

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

6 December 2017

AUTHOR/S: Joint Director for Planning and Economic Development

Application Number: S/3184/17/FL

Parish(es): Linton

Proposal: Erection of 6 market dwellings and 3 affordable housing dwellings following demolition of existing dwelling

Site address: 1 Horseheath Road

Applicant(s): Domus CB3 Developments LLP

Recommendation: Refusal

Key material considerations: Principle of Development
Density
Housing Mix
Affordable Housing
Developer Contributions
Character and Appearance of the Area
Biodiversity
Trees/ Landscaping
Highway Safety
Flood Risk
Neighbour Amenity

Committee Site Visit: Yes

Departure Application: No

Presenting Officer: Karen Pell-Coggins, Senior Planning Officer

Application brought to Committee because: Request from the Local Member

Date by which decision due: 8 December 2017 (Extension of Time agreed)

Planning History

S/0623/16/OL - Outline application for Demolition of the existing dwelling and erection of 7 dwellings - Approved

S/2019/15/OL - Demolition of the existing dwelling and erection of 9 dwellings – Refused

The proposal would result in overdevelopment of the site by virtue of the applicant's failure to demonstrate that nine dwellings would not result in harm to the amenity of adjoining neighbouring properties. The proposal would therefore be contrary to

Policies DP/2 and DP/3 of the South Cambridgeshire Local Development Framework Core Strategy DPD 2007 that states a new development should preserve or enhance the character of the local area and planning permission will not be granted where the proposed development would have an unacceptable adverse impact on residential amenity.

S/2504/14/OL - Demolition of the existing dwelling and erection of 9 dwellings - Withdrawn

S/2112/07/F - Erection of 10 Sheltered Retirement Homes – Withdrawn

S/1395/86/F - Removal of agricultural occupancy condition (1953)- Approved

Environmental Impact Assessment

The application does not fall under Schedule 1 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 and would not exceed the criteria in section 10b of Schedule 2 of the regulations. The application does not therefore require the submission of an Environmental Impact Assessment.

National Guidance

National Planning Policy Framework 2012
National Planning Practice Guidance

Development Plan Policies

South Cambridgeshire Local Development Framework Core Strategy DPD 2007

ST/2 Housing Provision
ST/5 Minor Rural Centres

South Cambridgeshire Local Development Framework Development Control Policies DPD 2007

DP/1 Sustainable Development
DP/2 Design of New Development
DP/3 Development Criteria
DP/4 Infrastructure and New Developments
DP/7 Development Frameworks
HG/1 Housing Density
HG/2 Housing Mix
HG/3 Affordable Housing
NE/6 Biodiversity
NE/11 Flood Risk
SF/10 Outdoor Playspace, Informal Open Space, and New Developments
SF/11 Open Space Standards
TR/1 Planning For More Sustainable Travel
TR/2 Car and Cycle Parking Standards

South Cambridgeshire LDF Supplementary Planning Documents (SPD):

Open Space in New Developments SPD - Adopted January 2009
Biodiversity SPD - Adopted July 2009
Trees & Development Sites SPD - Adopted January 2009
Landscape in New Developments SPD - Adopted March 2010
Affordable Housing SPD - Adopted March 2010
District Design Guide SPD - Adopted March 2010

RECAP Waste Management Design Guide 2012

South Cambridgeshire Local Plan Submission - March 2014

S/3 Presumption in Favour of Sustainable Development

S/5 Provision of New Jobs and Homes

S/7 Development Frameworks

S/9 Minor Rural Centres

HQ/1 Design Principles

H/7 Housing Density

H/8 Housing Mix

H/9 Affordable Housing

NH/4 Biodiversity

CC/9 Managing Flood Risk

SC/6 Indoor Community Facilities

SC/7 Outdoor Playspace, Informal Open Space, and New Developments

SC/8 Open Space Standards

TI/2 Planning for Sustainable Travel

TI/3 Parking Provision

TI/8 Infrastructure and New Developments

Consultation

Linton Parish Council – Recommends regretful refusal and requests that the application is referred to the Planning Committee. Has the following comments: -
“The agent for the developer, Mr Anderson was in attendance and requested to speak regarding the application prior to the Parish Council's consideration of the application, this was permitted by the Chairman.

Mr Anderson advised that the new application addressed a lot of the issues that were originally raised on this application by the parish Council and continued that the original application submitted was for seven dwellings under a previous developer. Mr Anderson's clients have since bought the land and reviewed this following a meeting with the parish Council, in which the demographic needs of the village were raised. As a result, the new application is for nine dwellings, to allow for the inclusion of affordable houses and three bungalows.

