
Appeal Decision

Site visit made on 7 June 2016

by Roy Merrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 July 2016

Appeal Ref: APP/D0515/W/16/3146008

Land north of 3 to 5 Bridge Lane, Wimblington, Cambridgeshire PE15 0RR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Keith and Douglas Clark against the decision of Fenland District Council.
 - The application Ref F/YR15/0798/O, dated 25 August 2015, was refused by notice dated 16 November 2015.
 - The development proposed is residential development (of up to 10 dwellings) to include formation of improved vehicular access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all details reserved for subsequent approval.
3. The appellant has provided a signed and dated Unilateral Undertaking (UU) which makes provision for contributions to affordable housing and open space. The UU commits to making no fewer than 25% of the units completed on the site affordable dwellings. It also proposes a contribution to open space provision of £35,200. This matter is considered later in my decision.

Main Issues

4. The main issues are i) whether the proposal would result in a sustainable pattern of development including the effect of the development on the character and appearance of the area and ii) whether a planning obligation for contributions to affordable housing and open space provision would be justified.

Reasons

Sustainable Pattern

5. Recent residential schemes have resulted in the continuity of frontage development along March Road and the north side of Bridge Lane, a single lane track without an adjacent footpath. However, residential development along Bridge Lane is primarily focussed on the north side and despite the aforementioned recent schemes, the road remains significantly separated by open agricultural fields from the main core of Wimblington Village to the south.
-

6. The dwellings on Bridge Lane are characterised by relatively large scale individual designs. However they are within spacious plots and tend to feature mature front boundary planting, which combined with the open green surroundings and the single lane road, give the locality an informal rural character.
7. The Council states that the site forms an important visual gap but does not specifically say where they consider this gap can be recognised from. From the information before me and my visit it is clear that the appeal site covers a substantial area. However, situated to the rear of dwellings on Bridge Lane and with very tall boundary conifer planting to the north and west, it is largely hidden from public viewpoints. Whilst the site would be visible via the proposed enlarged access point from Bridge Lane, views into the site at that point would tend to be fleeting. I do not therefore agree with the Council that the development would lead to the loss of an important visual gap.
8. However, there is no dispute between the parties that in order to make the development acceptable in highway safety terms it would be necessary to widen Bridge Lane between the site entrance and the junction with March Road in order to incorporate a section of footway designed for shared use. Whilst I recognise the highway safety benefits of such a measure, I consider that widening Bridge Lane by some two metres would have an urbanising and engineered effect on the appearance of the lane which would erode its informal and rural character. In addition the demolition of No 5 Bridge Lane to allow for the development of a widened and formalised junction with a new road leading into the site would be at odds with the predominantly frontage development character of Bridge Lane and would further exacerbate the aforementioned harm.
9. Wimblington is defined in Policy LP3 of the Fenland Local Plan 2014 (LP) as a Growth Village. Policy LP12 supports the principle of new development in such locations subject to a range of criteria including that the site should be within or adjacent to the existing development footprint. The policy goes on to define the development footprint as the continuous built form of the settlement which amongst other things excludes groups of dispersed buildings clearly detached from that continuous built up area.
10. From my visit it was clear that the appeal site is not located within or adjacent to the quite separate development footprint of the village further to the south. Rather it is adjacent to the dispersed, albeit continuous, grouping of dwellings along Bridge Lane and March Road. This location is outside the villages specifically identified in the Council's settlement hierarchy and within an area where development is strictly controlled. The proposal would not comprise one of the exceptional forms of development that might be appropriate in such areas and accordingly would further unacceptably consolidate ribbon development there.
11. I note that the site is located approximately half a mile from the centre of the village where certain facilities are available including a shop, school and church. There is a footpath link with street lighting along March Road and it would be possible to walk or cycle there without significant difficulty for most people.
12. However to gain access to a full range of services it would be necessary for residents to visit a larger settlement such as March further to the north. Whilst

the site is relatively close to bus stops I have not been provided with information on the current timescale or frequency of any services. I do not have any evidence to persuade me that residents would not generally be dependent on a private car in order to conveniently reach a full range of day to day services. Furthermore, separated from the development footprint of the village the appeal site would be that much more peripheral to any new service provision that might in future take place within or adjoining the settlement in accordance with Wimblington's Growth Village status.

13. Taken together with the visual impact concerns raised above I do not therefore consider this to be an appropriate location to secure sustainable development, a matter which is central to national planning policy as set out in the National Planning Policy Framework (the Framework), and to which I must therefore give considerable weight.
14. Taking the aforementioned considerations into account, I conclude that the proposal would conflict with Policies LP3, LP12 and LP16 of the LP insofar as they seek new development to accord with a settlement hierarchy, contribute to the sustainability of settlements and contribute to and protect local distinctiveness and the appearance of the surrounding countryside.
15. The appellant has made a number of points in support of the proposal relating to the planning history of the site. It would result in the clearance of a small number of large but functional structures relating to the previous use of the site as a haulage yard. Whilst the proposal would alleviate its somewhat unkempt appearance, the site including existing disused buildings are, however, generally well screened or separated from residential and public viewpoints and do not cause significant harm to the appearance of the area. I therefore attach limited weight to this point.
16. I acknowledge that one of the core principles of the Framework is to encourage the re-use of previously developed land provided that it is not of high environmental value. The proposal would secure this objective and the remediation of any contamination on the site and as such should be afforded weight. However it is important to consider this in the context of my findings that the proposal would be in conflict with the Council's development plan and would not focus development in a sustainable location as promoted by national policy.
17. The appellant goes on to state that a haulage use could be lawfully resurrected on the site. From the limited information I have been given I am not in a position to verify this claim. However, notwithstanding this, it appears that the site has not been utilised in this way for long period of time, around ten years. Furthermore the narrow means of access along Bridge Lane and proximity of adjacent noise sensitive residential properties with the risk this would pose of complaints being generated about noise and disturbance would not necessarily be conducive to the smooth running of such an operation. Accordingly it is reasonable to conclude that such factors are likely to form a significant deterrent to potential commercial users. I have not been presented with any information to indicate that there has been recent commercial interest in the site. Accordingly I attach limited weight to these considerations.
18. It is also suggested by the appellant that the previous decisions by the Council to permit the infill residential development at the two locations near the junction of Bridge Lane and March Road should count in favour of the proposal.

