



Appeal Decision

Site visit made on 19 November 2024

by G Sibley MPLAN MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 April 2025

Appeal Ref: APP/V0510/W/24/3348099

22 Hawthorn Way, Burwell, Cambridgeshire CB25 0DQ

- 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 Ms Nicola Spensley against the decision of East Cambridgeshire District Council.
 - The application Ref is 24/00022/FUL.
 - The development proposed is erection of 1no. detached bungalow following the demolition of the existing attached garage and outbuilding.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 1no. detached bungalow following the demolition of the existing attached garage and outbuilding at 22 Hawthorn Way, Burwell, Cambridgeshire CB25 0DQ in accordance with the terms of the application, Ref 24/00022/FUL, subject to the conditions in the attached schedule.

Preliminary and Procedural Matters

2. I understand that the development falls within the 'Zone of Influence' (ZoI) of a number of sites covered by the Fenland Special Area of Conservation and Wicken Fen Ramsar Site. Whilst not forming part of the Council's reasons for refusal, as the competent authority I need to consider whether there would be adverse effects on the integrity of the habitats sites in accordance with The Conservation of Habitats and Species Regulations 2017.
3. Consultation was undertaken with Natural England during the consideration of this appeal once it had been noted that it had not had the opportunity to comment on the application in relation to the habitats sites. The main parties were then given the opportunity to comment on Natural England's consultation response and as a result.
4. Whilst not forming a reason for refusal, within the evidence submitted it was evident that matters related to the living conditions of the future occupiers of the proposed dwelling with regard to privacy had been raised by the Council. Taking into consideration the scheme proposed and the information submitted, I have elevated this to a main issue. However, given that the main parties had already commented on this matter in the submitted evidence it was not necessary to get additional comments related to this.
5. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. The main parties were given the opportunity to comment on the updates to the Framework and

where they have been received these comments have been taken into consideration.

Main Issues

6. The main issues relevant to this appeal are:

- the effect of the proposal upon the character and appearance of the area
- the effect of the proposal upon the living conditions of the future occupiers of the development with regard to privacy; and
- the effect of the proposal upon trees.

Reasons

Character and Appearance

7. The appeal site is located to the rear of No 22 Hawthorn Way (No 22) which is a semi-detached two storey dwelling with a hipped roof. Within the wider area there are a mix of two storey and single storey buildings that are generally semi-detached.
8. The semi-detached buildings are typically set back a similar distance from the road behind front gardens and driveways with modestly sized gaps between them. There are several roads that spur off Hawthorn Way including a number of cul-de-sacs. As a result, Hawthorn Way is surrounded by development on all sides and due to this, views of houses to the rear of other houses is not uncommon in the area. Additionally, because several tandem developments have been built nearby, it is also not uncommon for access roads to be located between buildings.
9. The proposed dwelling would be a single storey building with a hipped roof and would be similar in design to the bungalows near to the site. The building would be located to the rear of No 22 which has an unusually shaped garden and is generally larger than those nearby. The proposed access to the dwelling would use the existing driveway for No 22 but would then extend further into the garden.
10. As noted earlier several tandem developments appear to have taken place nearby. The building built to the rear of No 20 Hawthorn Way is relatively well screened by the host dwelling although there are glimpsed views of it and especially the roof and this is not uncommon along Hawthorn Way.
11. The pattern of development along Carter Road is similar in many respects to Hawthorn Way with an established building line but given the development around it, it is not unusual to see houses to the rear. Whilst the dwelling built to the rear of No 25 Carter Road is screened from most viewpoints, the roof of the building is visible from further afield, but this is not uncommon in this wider context.
12. The houses along Ness Road are generally larger than those along Hawthorn Way but there is an established building line, and several dwellings have been built to the rear of this behind the frontage houses much like the scheme before me.

