



Appeal Decision

Site visit made on 21 January 2025

by **G Sibley MPLAN MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 March 2025

Appeal Ref: APP/A2470/W/24/3346137

Land adjacent to 1 Water Lane, Ashwell LE15 7LS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr M Evans against the decision of Rutland County Council.
 - The application Ref is 2024/0413/FUL.
 - The application sought planning permission for erection of no.1 self-build dwelling without complying with a condition attached to planning permission Ref 2023/0355/FUL, dated 10 November 2023.
 - The condition in dispute is No 2 which states that: The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbered P001 Ref F, P010 Rev C, P011 Rev C, P020 Rev C, P021 Rev C, CP022 Rev C, P030 Rev B, P031 Rev A, P032 Rev A.
 - The reason given for the condition is: For the avoidance of doubt and in the interest of proper planning.
-

Decision

1. The appeal is allowed and planning permission is granted for erection of no.1 self-build dwelling at land adjacent to 1 Water Lane, Ashwell LE15 7LS in accordance with the terms of the application, Ref 2024/0413/FUL, without compliance with condition number 2 previously imposed on planning permission Ref: 2023/0355/FUL, dated 10 November 2023 and subject to the conditions in the attached schedule.

Preliminary and Procedural Matters

2. Part of the appeal site is located within the Ashwell Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area.
3. The Council identified on the Appeal Questionnaire that the site was within an Area of Outstanding Natural Beauty, now known as National Landscapes. However, it later clarified that this was a mistake and confirmed that the site is not within a National Landscape. As such, I have not had regard to the purpose of conserving and enhancing the natural beauty of National Landscapes.
4. Since the determination of the application a revised National Planning Policy Framework (the Framework) was published in December 2024. The main parties have been consulted, so they can provide comments on its in relation to this appeal. I have therefore considered the development against the relevant parts of the revised Framework.

Background and Main Issue

5. The planning permission which is the subject of this appeal was granted for a self-build dwelling that included a detached garage and was subject to condition no 2 which listed the approved plans. The appellant is now seeking to make changes to the design of the proposed dwelling, including connecting the house and the garage as well as a single storey side addition.
6. Given the above, the main issue is whether condition no 2 is necessary in its current form, having regard to the effect of the proposal upon the significance of the Ashwell Conservation Area (CA), including its setting and linked to this the effect of the proposal upon the character and appearance of the area.

Reasons

Significance

7. Whilst most of the site is located outside of the CA, the Framework requires an assessment of a proposals effect upon the significance of a heritage asset and the significance derives not only from its physical presence but also from its setting.
8. The Ashwell Conservation Area Character Appraisal and Management Proposals (Appraisal) identifies that Ashwell is an example of a Victorian estate village. The dwellings on the east side of Water Lane are notable estate workers houses that were later additions to the village. These followed the principles followed by architect William Butterfield who designed and worked on buildings within the village, and this followed a style and layout based on the Domestic Revival style of traditional architecture with houses set within generously sized gardens. These are generally set behind frontage walls that are supported by trees and hedges which dominate the frontages. The view along Water Lane and the grass verges either side of it, including the brook is a distinctive feature of the area which reinforces the open, green and low density semi-rural character of the CA.
9. The Appraisal states that the older traditional buildings in the village are generally built from ironstone, often in coursed rubble form but with squared stone used for higher status buildings. The front elevation of traditional houses tend to have a simple, uncluttered appearance punctuated by relatively small window and door openings. As such, an important characteristic is the large proportion of solid masonry in relation to the size of openings, which reflect the limited size of timber lintels. More durable limestone was used for quoins, lintels and cills. Slate roofs were used on later dwellings in the CA, including dwellings on Water Lane. Prominent chimneys are also a common feature in the CA located either centrally in the roof or on the gable ends. The Appraisal notes that whilst dormer windows are not a common feature of traditional buildings in Ashwell, eaves level dormer windows are a feature of dwellings on Water Lane.
10. The appeal site is an open field located between existing dwellings and thus contributes positively towards the open, green and low density semi-rural character of the CA. Consequently, the appeal site makes a positive contribution towards the significance of the CA as a whole. The undeveloped appearance of the appeal site also makes a positive contribution to the setting of the CA and the contribution this makes towards the significance of the CA as a whole.

