



Appeal Decision

Site visit made on 17 December 2024

by **H Marriott MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17th January 2025

Appeal Ref: APP/D0515/W/24/3347881

129 Knights End Road, March, Cambridgeshire PE15 9QD

- 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 M Taylor against the decision of Fenland District Council.
 - The application Ref is F/YR23/0856/O.
 - The development proposed is erection of up to 5 dwellings (outline application with all matters reserved).
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr M Taylor against the decision of Fenland District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was submitted in outline form with all matters reserved. The drawing showing the proposed layout of the development have therefore been assessed as being for indicative purposes only.
4. An amended plan comprising Drawing Number PP1000D 'Indicative Site Plan' has been submitted with the appeal. Amendments include the indicative position of a visibility splay at the proposed site access, the indicative position of a proposed 3-metre-high acoustic fencing along part of the boundary of the site and amendments to the indicative layout of the proposed dwellings. Additional technical reports including an Ecological Impact Assessment (April 2024), Environmental Noise Assessment (May 2024), Arboricultural Impact Assessment (June 2024) and Biodiversity Net Gain (BNG) Report (June 2024) and associated BNG documents have also been submitted with the appeal.
5. Established case law states that, in considering whether, or not, to accept amendments to a proposal during the appeal process, it must be considered whether the proposed changes involve a "substantial difference" or a "fundamental change" to the application and whether the proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal. Given that the plan is for indicative purposes only, the amendments do not make a substantial difference when compared to the plan upon which the Council made its decision. Furthermore, the additional supporting documents respond directly to the reasons for refusal and do not result in a fundamental change to the application. The Council had opportunity to review and comment on this evidence within its appeal

statement. As a result, the Council has confirmed that they will no longer be defending the reason for refusal relating to the effect of the proposed development on biodiversity (reason 4); and whether the proposed development would provide adequate living conditions for future occupiers of the proposed dwellings, with particular reference to noise and disturbance (reason 5). As there is no longer any dispute with regards to these particular matters, I have defined the main issues on this basis.

6. My attention has been drawn to the draft Fenland Local Plan 2021 – 2040 Draft Local Plan Consultation (2022) version (DLP). However, this is only at consultation stage, and has not yet been subject to an examination process to determine its soundness. As such, the policies in the DLP carry limited weight.
7. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024, which I have had regard to as a material consideration in my decision making. In this instance, the main parties have been provided with an opportunity to provide comments on this matter and the comments received have been taken into consideration.

Main Issues

8. The main issues are:
 - whether the site is a suitable location for the proposed development having regard to the development plan;
 - the effect of the proposed access point on highway safety; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Location

9. Policy LP3 of the Fenland Local Plan (2014) (FLP) sets out a spatial hierarchy to manage sustainable growth and sets out a settlement hierarchy which ranks settlements according to their size and range of services and facilities. March is identified as a Primary Market Town. The majority of the district's new housing, employment growth, retail growth and wider service provision should take place in March and the other identified market towns.
10. More specifically, the appeal site is located in South West March to the west of the A141 and south of Knights End Road and is identified by Policy LP9 of the FLP as a broad location for growth. Policy H1 of the March Neighbourhood Development Plan 2015 to 2030 Referendum Document (2017) (NP) also provides support for the broad location for growth in South West March. It is expected that the area will be predominantly residential (around 500 dwellings), but would also include some business development. Policy LP7 of the FLP states that development of an urban extension must be planned and implemented in a coordinated way, through an agreed overarching broad concept plan (BCP), that is linked to the timely delivery of key infrastructure.
11. There is no dispute between main parties that the site is located in March and would therefore comply with the location requirements set out in Policy LP3 of the

FLP. Even so, in the absence of a defined settlement boundary, determining whether the appeal site is located in March is a matter of planning judgement. The main part of the appeal site is located to the rear of dwellings on Knights End Road and includes part of the driveway, side garden and rear garden of Number 129 Knights End Road (No 129). The A141 is located to another side with fields located on remaining sides. The main part of the appeal site contains a large area of mowed grass used for private amenity purposes associated with the built up part of March which has a distinctly different character when compared to the adjacent agricultural fields. The appeal proposal has not been submitted on the basis that it represents the development of an urban extension. However, it is considered to be located in March for the purposes of decision making, where new housing is supported.