Mr Anderson also advised that they have also addressed the concerns regarding overlooking as the upper levels facing parsonage Way will all have opaque windows or raised sills and Plot 6 facing Kinsey Place will have no windows on the upper level facing this road to prevent any concern of overlooking.

Council were advised that there had been some adjustments to the some of the designs and floor plans, the maps of which have recently been submitted to SCDC which will be available to the Parish Council shortly to allow them to view in more detail.

A resident also requested to speak on this item advising that she resides on Parsonage Way and is one of the houses with the closest proximity to the development.

She thanked the developers for taking into account the overlooking and for attempting to address this however advised that plots 1 to 3 fall within 25ft of their property boundary and as a result this meant that her property would be overlooking the proposed plots from the first floor bedroom.

She continued that the other area of amenity to cover is noise and the visual aspects, stating that six of the two-storey building being built where only one property previously sat would remove all privacy from her garden. It was also brought to the Council's attention that the road was not wide enough for bin collection vehicles nor fire engines, as the turning point was less than 90 metres, of which the resident advised was in breach of building controls section B5, subsection 11 of the building controls policy document.

Mr Anderson responded that the properties would be fit with independent sprinkler systems which negated this as a concern or issue.

Linton Parish Council noted that this was prime infill development site close to amenities, however the right development was needed. They also thanked both the agent and developer for attending the meeting with the Parish council to discuss the application and noted that they were pleased many of their comments were taken on board. The Council were pleased to see more bungalows as this was a demographic requirement. However, there were concerns that access to bin collect points being so far away negated this focus. There were now concerns of overdevelopment due to the addition of three bungalows increasing the application from the approved seven to nine and this also created concerns regarding the close proximity of the proposed bungalows to the trees with TPO's on them. Concerns were also raised regarding the protection of the boundary hedge with Horseheath Road. The overlooking of the children's playground at the Cathodean Centre had been addressed but concerns remain for neighbours at Parsonage Way.

Local Highways Authority – Requires conditions in relation to vehicular visibility splays as shown on the block plan, the driveway constructed so that it falls and levels are such that no private water drains on to the public highway, the driveway to be constructed from bound material, the removal of permitted development rights for new accesses to Plots 7, 8 and 9 on to Horseheath Road, a traffic management plan during works and the submission of a letter to state that the site will not be presented for adoption now or in the future. Suggests an informative with regards to works to the public highway.

Trees and Landscapes Officer – Has no objection in principle. Comments that there are three protected trees on or adjacent to the site, a Cedar, Pine and Beech. These trees are important within the landscape and appear in good health and structural condition. There is no indication in the application that there are any works recommended to the trees to facilitate development or for general maintenance. Ideally the location of the protective fencing would have been indicated on a plan. There are some concerns over future grading of the site and no grading should occur within the RPA of any of the trees. There is also a question over the need for a retaining wall. The Beech tree will become larger with age and domineering over the corner unit's garden and the Cedar has branches to the ground that are substantial and in close proximity to adjacent properties. The Council will take a dim view of any tree works for overhang, encroachment, light restriction, height and leaf fall. Requires a condition in relation to a detailed Arboricultural Method Statement and Tree Protection Strategy if a retaining wall is built within the RPA of the Pine tree.

Landscape Design Officer – Has no objections in principle to development on the site but comments that the present layout is overdeveloped. Plots 7, 8 and 9 would be visible and uncharacteristic with the existing street frontage along Horseheath Road due to their close proximity to the southern site boundary, Plots 1 and 6 would be too close to the existing site boundaries and Plots 7, 8 and 9 would have small gardens that would be in shade due to retention of the boundary hedge.

Environmental Health Officer – Requests conditions in relation to hours of use of site machinery and plant, noisy works and construction related deliveries, pile driven foundations and burning of waste. Suggests an informative with regards to noise and disturbance to neighbours.

Contaminated Land Officer – Comments that there are no immediately evident environmental constraints that would require an investigation into contamination. However, given the sensitive end use, a condition is suggested in relation to contamination found on site during works.

Drainage Officer – Has no objections subject to conditions in relation to surface water and foul drainage.