The effect of the proposal upon the heritage asset

11. The proposed dwelling has been designed to be similar to the older style of houses in the CA but proposes to use limestone rather than ironstone as the main surface material. This is proposed to be in irregularly sized squared stone which would be consistent with the older and higher status houses.
12. The proposed window openings on the front elevation would generally be quite small, except for a larger ground floor window on the right-hand side of the front door. However, these windows, alongside the timber framed door would create an uncluttered front elevation with a large amount of solid masonry. These windows would have natural stone lintels and cills and would be timber framed and this would generally reflect those used on dwellings in the CA. A single chimney would be erected on the gable end of the single storey side addition to the house. Whilst the chimney would not necessarily be prominent the scheme would incorporate a feature identified within the Appraisal as an attractive feature of dwellings in the CA.
13. The slate roof, whilst not necessarily common on these types of houses, would be consistent with others nearby on Water Lane and as such, the proposed material would be appropriate within this context. The proposed pitched slate roofed dormer windows would be similar in scale and design to others on Water Lane and particularly on the front elevation, the two would be spaced either side of the roof and even with the two small rooflights the scheme would have an uncluttered front roofslope. The detailed design of the house would use features that are sympathetic to other houses in the CA that make a positive contribution towards the significance of it.
14. The rear elevation would introduce a considerably sized two storey rear outrigger with a pitched roof. This would include large areas of glazing which would be contrary to the large proportion of solid masonry that forms part of the character of the CA. However, the other openings to the rear of the dwelling would retain large areas of solid masonry. Whilst a modern feature that would not necessarily complement the other older and more traditional features of the proposal, the siting of solar panels on the rear roofslope of the garage would be limited in scale and relatively well screened from many views within the CA. This would limit the modernising effect they would have upon the overall design of the scheme.
15. The houses in the area and particularly along this section of Water Lane are large, detached dwellings set behind large gardens and driveways with modestly sized gaps between them. These dwellings often have garages built to the side of them and these form part of the character of this street within the CA.
16. The proposed single storey garage would be a modestly sized double garage that would be covered by timber cladding and have a slate roof. Whilst the two buildings would be connected by a small link attachment, given the modest size of the garage, it would be subservient to the house and the timber cladding would contribute towards differentiating between the main dwelling and the garage. The single storey side addition would be built from similar materials to the house and the small scale of this addition, and the modest scale and the materials used for the proposed garage would reduce the appreciated bulk of the dwelling.
17. The two-storey rear outrigger would create a large dwelling at depth, but this would only be appreciated from limited views within the CA. Furthermore, the plan layout

of dwellings in the area varies considerably and as such, side, rear and front additions are not uncommon and can be of a considerable size. Consequently, the scale and siting of the rear outrigger would not appear out of character.

18. The proposed dwelling with dormers built into the eaves would be similar in height to other houses in the nearby area. Whilst 2 Water Lane is a bungalow the neighbouring Home Farm is taller than the proposed dwelling. The height of the proposed dwelling would show a stepped increase between these buildings either side of it.
19. Furthermore, the dwelling would be set behind a large garden and driveway bound by hedges and trees and would retain gaps between it and the boundaries of the site and would thus sit comfortably within the plot, similar to other houses in the CA. The development would also be sited between existing houses on Water Lane as well as development to the rear of it. As such, the siting of this scheme, in this location surrounded by development would be appropriate within this context. The modestly sized gaps retained around the dwelling would allow views of development around it and as a result of this, as well as the design of the dwelling and garage, the proposal would retain the low-density character of the area.
20. These features, as well as retaining the grass verge along Water Lane would retain the open and green features of the site that make a positive contribution towards the significance of the CA within the surrounding landscape. While the black estate railings would not be consistent with the frontage walls used elsewhere, the use of hedges and trees along the boundary would be and overall, the boundary of the site would generally be consistent with this feature of the CA. The sympathetic siting of the dwelling as well as the subservient scale and appearance of the garage, the proposed development would not appear significantly larger or more dominant than the surrounding dwellings in the CA.
21. The scale and siting of the scheme within a spaciouly sized plot bound by trees and hedges would be sympathetic to the open, green, low-density character of the CA and the uncluttered design of the house and the materials proposed are consistent with features that positively contribute towards the appearance of the CA. Overall, the development would use and retain features that positively contribute to the significance of the CA as a whole. Moreover, the sympathetic design and siting of the development would preserve the setting of the CA and the contribution this makes towards the significance of the CA as a whole.
22. For the reasons given above, I conclude that the condition in its current form is not necessary and the condition as proposed would not harm the significance of the CA or the contribution the setting makes towards its significance. Consequently, the proposal would preserve the character and appearance of the CA and would not harm the character and appearance of the area. As a result, the scheme would accord with Policies CS19 and CS22 of the Rutland Core Strategy and Policies SP15 and SP20 of the Site Allocations and Policies Development Plan Document. These seek, amongst other matters, to ensure developments preserve or enhance the character or appearance of conservation areas. The proposal would also generally accord with the National Design Guide which states that well designed places contribute towards local distinctiveness by, amongst other matters, adopting typical building forms, composition, articulation, proportions, features, materials, details, patterns and colours of an area.

