



Appeal Decision

Site visit made on 25 March 2025

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2025

Appeal Ref: APP/D0515/W/24/3350495

113 Elm Low Road, Wisbech PE14 0DF

- 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 Mr W Wiles [A and L Construction Services Ltd] against the decision of Fenland District Council.
 - The application Ref is F/YR24/0366/F.
 - The development proposed is described as 'residential development - construction of a pair of two storey three bedroom semi-detached dwellings.'
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Decision

1. The appeal is allowed and planning permission is granted for residential development – construction of a pair of two storey three bedroom semi-detached dwellings at 113 Elm Low Road, Wisbech PE14 0DF, in accordance with the terms of the application Ref F/YR24/0366/F and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs is made by A and L construction Services Ltd against Fenland District Council. This application is the subject of a separate decision.

Procedural Matters

3. In December 2024, the Government published a revised National Planning Policy Framework (the Framework). Although some paragraph numbers have changed, the revisions do not relate to anything that is fundamental to the main issues in this appeal. Consequently, the main parties would not be prejudiced by reference to the revised Framework.

Main Issues

4. The main issues in relation to this appeal are the effect of the proposal on i) the character and appearance of the area and ii) the living conditions of the occupiers of 111 Elm Low Road, with particular regard to loss of light and privacy.

Reasons

Character and Appearance

5. The appeal site comprises a vacant plot of land between a bungalow to the north and a 2-storey dwelling to the south. Elm Low Road has an informal, mixed character. This arises from the assortment of building types, designs and ages including bungalows, dwellings and a limited number of commercial premises, along with the lack of a formalised footpath along the majority of the highway.

Some dwellings are sited close to the back edge of the road while others have front gardens, a high proportion of which have been hard surfaced for car parking. Landscaping is relatively limited with only occasional hedgerows and tree planting found within front gardens. As an undeveloped plot of land, it appears as an anomaly within an otherwise built-up frontage.

6. Policy LP16 of the Fenland Local Plan (FLP) 2014, sets out the Council's expectations for the quality of design in new developments. Criteria d) requires proposals to make a positive contribution to the local distinctiveness and character of the area, enhances its local setting, responds to and improves the character of the local built environment, provides resilience to climate change, reinforces local identity and does not adversely impact, either in design or scale terms, on the street scene, settlement pattern or the landscape character of the surrounding area.
7. The proposal seeks the erection of 2 semi-detached 2-storey dwellings within the appeal site. The amended plans indicate a gable projection to the front of each dwelling, a feature that responds to the form of nearby properties. Most dwellings immediately surrounding the appeal site are detached. However, a terrace was visible to the north and other semi-detached dwellings are located further along Elm Low Road to the south. The centrally sited front doors, recessed under a lean-to canopy would ensure that the semi-detached nature of the development would not be readily visible within the street scene, unless at very close quarters. Even then, the varied appearance, position and heights of neighbouring dwellings would prevent the proposal from appearing as an anomalous form of development. I note this is a view shared by the Parish Council who supports the proposal.
8. The scale of development would provide an appropriate transition from the lower bungalow of No 111 Elm Low Road and the larger, taller dwelling of No 115. Set back in a manner consistent with the neighbouring dwellings, the scheme provides for an appropriate level of on-plot car parking and good-sized rear gardens suitable for family-sized dwellings. Access routes to either side of the building would further help to maintain a sense of space between it and adjacent dwellings.
9. I have been directed to an extant planning permission for the erection of a single 2-storey dwelling on the appeal site which constitutes a fallback position for the appellant¹. There is no compelling evidence before me to demonstrate that in this instance the occupation of 2 dwellings would be significantly different from the occupation of a single dwelling, given that it could be occupied by a large family including adult children. Even if I could accept that there was an intensification of use, it would be unlikely to be readily discernible given the steady vehicular and pedestrian activity along Elm Low Road that I observed during my visit.
10. The loss of the hedgerow is unfortunate. However, its loss would not be significantly detrimental to the appearance of the street scene, given that paved front gardens and hard boundaries are a local feature. The infilling of an undeveloped parcel of land with suitably designed housing would actually improve, rather than diminish, the character of the local built environment. It seems to me that the existence of an approval for one dwelling is not sufficient justification to withhold permission for another form of acceptable development.

¹ Planning application reference F/YR23/0061/F to erect 1 dwelling (2-storey, 4-bed) granted permission 22.03.2023.

11. For the above reasons, the proposed development would not amount to the overdevelopment of the appeal site and it would not have an adverse effect on the character and appearance of the area. It would thus comply with Policy LP16 of the FLP as set out above and paragraph 135 of the Framework which seeks to support development that is well-designed and sympathetic to local character.