Representations

One letter of representation has been received from the occupiers of **No. 24 Parsonage Way**. Concerns are raised with regards to the previous refusal and that the current proposal demonstrates that there would be harm to the amenities of their property as five of the nine dwellings would fall within 25 metres (between 17 and 23 metres window to window and closer physically). There are also concerns that the ground floor dining room windows to Plots 1 to 3 fall within 25 metres of their first floor bedroom windows and that the first floor windows to Plots 1 to 5 fall within 25 metres of the their ground floor windows and although frosted and high level can still be opened. Further concerns are that two-storey buildings would be intimidating as they would be between 7.5 and 14.75 metres of the southern boundary to the garden and will lead to overshadowing and the noise from six properties in such close proximity. They are pleased to note the Landscape Comments that state the present layout is overdeveloped but comment that there not enough space to turn a fire tender or refuse truck on the development.

Site and Surroundings

The site is located within the Linton village framework. It measures 0.3 of a hectare in area and currently comprises a detached, two storey dwelling set within a large plot in an elevated position above Horseheath Road. There is a Cedar tree and Pine tree along the front (southern) boundary of the site and a Beech tree close to the rear (northern) boundary that are protected by Tree Preservation Orders. The site is situated within flood zone 1 (low risk).

Modern housing developments are situated to the north and west of the site. A mix of dwellings is situated on the southern side of Horseheath Road. The Cathodean centre is situated to the west.

Proposal

The proposal seeks permission for the erection of nine dwellings following demolition of the existing dwelling. Three dwellings would be affordable to meet local needs. The remaining six dwellings would be available for sale on the open market. The affordable housing mix proposed is 3 x one bedroom bungalows. The market mix proposed is 1 x two bedroom house, 4 x three bedroom houses and 1 x four bedroom house.

There would be a single access point (5 metres width) to Horseheath Road to the west of the site adjacent the access to the Cathodean Centre. The road would run

northwards along the eastern boundary and then turn eastwards.

The two-storey detached dwellings would be sited on the northern part of the site and would have a maximum height of 7.9 metres. The single storey detached and semi-detached bungalows would be sited on the southern part of the site closer to Horseheath Road and have a maximum ridge height of 4.9 metres. The designs of the two-storey dwellings would incorporate gables and the bungalows would have hipped roof forms. The materials of construction are likely to be brick, render and boarded walls with slate roofs.

Each two-storey dwelling would have two parking spaces and each bungalow would have one parking space. One visitor parking space has been provided adjacent to the bungalows.

The Cedar, Pine and Beech trees subject to the Tree Preservation Orders would be retained and protected. A small 5 metres section of the hedge along Horseheath Road would be lost as a result of the access but the remainder would be retained and protected.

Planning Assessment

The key issues to consider in the determination of this application relate to the principle of development, density, housing mix, affordable housing, developer contributions, and the impacts of the development upon the character and appearance of the area, biodiversity, trees/landscaping, highway safety, flood risk and the amenities of neighbours.

The previous outline application on the site for nine dwellings under reference S/2019/15/OL was refused permission. The indicative layout plan was very similar to the layout shown on the current layout plan.

Principle of Development

The site is in the village framework of a Minor Rural Centre where there is a good range of services and facilities and residential developments of up to 30 dwellings are supported in policy terms.

The demolition of the existing dwelling and the erection of nine dwellings is therefore supported in principle.

The existing dwelling is not of any significant architectural or historic merit and there are no objections in principle to its demolition.

The development of the site for residential purposes has been established through planning permission granted for 7 dwellings under reference S/0623/16/OL.

The proposal would therefore comply with Policy ST/5 of the LDF.

Housing Density

The site measures approximately 0.28 of a hectare in area. The proposed scheme of 9 dwellings would equate to a density of 32 dwellings per hectare. Whilst this would not meet the requirement of 40 dwellings per hectare in more sustainable locations, it is considered acceptable given the constraints of the site such as the protected trees.

The proposal would therefore accord with Policy HG/1 of the LDF.

Affordable Housing

The provision of three affordable dwellings to meet local needs within a development with a net increase of 8 dwellings would represent 40% of the net increase in the number of dwellings. A Registered Provider (CHS Group) has submitted a letter that demonstrates their intention to purchase the units subject to certain provisos.

The proposal would therefore comply with Policy HG/3 of the LDF.

Housing Mix

Six dwellings would be available on the open market. The mix would consist of one x 2 bed dwelling, four x 3 bed dwellings and 1 x four bed dwelling. This mix would not comply with Policy HG/2 of the LDF that seeks a greater proportion of small units of accommodation in developments of up to 10 dwellings. However, it would provide a greater mix of dwellings sizes that would be more closely related to the emerging housing mix policy that states that developments of up to 10 dwellings should reflect local circumstances and can be given some weight due to the status of the plan and the lack of objections.

