
Appeal Decision

Site visit made on 5 January 2016

by Anne Napier BA(Hons) MRTPI AIEMA

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

Decision date: 02/02/2016

Appeal Ref: APP/W0530/W/15/3135579

Land at 14 Brook Street, Elsworth, Cambridgeshire CB23 4HX

- 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 M & S Cihan against the decision of South Cambridgeshire District Council.
 - The application Ref S/1279/15/OL, dated 22 May 2015, was refused by notice dated 15 September 2015.
 - The development proposed is construction of 6 x 3-4 bedroom (open market) houses and 4 x 2 bedroom (affordable) houses with open space and new access.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The planning application that is the subject of this appeal was submitted in outline with all matters reserved. A site layout plan and plans and elevation drawings of the proposed dwellings accompanied the application. From the evidence before me, including the application and appeal documents and the Council's officer report on the application, I am satisfied that the appellant intended these details to be indicative and the Council determined the planning application on that basis. I shall do the same with regards to the appeal.

Main Issues

3. The appeal site is located within the Elsworth Conservation Area, relatively close to a number of grade II listed buildings and within sight of the grade I listed parish church. These are designated heritage assets. Tree Preservation Orders (TPOs) also exist in respect of the site. I am mindful of my statutory and other duties in these regards.
4. The main issues in this appeal are the effect of the proposal on:
 - The character and appearance of the area and the local landscape, with particular regard to whether or not it would preserve or enhance the character or appearance of the Conservation Area, preserve the setting of nearby listed buildings, and its impact on trees;
 - Protected species; and
 - Flood risk.

Reasons

Character and appearance

5. Elsworth is a relatively sizeable village, with a significant number of older properties, interspersed with more modern development. The Conservation Area covers much of the historic core of the village and is predominantly residential in character, although it also includes a number of other uses. Having regard to the comments of Historic England¹, I consider that the significance of the Conservation Area is largely derived from this mix of uses, its concentration and variety of historic buildings, its loose informal pattern of development and its setting within the local landscape, with the subtle balance of historic buildings and landscape contributing to this significance. From the evidence available to me, including the listing descriptions, I consider that, overall, the significance of the nearby listed buildings primarily relates to their age, form and fabric, as well as particular architectural features. In addition, their respective locations within the village and their settings, including the relationship of the buildings to each other and the spaces around them, are important elements that contribute to their significance and that of the Conservation Area.
6. The appeal site currently comprises a relatively flat area of open pasture land, located to the edge of the settlement. It occupies a prominent position adjacent to one of the main approaches to the village and views across the site are available to the elevated church and the other buildings nearby, including some listed buildings, as well as views of the local countryside beyond the village. Due to the location of the site, its current undeveloped form, close proximity to a number of listed buildings and its relationship to the remainder of the settlement, I consider that it makes an important contribution to the overall character and appearance of the Conservation Area and the setting of those listed buildings. Furthermore, due to the surrounding topography, it also provides important contextual views of the parish church and the village within the wider rural landscape.
7. The indicative details of the proposal suggest that only part of the site would be developed, with a significant area of undeveloped meadow land proposed to remain to the north, which would enable some views to the church and other buildings nearby to be retained. In addition, the retention of the existing boundary hedgerows is proposed, which would reduce the impact of the built development within the landscape, and this would be enhanced by further planting, with areas of orchard, allotments and play space separating the proposed development from properties neighbouring the site, as referred to within the appellants' heritage statement. Nonetheless, the development of the appeal site as proposed would result in a substantial change to its character and appearance.
8. Whilst access is a reserved matter, the indicative layout shows an access from Brockley Road and there is nothing before me to suggest that an alternative means of access is proposed or would be feasible. Having regard to the comments of the highway authority, the removal of the existing hedgerow along the site frontage adjacent to Brockley Road, which has been designated as an Important Countryside Frontage within the development plan, may be necessary to provide adequate visibility for the access to the site. Even if this

