



Appeal Decisions

Site visit made on 10 December 2024

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

an Inspector appointed by the Secretary of State

Decision date: 23 December 2024

Appeal Ref: APP/D0515/W/24/3351994

8 Delph Street, Whittlesey, Cambridgeshire PE7 1QQ

- 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 MJW Property Services against the decision of Fenland District Council.
 - The application Ref is F/YR23/0968/F.
 - The development proposed is new bungalow to rear of dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for new bungalow to rear of dwelling at 8 Delph Street, Whittlesey, Cambridgeshire PE7 1QQ in accordance with the terms of the application, Ref F/YR23/0968/F, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 13 December 2024. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party's interests would be prejudiced by my taking this approach.
3. As the appeal site lies partly within a conservation area and is proximate to a listed building, No 10 Delph Street, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. There is another appeal¹ being considered at the same site. That appeal is the subject of a separate decision.

Main Issues

5. The main issues are:
 - i) the effect of the proposed development on the character and appearance of the Whittlesey Conservation Area (CA), including its effect on the significance of a non-designated heritage asset; and

¹ APP/D0515/W/24/3337193

- ii) the effect upon the living conditions of the neighbouring occupiers of No 6b Delph Street, with particular regard to noise and disturbance, loss of light and overlooking.

Reasons

Character and appearance

6. No 8 Delph Street is a two-storey double fronted property, identified by the Council as a non-designated heritage asset (NDHA). It is set within an elongated plot with access from both Delph Street and Bassenhally Road. The immediate vicinity of the site is residential where I observed a mix of different periods of buildings along the length of Delph Street, including many later 20th century properties of varying scale and architectural style of properties.
7. The CA covers the historic core of the rural market town and comprises a commercial centre and surrounding residential development. The CA is split into two sections as the northern part of the CA, wherein lies the appeal site, is separate from the main body of the CA. The historic focal point of the town is Market Place which comprises of a grouping of listed buildings surrounding a public open space. The CA derives its significance from its historical association dating back to the Anglo-Saxon period and a rich collection of historic buildings. The appeal site has a neutral impact on the CA. The Whittlesey Conservation Area Appraisal March 2018 (CA Appraisal) notes that on the whole, the historic quality of Delph Street is limited in comparison to other parts of the identified character areas. It goes on to note that the pattern of development along Delph Street varies with some buildings sitting to the footpath edge, some set back behind small gardens and some sitting back behind uncharacteristically large gardens.
8. The appeal site comprises part of the garden of No. 8. I observed properties nearby in similar backland positions, whereby properties are set back from the highway and accessed via an elongated driveway.
9. The CA Appraisal notes that the erosion of the town's settlement pattern, as a consequence of backland development has occurred over a long period of time. I recognise that some of the examples of adjacent backland developments lie outside of the CA boundary, albeit close to the appeal site. Nevertheless, other examples of backland development do lie within the confines of the CA. Whilst I do not know the circumstances of each case, such developments do now form part of the established character of the locality.
10. The proposed dwelling would be located in a similar location to Nos. 6b and 6c and would not be dissimilar to the arrangement of the nearby properties known as 4 a, b, and c) Bassenhally Road. Accordingly, having regard to the site context, the proposed siting of the dwelling would not be wholly out of character with the pattern of development in the locality.
11. Owing to the mixed character of dwellings in the locality the proposed single storey dwelling would be of a scale and design in-keeping with nearby properties. The proposed dwelling would be of limited height, set back significantly from the highway and largely obscured by existing built development. Consequently, the proposal would not be prominent within the streetscene and CA. Furthermore, the proposed dwelling would be served by an