13. Consequently, these developments, alongside others nearby, have established the presence of development at depth, like what is proposed, within the pattern of development for the area.
14. Given the location of the access road between No 22 and the neighbouring property there would be views of the house to the rear of No 22. A house in this location would not be consistent with the building line established along Hawthorn Way. However, a dwelling located to the rear of other houses would be consistent with other development nearby. Additionally, given the limited scale of the dwelling there would only be limited views of the building from further afield. Furthermore, there are several similarly located roads between houses in the area and as such the proposed access road would not be unusual in this context. This would also retain the modestly sized gap between No 22 and the neighbouring semi-detached dwellings.
15. The garden to be retained for No 22 as well as that for the proposed dwelling would not be substantially smaller than others in the area and given the layout of the development these areas would provide ample space for the normal day-to-day use by those living in either property. The space retained around each dwelling, including for parking, would be similar to other houses nearby, especially other development at depth like that proposed. This, alongside the limited scale of the proposed dwelling, would ensure the scheme would not overdevelop the site.
16. To the rear of the proposed property is a Public Right of Way (PRoW) and given the limited distance between the dwelling and the PRoW there would be views of the building from it. However, when walking along the PRoW the views of the flank walls of houses is common and there are buildings built much closer to the PRoW than what is proposed with some cases of them built along the boundary with it. As such, the sight of a building and associated boundary treatment in this location would not appear unusual when viewed from the PRoW. Additionally, the setback from the PRoW and the limited height of what is proposed would ensure the development would not appear overbearing when seen from the PRoW.
17. Therefore, for the reasons given above, the proposal would not harm the character or appearance of the area. Consequently, it would accord with Policies HOU2, ENV1 and ENV2 of the East Cambridgeshire Local Plan (LP). These seek, amongst other matters, to ensure the appropriate density of a scheme should take into account the existing character and the locality and the settlement, and housing densities within the surrounding area.

Living Conditions

18. The PRoW to the rear of the appeal site is bound by a low post and rail fence as well as loosely spaced trees and shrubs. The proposed dwelling would be sited a limited distance from the PRoW and given the low height of the boundary fence and the loose spacing of the trees and shrubs, those walking along it would be able to see into the bungalow as well as the associated garden.
19. A window is proposed on the flank wall of the house, facing the PRoW, that would serve a bedroom. This would be the only window that would serve this room. Given the limited distance between the PRoW and this window those walking along the PRoW would be able to see directly into this room. This

would lead to a loss of privacy for the occupiers of the development in a room where they are likely to spend a considerable amount of time where privacy would be expected. Additionally, those passing the site would be able to see directly into the garden which would be the occupier's main private outdoor space where privacy would be expected.

20. To overcome these potentially harmful effects on privacy, the appellant has suggested a condition to approve the boundary details. This could involve the erection of a fence similar to others along the PRow. Such boundary treatment could ensure that the privacy of the future occupiers is safeguarded. As such, this would overcome my concerns. Additionally, whilst the details of this fencing would have to be approved, the fencing suggested by the appellant is commonly used along the PRow and if such fencing was used it would appear consistent in this context.
21. Given the separation distance between the proposed window in bedroom one and plot boundary I am satisfied that a means of enclosure can be provided along the rear boundary to ensure that the privacy of future occupiers is safeguarded while an acceptable outlook within the room can be achieved.
22. Therefore, subject to suitably worded conditions, the living conditions of the occupiers of the proposed dwelling would not be harmed by this development. Consequently, the development would comply with Policies HOU2, ENV1 and ENV2 of the LP. These seek, amongst other matters, to ensure development does not have significantly detrimental effects upon the residential amenity of nearby occupiers and that occupiers and users of new buildings, especially dwellings, enjoy high standards of amenity.

Trees

23. An Arboricultural Impact Assessment (AIA) was submitted with the appeal following the Council's refusal. This identified that a total of 6 trees and 1 hedge are to be removed within the appeal site. These were assessed to be Category U trees which means that these were deemed to not warrant retention regardless of the development due to their age and health.
24. There are a number of additional trees and hedges around the site and a tree protection plan accompanied the AIA. The AIA identified other trees and hedges around the site that were found to be between Category B and C and were worthy of retention. The tree protection plan set out how these would be protected during construction, using protective fencing and exclusion areas, amongst other matters. Furthermore, the suggested condition to secure a soft landscaping scheme could secure further enhancements to the landscaping around the site.
25. The Council has referred to an appeal decision where the appeal was dismissed partly due to a lack of technical information regarding trees¹. However, technical information has been submitted in this case which has led me to come to a different conclusion on this matter.
26. Therefore, whilst several trees would be removed to make way for the scheme, they are of limited value due to concerns with the age and health of those trees. The retention and protection of the other trees and hedges around the site would be secured by the measures identified in the AIA and by