12. The Council indicate that a BCP for South West March has not yet been advanced although there remains a reasonable prospect that the urban extension will come forward. It suggests that the development of the appeal site could prejudice the future delivery of the urban extension as the land might be required for noise mitigation and/or landscaping measures as required by Policy LP9 of the FLP. Policy LP7 of the FLP states that with the exception of inconsequential very minor development, proposals for development within the identified growth locations which come forward prior to an agreed BCP being produced will be refused.
13. There is no definition of inconsequential minor development in the FLP. It is therefore reasonable to assume that minor windfall development such as the appeal proposal could be acceptable provided that its effects are inconsequential to the delivery of the wider urban extension. The appeal site forms a very small part of the broad location for growth in South West March. In the absence of a BCP, whether or not the appeal site could form part of a larger growth scheme and indeed whether there are any mechanisms to secure the use of a private garden area for such purposes is currently unknown. In the absence of any substantive evidence to suggest that the appeal site is essential in forming part of the layout of the urban extension, or needed to facilitate the mitigation measures required by Policy LP9 of the FLP, the appeal proposal is considered to represent inconsequential minor development.
14. I conclude that the site is a suitable location for the proposed development having regard to the development plan. In this regard, the proposal would not conflict with Policies LP3, LP7 and LP9 of the FLP and Policy H1 of the NP which support new housing in March which is identified as a focus for housing growth and would not conflict with the requirement to ensure development of an urban extension is planned and implemented in a coordinated way. The proposed development would not be contrary to Paragraphs 1 and 15 of the National Planning Policy Framework (the Framework) that confirms that the planning system should be genuinely planned and to provide homes in a sustainable manner.

Highway Safety

15. Whilst the access to the proposed dwellings is a reserved matter, the indicative position of the proposed access point on entry into the site would utilise the existing driveway serving No 129. At the time of the decision, the Council's concerns related to whether the required visibility splay at the junction of Knights End Road and whether a required access width of 5 metres can be achieved. Whilst the amended 'Indicative Site Plan' submitted with the appeal demonstrates that the required

visibility splay can be achieved to the satisfaction of the Highways Authority, the Council's statement confirms that it remains concerned that a 5-metre-wide access to allow for two-way flow of traffic of traffic entering or egressing the site has not been demonstrated.

16. Without the required access width, the increased intensification of use of the access would result in the increased likelihood of vehicles needing to wait on Knights End Road for access to become clear and may on occasion, result in the need for vehicles to reverse onto the highway to avoid vehicle conflict on initial entry into the site. This could adversely impact on the free flow of traffic in the area and result in a hazard close to the junction of Knights End Road with the A141. Consequently this could result in an unacceptable impact on highway safety.
17. My site visit confirmed that the existing driveway is not of a sufficient width to allow for the two-way flow of traffic. Whilst the widening of the access is a matter that could be addressed at the reserved matters stage, it has not been demonstrated that there is sufficient space to allow for the provision of a wider access given the constraints of the appeal site, including the extent of the red line boundary given that the appeal boundary in this area appears to follow tightly the surfacing of the driveway shown on the indicative plan. Furthermore, amendments to achieve an access of the required width would occur in close proximity to the row of mature trees along the site frontage and could require the removal of additional trees. Such removal would add to the harm to the character and appearance of the area identified under the third main issue. In that regard, leaving resolution of the access width to reserved matters stage or planning condition does not provide sufficient certainty that an acceptable solution can be found.
18. I conclude that it has not been demonstrated that the proposed access point would not result in a harmful effect on highway safety. In this regard, the proposed development would be contrary to Policy LP15 of the FLP which requires development schemes to provide safe and convenient access for all. This accords with Paragraph 116 of the Framework which states that development should be refused on highways grounds if there would be an unacceptable impact on highway safety.

Character and appearance

19. Knights End Road contains a ribbon form of development along both sides of most of its length and connects the A141 to the town centre of March. Detached bungalows and two-storey dwellings along the route are set behind grass verges and similar sized front gardens, many of which contain trees and hedgerow. Despite the varied house types and designs in the area, the spacing and rhythm of the linear form of development and the soft landscaped features make a positive contribution to the semi-rural character and verdant appearance of the street.
20. No 129 is a two-storey dwelling located at the end of Knights End Road, with parts of its side boundary located immediately adjacent to the A141. Whilst Knights End Road contains a footway along one side of most of its length, it stops short of No 129 as the route transitions to countryside beyond the appeal site. Hedgerow and mature trees define the majority of the boundaries of the appeal site. A row of mature trees site in front of the appeal site and to the side of a driveway define the front boundary of No 129. The appeal site's location at the edge of but within March in part of the garden of No 129, means that it does not meet the definition of

previously developed land set out in the Framework that excludes land in built-up areas such as residential gardens. Whilst distinctly garden, the open and undeveloped nature of the appeal site and its natural boundaries makes a positive contribution to the character and appearance of the adjoining countryside.