Other Matters

23. Near to the appeal site is the Grade II listed Home Farm. Mindful of the statutory duty set out in S66(1) of the Act, I have had special regard to the desirability of preserving its setting. The significance of the building comes from its detailed architectural design. The setting of this heritage asset includes the surrounding buildings but given the location of the building towards the edge of the village this setting has a low density, semi-rural character and appearance.
24. Planning permission has already been granted for a dwelling in this location and whilst the proposed development would be larger, for the reasons given above it would preserve the character and appearance of the CA. Whilst the scheme would introduce a new dwelling within the setting of the heritage asset, in light of the scale, siting and design of the development it would retain the low density, semi-rural character and appearance of the listed building's setting. Consequently, it would preserve the setting of the listed building and the contribution this makes towards its significance. I note the Council had no concerns in this regard either.
25. The proposed dwelling would be angled to ensure the rear windows would not directly face the dwelling to the rear. Given the significant distance between the proposed windows in the rear and side elevations of the dwelling, including the large areas of glazing on the first floor of the building, and the nearby residential dwellings and gardens, the proposed development would not result in a significant loss of privacy for the nearby occupiers. Furthermore, a condition was imposed on the previous decision which would be reimposed, and this would ensure the first-floor window in the south facing elevation would be glazed with obscure glass. As a result, the scheme would not cause significant harm to the living conditions of neighbouring occupiers. I note that the Council came to a similar conclusion on this matter.
26. A condition was attached to the Council's Decision Notice to approve the original development which sought approval for a management and maintenance plan of surface water drainage for the site using sustainable drainage methods. This condition would be reimposed which could ensure the scheme would not increase the risk of flooding elsewhere. The Lead Local Flood Authority did not object to the application, subject to the suggested condition and based on the evidence before me I find no reason to conclude otherwise.
27. The proposed access arrangements would retain the grass verge along Water Lane and the Local Highways Authority did not object to the application subject to conditions which sought, amongst other matters, to ensure the visibility splay was maintained free of obstruction, the parking areas were kept available for parking and that any access gate opens inwards. Based on the information before me I see no reason to conclude differently. The scheme, subject to those conditions, would not have an unacceptable impact upon highway safety.
28. Whilst the scheme would make the proposal larger than what was approved, for the reasons given above, the development as proposed would preserve the character and appearance of the CA as well as not harm the character and appearance of the area.
29. Whether the garage is converted into a residential dwelling in the future is a matter outside of the remit of this appeal.

Conditions

30. In allowing this appeal, a new planning permission would be created. The Planning Practice Guidance advises that, for clarity, decision notices for the grant of planning permission under Section 73 of the Town and Country Planning Act 1990 (as amended) should restate the conditions imposed on earlier permissions that continue to have effect, unless they have been discharged.
31. Based on the information before me, the other conditions have not been discharged. As such, I shall impose all of those that I consider remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

32. For the reasons given above, I conclude that the appeal should be allowed, and a new planning permission is granted with the original condition no 2 replaced by a new condition that incorporates the amended plans and retaining and amending where necessary the non-disputed conditions from the previous permission that appear to still be relevant.

G Sibley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from 10 November 2023.
- 2) The development hereby permitted shall not be carried out except in complete accordance with the submitted plans, numbered P001 Rev G; P010 Rev E; P011 Rev D; P012 Rev D; P020 Rev D; P021 Rev D; P022 Rev D; P030 Rev C; P031 Rev B; and P032 Rev B.
- 3) No development above ground level shall be commenced until
 - a) precise details of the manufacturer and types and colours of the external facing materials,
 - b) roofing materials
 - c) rooflight details
 - d) description of the joints proposed
 - e) Details of the mortar mix, profile and finish
 - f) timber claddingto be used in construction have been submitted to and agreed, in writing, by the Local Planning Authority. Such materials as may be agreed shall be those used in the development.
- 4) The timber-built garage, timber detailing on the rear elevation of the dwelling and timber garage doors shall be clad in vertical timber panels and shall be allowed to weather naturally and not stained or painted.