It is undisputed that these decisions were taken before the adoption of the LP and therefore before the policies therein would have carried full weight, although I acknowledge that in relation to the site at Land South of 42 March Road the Committee found the site to be in a sustainable location. Whilst I attach some weight to these considerations they do not however outweigh the negative findings I have made above in relation to the current proposal which I have assessed on its own merits.

19. References have also been made to the Council's superseded 1993 Local Plan. The appellant has referred to an inset map showing the road frontage to Bridge Lane being included within the village development area boundary. However, this no longer forms part of the Council's development plan and accordingly the inset map cannot be given any significant weight. Whilst I have dealt with the current appeal on its own merits, I have had regard to the recently dismissed appeal decision (Ref App D0515/W/15/3003345) in relation to land further to the north. My finding that the proposal would consolidate ribbon development along Bridge Lane is consistent with the Inspector in that case who found that the two groups of dwellings on Bridge Lane and March Road were separate to the main village and can best be described as an outlier of ribbon development.
20. I acknowledge that the proposal would add to the supply of housing in the locality. Whilst national policy states that it is the Government's objective to boost significantly the supply of housing, I have not been presented with evidence that the Council cannot demonstrate a five year supply of deliverable housing sites. I acknowledge that there would be up to 10 new dwellings provided which I accord some weight to, however this does not outweigh the harm that I have identified above.
21. In balancing the above considerations I conclude that the proposal would not result in a sustainable pattern of development including harm caused to the character and appearance of the area.

Planning Obligation

22. The Council states that the provision of affordable housing is one of the key aims of the LP and seeks a high proportion of all new developments to be affordable.
23. However the Government's Planning Practice Guidance (PPG) confirms that following the order of the Court of Appeal dated 13 May 2016 giving legal effect to the policy set out in a Written Ministerial Statement of 28 November 2014, there are specific circumstances where contributions for affordable housing should not be sought from small scale development¹. These circumstances include developments of 10-units or less and which have a maximum combined gross floorspace of no more than 1000 sqm, though a lower threshold may be applied in designated rural areas.
24. The Council's Policy LP5 of the LP seeks contributions to affordable housing on sites of five dwellings or more. I have no information to confirm the appeal site is within a designated rural area. This Policy is not therefore consistent with current national policy and accordingly should not be regarded as up to date insofar as it relates to affordable housing contributions from small scale development.

¹ Paragraph: 031 Reference ID: 23b-031-20160519

25. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CILR) states that a planning obligation may only constitute a reason for granting planning permission for the development where it meets three tests. The tests, which are restated in paragraph 204 of the Framework are as follows:
- Necessary to make the development acceptable in planning terms;
 - Directly related to the development; and
 - Fairly and reasonably related in scale and kind to the development.
26. In light of national policy and the lack of evidence at this stage about the scale of the proposed units and therefore whether they would have a combined gross floorspace in excess of the threshold specified above, a planning obligation to secure affordable housing would neither be necessary nor fairly and reasonably related in scale to the development.
27. Although the Council has not disputed the content of the UU, I therefore consider the principle of securing affordable housing from the scheme would not meet the relevant Regulation 122 and Framework tests and is not therefore justifiable. Whilst the UU would accord with the quantitative requirements of Policy LP5 of the LP assuming the maximum number of dwellings proposed are built, it would be in conflict with current national planning policy which states that affordable housing contributions should not be sought from small scale developments and to which I must give substantial weight.
28. With regard to open space provision Policy LP13 of the LP states that new development should be supported by appropriate infrastructure to which developers are expected to contribute. The CILR require that for infrastructure that is capable of being delivered through the Community Infrastructure Levy, which would include open space, contributions may be pooled from up to five separate planning obligations for a specific item of infrastructure. Policy LP13 does not specifically recognise the aforementioned pooling restrictions and accordingly is not in keeping with the CILR in this respect.
29. In terms of amount, I have not been provided with the Council's Developer Contributions Supplementary Planning Document to determine whether the level of contribution is in keeping with the Council's policy. Moreover, it is unclear from the information before me how the Council propose to use the open space contribution and whether it would fall within the five obligations threshold. I am therefore unable to conclude whether the contribution would accord with the CILR.
30. Pulling together the above considerations I conclude that a planning obligation to provide affordable housing and open space has not been justified. I have therefore not taken it into account in my decision.

Conclusion

31. For the aforementioned reasons and having regard to all other matters raised, the appeal is dismissed.

Roy Merrett

INSPECTOR