Living Conditions

12. The proposed dwellings would be located to the south of No 111 Elm Low Road. During the site visit I observed that 2 ground floor obscurely glazed windows are located within the southern elevation of this neighbouring property. They are already constrained by the proximity of the close boarded boundary fence.
13. The Council advises that these windows serve non-habitable rooms² and this is not disputed by interested parties. Therefore, even if the position and scale of the proposed dwelling would reduce the amount of light received by these windows, no evidence has been presented to demonstrate that it would be harmful to the living conditions of the neighbouring occupiers.
14. The Council's statement also raises concerns regarding the effect of the proposed first floor window in the northern elevation on the privacy afforded to the occupants of No 111. This window would serve a bathroom. It would not be possible for direct overlooking to occur with the existing obscure glazed windows belonging to No 111. A condition requiring the window to be obscure glazed and fixed below 1.7m above floor level would prevent any overlooking of the existing side windows belonging to No 111 or its rear garden. The privacy afforded to the neighbouring occupants would therefore be unaffected by the proposed development.
15. Moreover, planning permission has already been granted and therefore deemed acceptable for a single dwelling in a very similar position, scale and height to the development now proposed. There is no compelling evidence before me to demonstrate that the proposal would exert a more harmful effect on the amenity of neighbouring residents that could already be exerted by the fallback position.
16. The proposed development would not adversely affect the living conditions of the occupiers of No 111. It would therefore accord with Policies LP2 and LP16 of the FLP which seek amongst other things, to ensure that new development does not adversely impact on the amenity of neighbouring users including loss of privacy or light. The development would also comply with paragraph 135 of the Framework which seeks to ensure a high standard of amenity for existing users.

Other Matters

17. The previous approval of a single dwelling at the appeal site does not preclude a different form of development from coming forward and being considered favourably. Likewise, the existence of new housing developments elsewhere within Wisbech does not suggest that other schemes for residential development should be refused. Small sites such as this can make an important cumulative contribution to meeting the housing requirement of an area, and the delivery of housing in a sustainable settlement accords with the development strategy for the area as set out within Policy LP3 of the FLP. The evidence presented also indicates that the proposal would better meet the objectives of the Council's Strategic Housing

² Paragraph 10.11 of the Council's officer report.

Market Assessment which identifies a greater need for 2 and 3-bedroomed dwellings than those with 4³.

18. Although a snapshot in time during my visit, I observed that whilst Elm Low Road experiences frequent vehicular and pedestrian movements, it could not reasonably be described as a very busy road. Due to the condition of the highway, presence of some on-street car parking and pedestrians in the road, vehicle speeds are relatively low. Given that Elm Low Road is a no-through road it does not provide a route for anyone other than a local resident or visitors to the business premises.
19. Future occupants of the proposed dwellings would have to reverse into or out of the driveways onto the road, but this appears to be a frequent characteristic of other dwellings within the vicinity. I have not been presented with any compelling evidence that this would result in material harm to pedestrian or vehicular safety, over and above the existing situation. I am mindful that the Highway Authority has not objection to the proposal. It seems to me that the limited number of vehicular journeys associated with the occupation of 2 dwellings would not lead to an unacceptable impact on highway and pedestrian safety.
20. The Council did not refuse the application on drainage grounds. Interested parties have suggested that Elm Low Road already floods in heavy downpours. It is not for the proposed development to provide a solution to existing problems. There is no substantive evidence before me to suggest that the proposed method of drainage to a soakaway would be unacceptable for the type of development proposed in this location.
21. A telegraph pole to the front of the appeal site would require relocation to enable vehicular access to the proposed dwellings. This is a matter for the appellant and the relevant utility provider and is not a reason to refuse planning permission.

Conditions

22. The Council's suggested conditions have been considered and the wording varied where necessary, to ensure precision and compliance with the Planning Practice Guidance and paragraph 57 of the Framework. This does not affect the purpose of the conditions. Along with the standard time limit, conditions are imposed to require the materials to be consistent with those specified in the application and to list the plans in the interests of certainty.
23. Conditions relating to the hours of construction, unexpected contamination, obscure glazing of side facing windows and the removal of permitted development rights for additional windows are reasonable, necessary and relevant to the development permitted to ensure the living conditions of neighbouring residents and the environment are protected. Likewise, it is reasonable and necessary to require the proposed car parking areas to be retained for their intended purpose and with the approved surfacing material.

Conclusion

24. For the reasons identified above, the proposed development would not conflict with the development plan. The appeal should be allowed.

M Clowes - INSPECTOR

³ As evidenced at paragraph 10.2 of the Council's officer report.

***** Schedule of Conditions *****

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans;
Location Plan drawing number P-23-2420-1
Proposed Site Plan drawing number P-23-2420-3 B
Proposed Floor Plans drawing number P-23-2420-4 A
Proposed Elevations, Roof Plan, Section & Street Scene drawing number P-23-2420-5 A.
- 3) The materials to be used for the external walls, roof, vehicular parking and hardstanding shall be in strict accordance with those specified in the application. The development shall be carried out in accordance with the approved details and retained thereafter.
- 4) Notwithstanding the details on the submitted plans, the first-floor bathroom windows in the northern and southern elevations of the dwellings hereby approved, shall be glazed with obscure glass and fixed shut to a height of 1.7 metres above the floor of the room in which the window is installed. The windows shall be retained as such thereafter.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (or any other Order revoking or re-enacting that Order with or without modification), no additional windows other than those shown on the plans hereby approved, shall be constructed in the northern and southern elevations of the dwellings hereby approved.
- 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 and drained within the site. The parking/turning area, surfacing and drainage shall thereafter be retained as such in perpetuity (notwithstanding the provisions of Schedule 2, Part 1, Class F of The Town and Country Planning (General Permitted Development) (England) Order 2015, or any instrument revoking or re-enacting that Order).
- 7) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified, shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that have first been submitted to and approved in writing by the local planning authority.

- 8) No construction work shall be carried out, no plant or power operated machinery used or deliveries of materials or plant shall occur other than between the following hours: 08:00 hours and 18:00 hours Monday to Friday, 08:00 hours and 13:00 hours on Saturdays and at no time on Sundays, Bank or Public Holidays.