby approved shall be constructed and fitted out to comply with the Building Regulations 2010 (as amended) optional requirement M4(2) 'accessible and adaptable' prior to first occupation. Such provision shall be maintained for the lifetime of the development.

Reason: To ensure the adequate provision of accessible and adaptable dwellings in accordance with Policy LP 25 of the Local Plan to 2036.

16. The residential dwelling(s) hereby approved shall be constructed and fitted out to comply with the Building Regulations 2010 (as amended) optional requirement for water efficiency, as set out in Approved Document G prior to first occupation. Such provision shall be maintained for the lifetime of the development.

Reason: To ensure the adequate provision of water efficiency methods in accordance with Policy LP 12 part j of the Local Plan to 2036.