- existing vehicular access from Bassenhally Road and therefore the proposal would have a negligible impact upon the CA when viewed from Delph Street.
12. Whilst division of the land would result in a reduced rear garden for the host property, existing properties in the locality have varying garden depths. The proposal would therefore not represent an incongruous layout and built form that would be visually harmful, or alien, to the site and the surrounding area, including the NDHA.
 13. A notable aspect of the town's character is that it boasts a number of mud boundary walls which are features unique to Whittlesey within Fenland and the wider county of Cambridgeshire. A mud wall forms the side boundaries between 6b & 8 Delph Street, and between 8 Delph Street and Delph Court. These walls are not within public view, nevertheless, they are a unique aspect of the town's heritage. The Council did not include the impact of the proposed development upon mud walls within their reasons for refusal, and I have no reason to reach a different view in this regard. Be that as it may, the appellant is agreeable to a pre-commencement condition to protect the mud walls during construction. I consider such a condition is reasonable and necessary in the interests of protecting these features of historic interest.
 14. I have not identified harm in respect of the effect of the proposal on the character and appearance of the area. In the context described above, I am therefore satisfied that the proposal would preserve the character or appearance of the CA, and would not harm its significance
 15. For the reasons stated above, I conclude that the proposed development would have an acceptable impact upon the character and appearance of the area, including the Whittlesey CA. It would, therefore, accord with Policy LP16 of the Fenland Local Plan Adopted 2014 (Local Plan). Amongst others, this requires development proposals to contribute positively to the character and distinctiveness of the area and make effective and efficient use of land and buildings, using appropriate high-quality materials. Nor do I find conflict with Policy LP18 of the Local Plan which seeks to protect, conserve and enhance where appropriate the local character and distinctiveness of the area particularly in areas of high heritage value. Furthermore, it would accord with the Framework which seeks to secure high-quality design which takes account of the local character and reflects the local surroundings while not preventing or discouraging innovation or change and safeguarding heritage assets.

Living Conditions

16. The appeal site and neighbouring land at No 6b is generally level. I observed a high wall and fence along the shared boundary of the appeal site and this neighbouring property for much of the length of the garden. A mud wall, of approximately 1.5m in height, also forms part of the shared boundary.
17. Due to the presence of the existing boundary treatment, there would be limited visibility between both properties and their respective gardens. However, if vegetation along the boundary were to be removed overlooking, to a limited extent may be possible. Accordingly, in the interests of protecting the living conditions of the neighbouring property and the future occupants of the proposed dwelling, a condition for boundary treatments would be reasonable and necessary.

18. Whilst located proximate to the shared boundary the proposed dwelling would be single storey with a hipped roof that would fall away from the shared boundary. Accordingly, I am satisfied that the proposed dwelling would not have an overbearing impact upon the occupiers of No. 6b. Similarly, for these reasons the proposed dwelling would not result in a material loss of daylight or sunlight to the garden, or habitable room windows, of this neighbouring property.
19. The construction of a new dwelling would result in some noise and light pollution created by vehicle movements once the dwelling is occupied. However, the additional movements would only affect the site and surrounding properties for short periods of time while the vehicles are accessing or egressing the property. As the proposal is only for one property the number of additional movements would be limited and would not be materially harmful to the living conditions of the occupiers of neighbouring properties. Any disturbance during the construction period would be short-term.
20. Interested parties have raised concerns regarding the proximity of the appeal proposal to their property and its subsequent impact upon a family member with a disability. I have had due regard to the Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Furthermore, Article 8 of the Human Rights Act 1998 (HRA) affords the right to respect for private and family life, home and correspondence. The child's best interests are a primary consideration in determining the appeal. I have therefore kept these interests at the forefront of my mind. For the reasons stated above, taking into account the best interests of the child as a primary consideration, the appeal proposal would not have a materially harmful impact upon the living conditions of the neighbouring occupiers.
21. For the reasons outlined above, the proposal would not have a harmful effect upon the living conditions of the occupiers of No 6b, with particular regard to noise and disturbance, loss of light and overlooking. Accordingly, the proposal complies with Policy LP16 of the Local Plan and the Framework. Collectively these seek a good standard of amenity for existing occupants of buildings.