The proposal would therefore comply with Policy H/8 of the emerging Local Plan.

Developer Contributions

Planning permission will only be granted for proposals that have made suitable arrangements towards the provision of infrastructure necessary to make the scheme acceptable in planning terms.

Regulation 122 of the CIL Regulations states that a planning obligation may only constitute a reason for granting planning permission for the development of the obligation is: -

- i) Necessary to make the development acceptable in planning terms;
- ii) directly related to the development; and,
- iii) fairly and reasonably related in scale and kind to the development.

Notwithstanding the above and in this case, the need for contributions towards open space, community facilities and waste receptacles are not considered necessary to make the development acceptable in planning terms given its small scale as the Written Ministerial Statement WMS) dated 28 November 2014 that states contributions should not be sought from developments of 10-units or less, and which have a maximum combined gross floor space of no more than 1000sqm is a material consideration in the decision making process that would justify departure from local policy.

Whilst the proposal would not therefore accord with Policies DP/4, SF/10 and SF/11 of the LDF and Policy SC/6 of the emerging Local Plan, it would accord with the WMS.

Character and Appearance of the Area

The northern side of Horseheath Road originally had a lower density of housing with single detached dwellings set within large plots. However, the character has gradually changed over the years and now comprises fairly high density, in-depth, modern

housing developments.

The proposed siting and of the single storey dwellings on the front section of the site close to Horseheath Road would project forward of dwellings in Kinsey Place to the east and the Cathodean Centre to the west. Although Plot 7 is considered acceptable as it would be well screened by the existing hedge and the protected trees, the dwellings on Plots 8 and 9 as a result of the elevated levels, orientation and position adjacent the access that has less screening would be unduly prominent cramped form of development at the entrance to the site.

The proposed siting of the two-storey dwellings on the rear portion of the site would be satisfactory and reflect the character and spacing of dwellings in Parsonage Way.

The proposed form and design of the dwellings are considered satisfactory and would be in keeping with the character and appearance of the area that comprises a mix of different styles of dwellings. The dwelling on Plot 1 would have a greater height and design that would create a key focal point to the development along the access from Horseheath Road.

Whilst it is noted that a greater variety of housetypes would be preferable as four of the dwellings have the same design, this would not warrant refusal of the application.

The external materials of construction for the development would replicate those found in the surrounding area. A condition would be attached to any consent to agree the precise details.

The garden areas of the dwellings would comply with the advice set out in the District Design Guide.

Although it would be preferable if the parking spaces to Plots 1 and 6 were better located within the development away views, they are not considered unacceptable.

Whilst the bin collection point would be located over 30 metres away from some plots, this is considered reasonable as it needs to be within 25 metres of Horseheath Road for collection by the refuse vehicle. The position shown is considered the most appropriate location and would not warrant refusal of the application given that distances are a guide only.

Given the above concerns in relation to the siting of the dwellings, the proposal would not accord with Policy DP/2 of the LDF.

Trees/ Landscaping

The site comprises Cedar and Pine trees close to the southern boundary that are protected by a Tree Preservation Order and a hedge along the southern boundary with Horseheath Road. There is also a Beech tree outside of the site but close to the northern boundary that is protected by a Tree Preservation Order.

The proposal would result in the retention and protection of these important landscape features that contribute to the visual amenity of the area. Although the buildings would not encroach into the Root Protection Areas of the trees, some works such as the road, hard surfaces, potential grading works and retaining walls are shown to encroach into the edge of the Root Protection Areas. Whilst the hard surfaces are acceptable as they would be of limited depth construction, a condition is required to be attached to any consent agree a detailed Arboricultural Method Statement and

Tree Protection Strategy in relation to the Pine tree due to the road, grading works and retaining wall. In addition, a condition is required in relation to the installation of the tree protection measures in accordance with the strategy prior to the commencement of any development, retained through the construction of the development and removed upon completion.

The proposal would therefore comply with Policy NE/6 of the LDF.

Biodiversity

The existing existing dwelling on the site has been subject to an initial survey and evening emergence surveys to determine whether it provides a wildlife habitat for bats or birds.

Some droppings of long eared bats were found within the roofspace of the house that confirms the building is used by bats. However, no bats were found inside the building. Recordings and observations of Common Pipistrelle bats, Serotine bats and Brown long eared bats were made during the evening emergence survey but these were not considered to have emerged from the house and were likely to have been roosting elsewhere off site.