¹ APP/V0510/W/20/3261597

condition. Consequently, the development would accord with Policies EN1 and ENV7 of the LP. These require developments, amongst other matters, to protect the biodiversity and geological value of land and buildings and minimise harm to or loss of environmental features, such as trees and hedgerows.

Other Matters

27. The development falls within the ZoI for a number of habitats sites including the Devil's Dyke Site of Special Scientific Interest (SSSI), the Fenland Special Area of Conservation (SAC) and the Wicken Fen Ramsar Site. These habitats sites contain species rich habitats, including peat fenland, for a wide variety of vegetation, insect and bird communities, amongst other matters.
28. Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. The Council also came to a similar conclusion.
29. Taking into consideration the evidence before me, in light of the location, nature and limited scale of the development and the nature of the receiving environment, even when considered in combination with other developments, the proposal would not be of a scale and nature likely to result in significant adverse impacts on the identified sites.
30. Therefore, I concur with the conclusions of Natural England and the Council that the proposal would not undermine the conservation objectives of the identified habitats sites, and an appropriate assessment is not required. As such, the proposal accords with the policies within the Framework that seek to protect areas of particular importance relating to habitats sites.
31. Comments were received regarding the location of the house near to an existing sewage drain system. However, the engineer for the Shaffham Internal Drainage Board did not object to the application. Furthermore, it has not been robustly evidenced that vehicles passing over the site would cause unacceptable damage to the below ground pipework. Even if this did occur over time, no concerns were identified by the Board regarding the location of the house and based on the information before me I see no reason to conclude otherwise.
32. The proposed dwelling would be located a considerable distance from the neighbouring properties and would be a single storey building. These factors, alongside the existing and proposed boundary treatment would ensure that the privacy of the occupiers of the surrounding houses would not be significantly harmed.
33. The proposed driveway would be located near to the flank wall of the neighbouring property and there are several windows within that building that face towards the driveway. Cars and other vehicles would pass along the side and rear of this house which would lead some additional activity through noise and vehicle lights being directed towards that property. However, given the limited scale of the proposal the number of vehicular trips is likely to be very limited. Additionally, the location and height of the existing boundary fence would block most light from vehicles from causing significant disturbances to the neighbouring occupants. Given the slow speeds that vehicles would likely be travelling at past the house the noise disturbance would not be significant.

Overall, the location of the proposed driveway would not cause harm to the living conditions of the neighbouring occupiers.

34. Reference has been made to nesting birds that use the trees that are proposed to be removed, as well as those around the site. The proposal would result in the loss of trees and hedges that potentially provide habitats or at the very least foraging opportunities for nearby birds. However, the scheme includes mitigation measures to ensure the trees which are of more value than those to be removed are protected during construction. Additionally, a condition for soft landscaping could include opportunities to secure new planting to support the local bird population. So long as works are not undertaken during the nesting season, the development should not lead to significant harm to nesting birds.