- 5) No development above ground level shall be commenced until drawings to a scale of not less than 1: 50 fully detailing the new windows, rainwater goods, doors, and surrounds to be used and indicating precise details of the materials, manufacturer and types and colours shall be submitted to and approved in writing by the Local Planning Authority. The approved works shall be installed/carried out in accordance with the approved details.
- 6) No development above ground level shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority a scheme of hard and soft landscaping works for the site, which shall include any proposed changes in ground levels, boundary treatments and also accurately identify spread, girth and species of all existing trees, shrubs and hedgerows on the site and indicate any to be retained, together with measures for their protection which shall comply with the recommendations set out in the British Standards Institute publication "BS 5837: 2012 Trees in Relation to Construction."
- 7) All changes in ground levels, hard landscaping, planting, seeding or turfing shown on the approved landscaping details shall be carried out during the first planting and seeding season (October – March inclusive) following the commencement of the development or in such other phased arrangement as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of 5 years of being planted die are removed or seriously damaged or seriously diseased shall be replaced in the next planting season with others of similar size and species.
- 8) No development shall take place until the existing trees on the site, agreed with the Local Planning Authority shown to be retained on Drawing No P001 Rev G have been protected by the erection of temporary protective fences in accordance with BS5837:2012. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the trees to be protected. Within the areas agreed to be protected, the existing ground level shall be neither raised nor lowered, and no materials or temporary building or surplus soil shall be placed or stored there. If any trenches for services are required in the protected areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall be left unsevered.
- 9) A native hedgerows shall be planted on the inside of the estate fencing fronting Water Lane along front boundary shown on drawing No P001 Rev G using a mixture of locally native hedgerow species including Hawthorn (*Crataegus monogyna*), Field Maple (*Acer campestre*), Hazel (*Corylus avellana*), Dogwood (*Cornus sanguinea*), Blackthorn (*Prunus spinosa*), Dog Rose (*Rosa canina*) and Holly (*Ilex aquifolium*). The existing hedgerows shall be retained thereafter from first occupation of the new dwelling (at a height of no less than 1.6 metres).
- 10) Prior to commencement of the development, the access at its centre line shall be provided with a clear to ground visibility splay with dimensions of 2.4 metres by 43 metres to the southwest, as measured from and along the nearside edge of the carriageway. Such vehicular visibility splay shall be provided before the access is first used by any construction traffic and retained free of any obstruction at all times.

- 11) Development shall not commence until fully operational wheel cleaning equipment has been installed on the exit from the site and the area between the wheel wash and the public highway is hard surfaced in either concrete or tarmac and maintained free from mud, slurry or any other form of contamination whilst in use. All vehicles leaving the site shall pass through the wheel cleaning equipment which shall be sited to ensure that vehicles are able to leave the site and enter the public highway in a clean condition and free of debris which could fall onto the public highway. The wheel cleaning equipment shall be retained on site in full working order for the duration of the development.
- 12) Temporary facilities shall be provided clear of the public highway for the parking, turning, loading and unloading of all vehicles visiting the site during the construction period.
- 13) Car parking including garages and turning shall be provided in accordance with the approved layout plans prior to the first occupation of the dwelling. It shall thereafter be retained and not used for any other purpose other than the parking and turning of vehicles.
- 14) Any gates provided at the vehicular access shall be inward opening only and shall be set back a minimum of 6 metres from the back of the public highway.
- 15) No unbound material shall be used in the surface treatment of the vehicular access within 5 metres of the highway boundary, and the design shall ensure that no private surface water can flow on to the public highway.
- 16) No development above ground level shall take place until there has been submitted to and approved, in writing, by the Local Planning Authority Surfacing details to the driveway. Such materials as may be agreed shall be those used in the development.
- 17) No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.
- 18) No demolition/development shall take place/commence until a written scheme of investigation (WSI) 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 in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and;
 - ' The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
 - ' The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI
- 19) No development shall take place until a mitigation, compensation and enhancement strategy has been submitted to and approved in writing by the

LPA. As a minimum, this should detail the badger mitigation strategy (including a design of the artificial badger sett) as well as enhancement measures such as bird and bat boxes and native planting. Any measures need to be shown on all relevant submitted plans/elevations. All works are to proceed strictly in accordance with the approved scheme unless otherwise agreed in writing with the LPA.

- 20) There shall be no external lighting on the site, any external lighting required, either temporary lighting during buildings work, or permanent lighting post development, must be in line with the BCT lighting guidelines (Bats and Lighting in the UK (Bat Conservation Trust, 2018) (<https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificiallighting/>)). Full details of any proposed external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to the installation of any external lighting. To reduce the impact of lighting on bats, lighting should consist of LED light sources fitted with downward deflectors (i.e hoods, cowls, shields, louvres) at a low level, and, ideally, be on PIR sensors. No up-lighting should be used.
- 21) Notwithstanding the provisions of Article 3, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any Order revoking and re-enacting that Order with or without modification) the first-floor window in the south elevation of the new dwelling shall be glazed in obscure glass before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form.
- 22) Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A-E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and reenacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling, and no provision of buildings, enclosures, swimming or other pool, shall be erected or carried out except with prior planning permission.
- 23) The land forward of the estate railings along the western boundary of the site shown on drawing No P001 Rev G shall remain open and shall not at any time form part of the residential curtilage of the new dwelling.
- 24) The land to the rear of No 1 Water Lane and adjacent Oakham Road included in the application site area, identified for the location of an artificial badger set shown on the 'Proposed Site Location Plan' on drawing No P001 Rev G shall remain undeveloped and shall not at any time form part of the residential curtilage of the new dwelling.

End of Schedule