



Appeal Decision

Site visit made on 9 October 2024 by Darren Ellis MPlan MRTPI

Decision by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/V0510/W/24/3341201

**Land between The Dolvers Old Lake and Oak House, Barway Road, Barway
Grid Ref. Easting: 554794; Grid Ref. Northing 275742**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr P Warwick against the decision of East Cambridgeshire District Council.
 - The application Ref is 23/01383/OUT.
 - The development proposed is the erection of 2No dwellings, altered access and associated works.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.
3. Prior to the making of this recommendation, a revised National Planning Policy Framework (the Framework) was published. The changes made do not have a material bearing on the matters under consideration and I am satisfied that proceeding without further consultation with the main parties would not be prejudicial to their respective cases.
4. The Housing Delivery Test 2023 result has been issued recently. This shows that East Cambridgeshire Council had an HDT measurement of 99% in 2022 and a new improved figure of 113%, causing no consequences to the Council. As such, this improves the Council's position in respect to its delivery of housing against its supply figures.

Procedural Matters

5. The application was submitted in outline with access, appearance, layout and scale to be determined, with landscaping reserved for subsequent approval. Subsequently I have assessed the appeal proposal on that basis and have considered the submitted plans as indicative where they relate to landscaping.
6. In their appeal statement, the Council refers to the emerging Soham and Barway Neighbourhood Plan (NP) being at an advanced stage. The original officer's report also makes reference to the emerging NP, albeit when it was at a less-advanced stage. The appellant has had the opportunity to provide their comments on the NP. The NP was made on 17 October 2024 and now forms

part of the development plan. As such, I am satisfied that neither party would be prejudiced by my consideration of the NP in my assessment below.

7. The second reason for refusal relates to whether sufficient information was provided to assess the effect of the proposal of trees currently within the site. An Arboricultural Report (AR) was submitted with the application. The Council's tree officer did not comment on the AR, and their comments requesting an Arboricultural Impact Assessment appeared to be worded as a suggested condition. Furthermore, it was not explained what additional information was required that had not already been provided in the AR. The Council's appeal submission included additional comments from the tree officer, including an assessment of the AR. The appellant had the opportunity to provide their views on this matter in their final comments. I shall therefore consider the tree officer's latest comments in my assessment below, and I am satisfied that neither party would be prejudiced by this approach.

Main Issues

8. The main issues therefore are: a) whether the site is a suitable location for housing, having regard to the development plan as a whole; and b) the effect of the proposal on the character and appearance of the area, with particular regard to trees.

Reasons for the Recommendation

Suitable location for housing

9. The appeal site is a plot of land to the west of Oak House, however it is situated outside of the development envelope. I note the appellant's argument that the development envelope boundary is 'out of date', and I am mindful of case law¹ which states that a defined settlement boundary in a Local Plan may not itself be determinative, but that regard should also be had to factors on the ground. The appeal site forms part of a large gap between the dwellings at Oak House and The Dolvers Old Lake. The area to the south of Barway Road, between Oak House and Lake View and which includes the appeal site, has considerably less built development than the other parts of Barway which has a more consolidated pattern of development. Consequently, the appeal site appears visually to be outside of the developed area of the village, and I am therefore not persuaded that the site falls within the development envelope.
10. I also note that the site was not included in the amendments to the development envelope illustrated in Map 3 of the recently made NP, which take into account the recently completed housing developments along Barway Road. Furthermore, the changing of a defined development envelope boundary is a matter for a future review of the development plan and falls outside the scope of an appeal under section 78 of the Act.
11. Policy GROWTH 2 of the East Cambridgeshire Local Plan 2015 (amended 2023) (LP) sets out the locational strategy and provides a list of exceptions where development outside of defined development envelopes may be acceptable. Both parties accept that the proposal would not meet any of these exceptions.
12. My attention has been drawn to several planning permissions since 2015 for housing along Barway Road. However, the Council states that these were all

¹ Wood v SSCLG & Gravesham BC [2014] EWHC 683 (Admin)[[2015] EWCA Civ 195

granted while the Council was unable to demonstrate a 5-year housing land supply and pre-date the review of the LP. Moreover, I have no details of any housing proposals outside of the development envelope that were granted planning permission when the Council could demonstrate a 5-year housing land supply.

13. Notwithstanding the existing built-up nature of Barway Road, there are very few, if any, services in Barway and the nearest bus stop is a considerable distance away. I am therefore not convinced that the site is a sustainable location for new housing with regards to services and public transport links. Furthermore, the Council can demonstrate a 5-year housing land supply and passes the Housing Delivery Test. As such, there is no compelling reason before me to justify a deviation from the provisions of policy GROWTH 2 in this case.
14. Accordingly, the proposed site would not represent a suitable location for housing, having regard to the development plan as a whole. For these reasons, the proposal would conflict with LP Policy GROWTH 2 and the Framework. These seek, among other matters, to protect the countryside and the setting of villages.

Character and Appearance

15. Trees form an integral part of the rural character and appearance of the area, with numerous trees currently within the appeal site along with the many trees lining Barway Road and in the gardens of nearby properties. A holm oak, identified as T17 in the AR, is situated close to the boundary between the appeal site and Oak House, and contributes positively to the rural character and appearance of the area.
16. The holm oak (T17) would be situated in very close proximity to the side elevation of the proposed dwelling on plot 2. The AR states that T17 is a semi-mature tree, 7m in height and with a spread of 5m, and described as a Category B tree being young and vigorous. It is likely that the tree would grow substantially before reaching its mature height and spread. In such close proximity to the dwelling, there would be significant pressure for the tree to be significantly pruned or even removed altogether. Furthermore, the proposal would include the construction of a walkway over a relatively wide proportion of the root protection area (RPA) which, together with the proximity of the RPA to the proposed dwelling, could restrict the future growth of the tree.
17. The matter of trees T8-T14 and how the bund they are located on would be incorporated into the layout could be considered during a future reserved matters application for landscaping.
18. The proposal could therefore prevent tree T17 from reaching its full mature height and spread, or it could result in the loss of the tree altogether. This would be to the detriment of its surroundings and, consequently, it would cause to harm the rural character and appearance of the area.
19. The proposal would therefore conflict with LP Policy ENV 7, which requires development proposals to minimise harm to, or loss of, environmental features such as trees.

20. The reason for refusal also cites a conflict with Policy SPD.NE8 of the Natural Environment Supplementary Planning Document, however I have not been provided with a copy of this document.

Other Matters

21. The provision of two additional units would make a small contribution to the existing housing supply. However, the Council can demonstrate it has a 5-year housing land supply and whilst not placing a cap on future housing illustrates that the Council is meeting its housing requirements. Economic advantages would also arise from the construction and occupation of a new house, although some of these would be temporary and limited by the scale of the scheme. I would therefore ascribe limited weight to these matters.

Conclusion and Recommendation

22. The proposal would be contrary to the development plan and would therefore not accord with Section 2 of the National Planning Policy Framework, which seeks to provide sustainable development. There are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance therewith. I therefore recommend the appeal be dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

23. I have considered all the submitted evidence and my representative's report and on that basis the appeal is dismissed.

Ben Plenty

INSPECTOR