¹ Historic England, dated 9 July 2015

- proves not to be the case, the partial removal of this hedge would be required to form the access from this road, which would result in a significant change in the rural character of this approach to the village.
9. As a result of this impact, the proposal would have a detrimental effect on the local streetscene. Furthermore, due to the importance of the site and its relationship with the remainder of the village, a development of ten dwellings on the site as proposed would result in harm to the local visual qualities and character of the area. Even if the dwellings were less than two-storey in scale, and notwithstanding the planting and meadow proposed, the extent of development envisaged on this sensitive site would detrimentally change wider views of the church and the historic core of the village, would significantly erode the important balance of historic built form and landscape within the Conservation Area, and would be materially harmful to the setting of the village within the surrounding rural landscape.
 10. In addition, notwithstanding the indicative layout and areas of separation proposed, including the proposed allotments and orchard planting, the appeal scheme would have a significant impact on views of and from the listed buildings adjacent to the site, particularly No's 20, 24 and 28 Brook Street. Even taking into account the extent of the existing gardens serving those properties, a development of the scale proposed would separate, physically and visually, these buildings from the open agricultural land adjacent to them and thus materially diminish their historic landscape context. As such, I consider that the proposal would also be materially harmful to the setting and significance of those listed buildings.
 11. The indicative formal layout proposed would exacerbate this harm and would fail to relate positively to the informal pattern of development within the remainder of the village. However, as layout does not form part of the scheme before me in this appeal, this particular matter does not count against the proposal. However, there is nothing before me that leads me to consider that the harm identified above could be adequately addressed by an alternative layout or detailed matters of design, scale, appearance or landscaping.
 12. The Council has also raised concerns about the potential impact of the scheme on TPO trees on the site. However, the appellants contend that the trees to which these TPOs relate no longer exist. There is no substantive evidence before me to dispute this and no such trees were drawn to my attention during my visit to the site. In addition, whilst the site has been identified as being within an area of high archaeological potential, the specialist consultation advice provided to the Council in this respect indicates that this is a matter that would be able to be appropriately addressed by condition. As such, in this particular case and having regard to the outline nature of the scheme, I consider that neither of these matters would be reasons to find against the proposal.
 13. Nonetheless, overall and for the above reasons, I conclude that the proposal would result in considerable harm to the locality, as it would not preserve the setting and significance of nearby listed buildings, or the character and appearance of the Conservation Area, and it would have a significant adverse impact on the setting of the village within the surrounding rural landscape. It would be contrary to the *South Cambridgeshire Local Development Framework Development Control Policies Development Plan Document 2007 (DPD) Policies*

- NE/4, CH/4, CH/5 and CH/7, which collectively seek to protect local character and appearance, including in relation to the historic environment, landscape and the countryside.
14. Whilst the proposal would be harmful to the significance of these heritage assets, it would affect one site within a much larger Conservation Area and would not result in the loss of any listed buildings, or any features of particular special interest. As such, whilst material, I consider this harm would be less than substantial. Paragraph 134 of the National Planning Policy Framework (the Framework) requires that, in the case of designated heritage assets, the harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.
 15. The main public benefits resulting from the scheme would be the provision of ten new dwellings, in a location that is within easy reach of some local services and facilities. The proposal would add to the local housing stock and mix of dwellings within the area, and it is intended that it would include provision for four affordable dwellings. During construction and after occupation, the proposal would also be likely to result in benefits to the local economy, by providing support for local services and facilities. It would also provide an area of publicly accessible open space within the scheme, which would be managed by the future occupiers of the proposal and result in further benefits to the wider local community. It is also intended that the development would be energy efficient and meet exemplary construction standards. It is not a matter of dispute that the Council cannot demonstrate a five year supply of deliverable housing land. In these circumstances and given the general encouragement in the Framework for such development, I give these benefits significant weight.
 16. Paragraph 132 of the Framework advises that great weight should be given to the conservation of a heritage asset in considering the impact of a proposal on its significance. In addition, paragraph 131 of the Framework refers to the desirability of new development making a positive contribution to local character and distinctiveness. For the above reasons, I consider that the development would not make such a contribution and, as such, whilst the use of the site as proposed may be viable, it would not represent its optimum use.
 17. For these reasons, I conclude that the benefits of the proposal would not be sufficient to outweigh the harm identified to the significance of the heritage assets. As a result, the proposal would not meet the aims of paragraph 17 of the Framework, to take account of the different roles and character of different areas and conserve heritage assets in a manner appropriate to their significance.

Protected species

18. Survey details submitted with the application indicate that the proposal is unlikely to affect great crested newts. However, as part of the application process and following local concerns, the Council's Ecology Officer carried out an inspection of the site and concluded that it contained clear evidence of badger setts and activity, together with some potential for use by bats. There is little substantive evidence before me to dispute these findings and I saw what appeared to be evidence of a badger sett during my visit to the site. As such, I consider that there is a reasonable likelihood of protected species being present on the site.

