
Appeal Decision

Site visit made on 13 March 2025

by **H Marriott MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd April 2025

Appeal Ref: APP/D0515/W/24/3352330

Land to the rear of 149 Stonald Road, Whittlesey, Cambridgeshire PE7 1QP

- 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 and Mrs D King against the decision of Fenland District Council.
 - The application Ref is F/YR24/0075/F.
 - The development proposed is described as 'erection of new dwelling to rear and replacement access'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The address in the banner heading is taken from the appeal form rather than the application form as this more accurately reflects the location of the appeal site.
3. The Council granted outline planning permission for a dwelling on the appeal site in 2005, with subsequent reserved matters consent in 2008 (Council refs: F/YR05/0849/0 and F/YR08/0861/RM). Plans of the approved dwelling have not been provided. Even so, there is no dispute between the main parties that this permission is no longer extant.
4. A revised National Planning Policy Framework (the Framework) was published in December 2024. In this instance, the policies of the Framework most relevant to the appeal are unaffected by the revisions. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by this.

Main Issues

5. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and
 - the living conditions of the occupiers of 17 Irving Burgess Close (No 17), with particular regard to privacy.

Reasons

Character and appearance

6. The appeal site is located to the rear of 149 Stonald Road (No 149) adjacent to Childers Street. Childers Street is a gently curving residential cul-de-sac leading off Stonald Road. The rear of detached dwellings located on Irving Burgess Close and

Stonald Road are visible from Childers Street. Childers Street is fronted primarily by two-storey semi-detached dwellings set behind small front gardens, many with single storey front projections containing their front door with garages to their side. Their external surfaces primarily comprise buff brick and tiled roofs. Whilst there have been some physical alterations including extensions to some of the dwellings, Childers Street has a cohesive character and appearance, informed by the consistent materials, plot rhythm and regular gaps between buildings.

7. The appeal site currently forms part of the garden of No 149. It is located adjacent to the head of the cul-de-sac along Childers Street adjacent to the footway and enclosed to the street by shrub planting and a fence/wall. The open and undeveloped nature of the appeal site provides a wide gap between existing dwellings.
8. The proposed dwelling would front Childers Street sufficient spacing between the existing dwellings and the proposed dwelling would be retained. The built footprint and resulting plot size would be similar to the footprint and size of some of the surrounding plots, including No 149 and 17 Irving Burgess Close. Whilst it would be higher and wider with a larger porch than many of the dwellings on Childers Street, these differences would not be overly discernible given its end of cul-de-sac location and orientation that is visually distinct to the dwellings either side. These factors combined with the use of materials similar to those used on other dwellings on Childers Street would ensure that the proposed development would not be overly prominent or incongruous in the street scene.
9. I conclude that the proposed development would not result in a harmful effect on the character and appearance of the area. In this regard, it would comply with Policy LP16 of the Fenland Local Plan (2014) (FLP) and Policy 7 of the Whittlesey Neighbourhood Plan 2021 – 2040 (2023) (WNP) insofar as they require new development to achieve high design quality and to create visual richness through building types, height, layout, scale, form and massing.

Living conditions

10. The windows in the front elevation of 26 Childers Street (No 26) offer partial views towards the rear elevation and garden of No 17. The level of privacy afforded to the occupiers of No 17 is therefore already partly compromised as a result.
11. The appeal site shares a boundary with the rear and side garden of No 17. On this basis, it would have a much closer relationship with No 17 compared to No 26.
12. There is some dispute between the main parties regarding the measurement of the height of the proposed dwelling and its separation distance to No 17. Irrespective of the precise height and distance, from my own observations on site and the plans provided including diagrams of a 45-degree angle, lines of sight from the first-floor habitable room windows in the front elevation of the proposed dwelling towards windows in the rear elevation and rear garden of No 17 would be achievable.
13. Even though there would be no windows in the side gable of the proposed dwelling, the limited separation distance combined with the position of the windows in proposed dwelling, close to the shared boundary with No 17 would result in a harmful loss of privacy to the occupiers of No 17. Whilst a degree of overlooking can often occur in residential areas, the resulting loss of privacy would be materially more harmful to the occupiers of No 17 than the existing levels.

14. It has been suggested that alternative solutions to the types of windows could reduce overlooking concerns. However, no alternative drawings are before me and I am obliged to determine the appeal proposal based on the plans considered by the Council when it made its decision.
15. I conclude that the proposed development would result in a harmful effect on the living conditions of the occupiers of No 17, with particular regard to privacy. In this regard, it would conflict with Policy LP16 of the FLP and Policy 7 of the WNP insofar as they require that development does not adversely impact on the amenity of neighbouring users including by avoiding loss of privacy. The proposed development would also conflict with Paragraph 135 of the Framework which requires planning decisions to create places with a high standard of amenity for existing and future users.

Other Matters

16. Benefits would be derived from the provision of a self-building dwelling of a new eco-friendly passive style house that would enable the appellant to downsize. 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. Even if it did, given the scale of the development, this and any other benefits associated with the delivery of one dwelling would be limited and would not justify the conflict with the requirements of the development plan.
17. The appellant states the Council has failed to apply any local or national set guidance on separation distances including within a design guide. Even if guidance distances were set out, this would be unlikely to justify the site-specific harm identified.
18. Matters relating to light and garden sizes are not in dispute. In this context, the acceptability of these factors also do not justify the harm identified.
19. The main parties have both referred to new dwellings approved in the wider area (Council refs: F/YR22/0982/F, F/YR24/0056/F and F/YR23/0287/F). They are on streets further away and there is nothing to suggest these sites share the same characteristics or relationship with neighbouring dwellings compared to the appeal proposal. These examples do not therefore alter my conclusions with respect to each of the main issues.
20. The appellant has made representations relating to the Council's handling of the planning application despite submitting a 3D model, sun shadow analysis and surface water drainage strategy to address concerns raised by them. They also indicate that the appeal proposal sought to address the problems associated with a previously refused application, for a dwelling on the appeal site in 2023 (Council ref: F/YR23/0133/F). Typographical errors within the Council's report and decision are also noted. However, the Council's quality control procedure is not a matter for me in deciding this appeal and whilst I have not been provided with plans of the previously refused application, my decision is based on the merits of the appeal proposal, the most relevant local and national planning policy and my own planning judgement.

Conclusion

21. 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