Conditions

35. I have taken into consideration the conditions suggested by the Council and the appellant. Having had regard to the requirements of the Framework and the Planning Practice Guidance I have imposed those conditions I consider meet the relevant tests, subject to minor amendments to ensure precision and brevity without changing their overall intent.
36. Further to the statutory commencement condition [1] a condition requiring the development is carried out in accordance with the submitted plans is necessary in the interest of certainty [2].
37. A condition requiring the submission of a foul and surface water drainage scheme is necessary in the interest of ensuring the development does not lead to the increase of flood risk elsewhere [3]. It is necessary for this condition to be pre-commencement to avoid works being undertaken that may affect the delivery of the matters to be approved.
38. Given that an Arboricultural Impact Assessment and tree protection plan has already been submitted conditions requiring they are submitted are not necessary. However, a condition requiring the protective measures set out in the submitted tree protection plan are undertaken before works commence is necessary in the interest of protecting the trees to be retained. It is necessary for this condition to be pre-commencement to ensure trees are protected before works that could affect them commences [4].
39. A condition requiring the external materials are approved is necessary in the interest of the character and appearance of the area [5]. For similar reasons a condition requiring the soft landscape works are approved is also necessary [9].
40. A condition requiring the approval of boundary treatment is necessary in the interest of the living conditions of the occupiers of the proposed development [6]. Similarly, a condition setting out construction and delivery times is necessary in the interest of the neighbouring occupiers living conditions given the location of the site within the rear garden of a dwelling in a predominantly residential area [11].
41. It is necessary in the interest of ecology to include a condition requiring biodiversity enhancements [7].
42. In the interest of highway safety conditions requiring the vehicular access is properly surfaced and that visibility splays are provided is necessary [8 & 10].

Conclusion

43. For the reasons given above, the development complies with the development plan and the material considerations do not indicate that a decision should be made other than in accordance with it. Therefore, I conclude, that the appeal should be allowed.

G Sibley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawings: Proposed Block and Location Plan 23/07/210 Rev A; Proposed Floor Plan and Elevations 23-007-211; and Wastewater Plan.
- 3) No development shall take place until a scheme to dispose of Foul and Surface Water has been submitted to and approved in writing by the local planning authority. The scheme(s) approved by this condition shall be implemented prior to the occupation of the dwelling.
- 4) No site clearance, preparatory work or development shall take place until the scheme for the protection of the retained trees has been implemented in accordance with the Scheme of Tree Protection set out in the Arboricultural Impact Assessment undertaken by Skilled Ecology Consultancy Ltd, dated 19 June 2024. Within the root protection areas, the existing ground level shall be neither raised nor lowered and no materials, temporary buildings, plant machinery or surplus soil shall be placed or stored thereon. If any trenches for services are required within the fenced areas, they shall be excavated and backfilled by hand and any tree roots encountered with a diameter of 25 millimetres or more shall be left unsevered.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
- 5) No above ground works shall take place until details of the external materials, to be used in the development hereby approved have been submitted to and approved in writing by the local planning authority. All works shall be carried out in accordance with the approved details.
- 6) Before the development is first occupied details of the boundary treatments shall be submitted to and approved in writing by the local planning authority. The boundary treatments shall be in situ in accordance with the approved details prior to the occupation of the dwelling and retained as such thereafter.
- 7) Before the development is first occupied, a scheme of biodiversity improvements shall be submitted to and approved in writing by the local planning authority. The biodiversity improvements approved shall be installed prior to the first occupation of the hereby approved development and retained as such thereafter.

- 8) Before the development is first occupied, the vehicular access from the nearside footway edge shall be constructed to include the provisions of a metalled/sealed surface for a minimum length of 5 metres from the existing carriageway and retained as such thereafter.
- 9) Before the development is first occupied, a full schedule of all soft landscape works shall be submitted to and approved in writing by the local planning authority. The schedule shall include, planting plans, a written specification; schedules of plants noting species, plant sizes, proposed numbers/densities; and a detailed implementation programme. It shall also include all existing trees and hedgerows on the land and details of any to be retained. The works shall be carried out in accordance with the approved details prior to the end of the first planting season following occupation of the development. If within a period of five years from the date of the planting, or replacement planting, any tree or plant (including retained tree(s)/hedgerow(s)) is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place.

In this condition "retained tree/hedgerow" means an existing tree or hedgerow which is to be retained in accordance with the approved plans and particulars.
- 10) Before the development is first occupied, visibility splays of 2 metres x 2 metres shall be provided each side of the vehicular access measured from and along the back of the footway. Such splays shall thereafter be maintained free from obstruction exceeding 0.6 metres above the level of the footway.
- 11) Construction times and deliveries, with the exception of fit-out, shall be limited to the following hours: 0730 to 1800 each day Monday – Friday, 0730 to 1300 Saturdays and none on Sundays, Bank Holidays and Public Holidays.

End of Schedule