19. The evidence before me regarding the potential impacts of the proposal in this regard is limited, and a survey report and mitigation plan have not been provided in support of the appeal scheme. As a result, although the application is in outline and development is not proposed across the whole of the site, I consider that there is an unacceptable risk that, in particular, any badgers on or using the site may be adversely affected by the proposal. Furthermore, having regard to the guidance within Circular 06/2005 in this respect, I consider that this is not a matter that would be appropriate to address by condition.
20. Accordingly, I conclude that it has not been adequately demonstrated that the proposal would not have an adverse effect on protected species and, as a result, it would result in a real risk of unacceptable harm in this respect. It would be contrary to DPD Policy NE/6, which seeks to protect biodiversity, including in respect of protected species. It would also not meet the aims of paragraph 118 of the Framework, to conserve and enhance biodiversity, including by avoiding significant harm resulting from development.

Flood risk

21. The Council considers that further detailed site specific information is required to enable an adequate assessment of the proposal in respect of the potential risk of surface water flooding, in particular in relation to infiltration rates and the storage volumes required to provide appropriate on-site attenuation. Given the surface water strategy submitted in support of the application, the appellant has suggested that this matter could be adequately addressed as part of any detailed design of the scheme. Whilst I have had regard to the submitted drainage strategy, the details provided in this respect are relatively limited.
22. Taking into account the objection to the submitted strategy from the Lead Local Flood Authority² and the sensitive nature of the site, in particular its elevated position relative to neighbouring land and properties, I consider that the details submitted are not sufficient to demonstrate that the proposal would not increase the risk of flooding elsewhere. Moreover, a detailed assessment of flood risk, including the potential for mitigation, may result in a finding that this issue, on its own, is sufficient to find against the proposal. As such, I am not satisfied that it would be appropriate to delay the assessment of this important matter.
23. Accordingly, I conclude that the absence of a sufficiently detailed surface water drainage strategy is a matter that also counts against the scheme and find the proposal has an unacceptable potential for harm in this respect. It would not be in accordance with DPD Policy DP/3, where it seeks to avoid unacceptable adverse impacts on flooding and flood risk. It would also not meet the aims of paragraph 103 of the Framework, to ensure development does not increase flood risk elsewhere and, in areas at risk of flooding, to only consider development appropriate where informed by a site specific flood risk assessment, which demonstrates that the risk and potential impacts of flooding would be safely managed.

² Cambridgeshire County Council, Flood and Water Management Team, dated 3 July 2015

Other matters

24. It is not a matter of contention that the Council cannot demonstrate a five-year supply of deliverable housing land and the Council accepts that its relevant policies for the supply of housing should be considered out-of-date. As such, although the site is located outside the identified settlement boundary for the village, I am mindful of paragraphs 47-49 and 14 of the Framework in this respect, including the aim to boost significantly the supply of housing.
25. I have found above that there are matters that weigh in favour of the proposal and contribute towards the aim of achieving sustainable development. However, paragraphs 6-9 of the Framework indicate that 'sustainability' should not be interpreted narrowly. Elements of sustainable development cannot be undertaken in isolation but should be sought jointly and simultaneously. Sustainable development also includes 'seeking positive improvements in the quality of the built, historic and natural environment as well as in people's quality of life'.
26. For the reasons given, I conclude that the harm identified to the setting and significance of the heritage assets and the character and appearance of the area and the surrounding landscape, together with the potential harm to protected species and in respect of flood risk, would significantly and demonstrably outweigh the collective benefits of the proposal when assessed against the policies in the Framework taken as a whole. The proposal would not, therefore, meet the overarching aims of the Framework to achieve sustainable development and I find that its contribution to the supply of housing would not be a compelling reason to allow this appeal.
27. The Council has also indicated that the proposal should make provision for local infrastructure and facilities, including in relation to matters such as education and open space. Local concerns have also been raised in respect of a number of issues, including the effect of the proposal on the living conditions of neighbouring occupiers, highway safety, traffic generation and light pollution. However, given my findings above, it is not necessary for me to consider these matters in detail, as they would not lead me to alter my conclusions above.
28. Reference has been made to policies and proposed designations of the Council's emerging Local Plan. However, I understand that this document has not completed the development plan process and some elements have been subject to objection. As such, its contents have the potential to change, which considerably limits the weight that I give to it. Nonetheless, from the details available to me, none of these policies or proposals would lead me to change my findings above.

Conclusion

29. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Anne Napier

INSPECTOR