Other Matters

22. I have had regard to the desirability of preserving the setting of the Grade II listed building, No 10 Delph Street, which dates back to 1768. It is located to the south-east of the appeal site. The significance of the listed building is derived in part from its age, surviving historic fabric and its relationship to the evolution of the settlement. Given the physical separation between the appeal site and this designated heritage asset I am satisfied that the setting of the listed building, and thereby its significance, would be preserved.
23. Interested parties have raised concerns regarding rights of way. However, such matters are a private issue between the relevant parties and not within my jurisdiction.
24. The proposal would utilise an established access. Based on the evidence before me, including the comments from the Local Highway Authority, and my own observations, the number of traffic movements generated by the proposal

would be limited. Satisfactory parking and turning areas would be provided to serve the development. I am therefore satisfied that the proposal would not have an unacceptable impact on highway or pedestrian safety.

Conditions

25. The Framework states that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development, enforceable, precise, and reasonable in all other respects.
26. The Council has suggested several conditions. I have included those which meet the six tests set out in the Framework and the Planning Practice Guide. 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.
27. I will impose a condition requiring compliance with the submitted materials schedule in the interests of preserving the character and appearance of the area.
28. A condition regarding the remediation of any unsuspected contamination is reasonable and necessary in the interests of public health and environmental protection.
29. A condition to secure parking and turning are necessary in the interests of highway safety.
30. The Council has suggested a condition for the removal of permitted development rights under The Town & Country Planning (General Permitted Development) (England) Order 2015. Given the parameters of the appeal site, together with its location within the CA and being proximate to existing properties, I have attached a condition to remove permitted development rights for extensions, curtilage buildings, means of enclosure, installation of windows/doors and alterations to the roof.

Conclusion

31. For the reasons given above, and having regard to all other matters, including the best interests of the child, I conclude that the development would comply with the development plan as a whole. The appeal is therefore allowed.

R Gee

INSPECTOR

Schedule of conditions

1. The development permitted shall be begun before the expiration of 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

PL02/A1 Location Plan, Site Plan, Elevations and Floor Plans

3. The development hereby approved shall be finished externally in materials as specified below:
 - Walls – TBC Audley Antique brick, timber larch panel adj to front door
 - Roof – Marley double roman dark red
 - Windows – Jedlwen elegance flush casement in cream
 - Cill and Headers – Chamfered buff stone
 - Entrance door – Sage green
 - Eaves – Dentil course
 - Rainwater goods – Black brett martin cascade round gutter and downpipe fitted with rise and fall brackets.
4. No development hereby approved shall be commenced until a scheme for the protection of the mud walls, has been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in full accordance with the approved scheme.
5. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority detailing how this unsuspected contamination shall be dealt with. The development shall then be carried out in full accordance with the approved remediation strategy.
6. Prior to the first occupation of the development the proposed on-site parking/turning area shall be laid out in accordance with the approved plans, surfaced in a bound material and drained within the site. The parking/turning area, surfacing and drainage shall thereafter be retained as such in perpetuity.
7. Prior to occupation, details of the boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. Subsequently, these works shall be implemented as approved prior to occupation and maintained as such in perpetuity.
8. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) (England) Order 2015, (or any Order or Statutory Instrument revoking and re-enacting that Order), planning permission shall be required for the following developments or alterations:
 - i) the erection of freestanding curtilage buildings or structures including car ports, garages, sheds, greenhouses, pergolas, or raised decks (as detailed in Schedule 2, Part 1, Classes A and E);

- ii) the erection of house extensions including conservatories, garages, car ports or porches (as detailed in Schedule 2, Part 1, Classes A and D);
- iii) alterations including the installation of additional windows or doors, including dormer windows or roof windows (as detailed in Schedule 2, Part 1, Classes A and B);
- iv) alterations to the roof of the dwellinghouse (as detailed in Schedule 2, Part 1, Class C);
- v) the erection of any walls, fences or other means of enclosure to all boundaries of the site (as detailed in Schedule 2, Part 2, Class A).

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