21. Whilst the layout and design are reserved matters, the 'Indicative Site Plan' suggests that the proposed development of up to five dwellings would extend the depth of the developed footprint of this part of Knights End Road and would interrupt the linear pattern of development along the route. This would not be in keeping with the prevailing character of the area and has the potential to erode the green edge around the settlement of March.
22. Due to the position of No 129 and the extent of the appeal site, parts of the proposed development including the proposed access driveway and acoustic fence would likely be located close to or immediately adjoining the boundaries of the site. The Arboricultural Impact Assessment does not account for the requirement for a wider access or acoustic fence. As such, the extent to which existing trees and hedgerow may need to be removed may have been underestimated and any loss could open up views of the application site from the A141.
23. Moreover, it has not been demonstrated whether there are any alternatives to the acoustic fence that would effectively mitigate the harmful effect of road noise upon proposed occupiers. At a suggested height of 3 metres, the fence would represent a stark contrast to the current green edge of the appeal site, even if its position could be proposed further away from the boundaries at reserved matters stage. It has the potential to be visible to the occupiers of the proposed dwellings, from the rear of dwellings along Knights End Road and potentially to passers-by along the A141 such that it could be an incongruous addition out of keeping with the rural surroundings. Given the constraints of the site and the parameters of the appeal proposal, it has not been demonstrated that an acceptable layout is achievable, or that there would be sufficient space available within the site to mitigate the harm identified through existing and proposed landscaping. In the circumstances, leaving this for the reserved matters stage or a planning condition does not provide me with sufficient certainty that my concerns would be resolved.
24. The appellant suggests that because the site is located in an area identified as a broad location for growth set out in the FLP, the urbanisation of the area and alteration to its character is inevitable. However, a BCP has not yet been advanced for South West March and it cannot be guaranteed if and when the urban extension will come forward. It is therefore necessary to assess the effects of the proposal with regards to the appeal site's location at the edge of March and the effects as existing.
25. Should this appeal be allowed, there would be a reasonable prospect of similar development being repeated in the rear gardens of other dwellings located along Knights End Road. If this were to occur, the cumulative effect would add to the harm to the character and appearance of the area.
26. I conclude that the proposal would have a harmful effect on the character and appearance of the area. In this regard the proposal would conflict with Policy LP16 of the FLP which requires development to deliver and protect high quality environments, to make a positive contribution to the local distinctiveness and character of the area; to not adversely impact settlement pattern or the landscape

character of the surrounding area; and to retain and incorporate natural features. For the same reasons, the appeal proposal would conflict with the Framework, notably paragraphs 129 d) and 135 c), which support development that maintains an area's prevailing character and setting; and seeks to ensure that developments are sympathetic to local character.

Other Matters

27. Matters relating to flood risk, ecology, design, materials, security, refuse collection and the relationship of the development with neighbouring occupiers (with regards to privacy) are not in dispute at this outline stage. The proposal could provide high quality new homes in the area, supports the Government's objectives of addressing the national housing shortage, would support the economic future of the town and could create jobs and support local contractors during construction. The proposal would not result in the direct loss of agricultural land and would enable the delivery of a small site which can make an important contribution to housing supply in the area. Support for the appeal proposal from some interested parties is also noted. However, even though a BCP for the wider growth point area has not yet been developed, there is nothing to suggest that there is a critical need for housing on the appeal site which conflicts with the requirements of the development plan. In this context, these factors do not justify the harm identified.
28. My attention has been drawn to planning applications approved by the Council on Land West of 43-69 Wimblington Road (Council ref: F/YR23/0201/F) and Land East of Barton Green Fronting (Council ref: F/YR18/1016/O). These sites are located in a different settlement and do not share the same characteristics of the appeal proposal, particularly with regards to the site-specific harm identified.
29. Interested parties have suggested the proposed dwellings would be self-build. However, there is nothing before me to suggest that the proposal would meet any unmet need on the Council's self and custom housebuilding register, and there is no mechanism before me to secure this in any event.
30. The appellant's BNG Report indicates a net loss of habitat units and a net gain in hedgerow units. However, any potential to make biodiversity gains on or off site would not address the harm identified in relation to the second and third main issues.
31. Whether or not the Council should have asked for more information pursuant to article 5(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 or engaged further with the appellant prior to making its decision is not material to my own assessment which can only be based on the evidence before me.

Conclusion

32. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

H Marriott

INSPECTOR