It is considered that the existing dwelling is used as a day roosting site and/or a night roosting site by Brown Long eared bats. The demolition of the dwelling may result in the disturbance of bats and the loss of a roosting site. Therefore, appropriate bat mitigation and compensation measures are required to ensure that the proposal would not result in the loss of any important wildlife habitats.

The report recommends that a bat license is obtained as bats are protected by law. In addition, immediately prior to the demolition of the building, a licensed ecologist must inspect the roof space of the building for the presence of bats. A soft demolition should take place with a licensed ecologist present. The new development should provide replacement bat roosting sites by leaving small gaps under ridge or hip tiles on the new buildings and through the incorporation of bat boxes to the buildings.

A starling nest was found within the south east end of the existing dwelling and several shrubs and trees on the site were noted as suitable nesting habitats.

The report recommends that to avoid disturbance to nesting birds, a check should be made for the presence of any nesting birds. If these are found, the demolition of the dwelling and any works to remove vegetation should not be carried out during the bird nesting season March to August (inclusive).

The new development should incorporate bird boxes to compensate for the loss of the existing nesting site.

The mitigation of the lost habitats and ecological enhancement measures would be subject to a condition of any consent.

The development would therefore comply with Policy NE/6 of the LDF.

Highway Safety and Parking

The proposal would result in an increase in traffic generation. However, this is not considered adversely affect the capacity and functioning of the public highway and be detrimental to highway safety.

The design of the access is acceptable and would accord with Local Highways Authority standards in terms of its width and visibility splays.

Conditions would be attached to any consent to ensure that the access is constructed from bound material, falls away from the highway and has adequate vehicular visibility splays to ensure that it would Local Highway Authority standards.

The development is not considered to obstruct the visibility splay for vehicles that exit the access to the car park as this is mainly on highway land.

A condition is not considered necessary in relation to the adoption of the road as this is a highway matter.

There is not a requirement for refuse vehicles to turn on site as a bin collection point has been provided close to Horseheath Road so they do not have to enter the development.

The dwellings would have sprinkler systems so a fire appliance would not need to enter the site. However, if required, it could access the development as the road can accommodate the vehicles and would only need to reverse on to the highway in an emergency.

Two parking spaces would be provided for each of the market dwellings and one parking space would be provided for each affordable dwelling. One visitor parking space would be provided. This would result in a total of 16 parking spaces for 9 dwellings. This is considered satisfactory as the District Council's parking standards require an average of 1.5 spaces per dwelling and 0.25 visitor spaces per dwellings.

One secure and undercover cycle parking space within a garden shed would be provided for each dwelling in accordance with the cycle parking standards.

The proposal is therefore considered to comply with Policies DP/3 and TR/2 of the LDF.

Flood Risk

The site is situated within Flood Zone 1 (low risk). The scheme proposes discharge of surface water via infiltration methods such as soakaways and an acco drain. This is considered acceptable and would not increase the risk of flooding to the site and surrounding area providing a condition is attached to any consent to agree precise details.

The development would therefore accord with Policy NE/11 of the LDF.

Neighbour Amenity

The development is considered to adversely affect the amenities of occupiers of the proposed dwellings through a significant loss of privacy. However, it is not considered to seriously harm the amenities of occupiers of the existing dwellings through an unduly overbearing mass, through a significant loss of light or overshadowing, through overlooking leading to a loss of privacy or through an unacceptable increase in the level of noise and disturbance.

The first floor windows in the rear elevation of the new dwellings on Plots 1, 2, 3, 4

and 5 serving bathrooms would not result in overlooking to the dwelling and garden of the neighbour at No. 24 Parsonage Way as a condition would be attached to any consent to ensure that they are obscure glazed and fixed shut. The first floor windows in the rear elevation of the dwellings on Plots 2, 3, 4 and 5 serving the bedroom/study would not result in a loss of privacy to the garden or dwelling of that property as it would be high level with a sill height of 1.75 metres.

The first floor bedroom windows in the side elevation of the dwelling on Plot 1 are not considered to result in overlooking of the children's play area at the Cathodean Centre given the distance of at least 20 metres and separation by a road and screening.

The first floor windows in the side elevations of the dwellings on Plots 1, 2, 3, 4 and 5 and 6 are not considered to result in overlooking as they serve non-habitable rooms as a condition would be attached to any consent to ensure that they are obscure glazed.

The development is not considered to result in an unduly overbearing mass or loss of light to the existing dwelling or garden at No. 24 Parsonage Way as although orientated to the south, the dwellings would be situated at least 10.5 metres off the boundary and 17 metres from the nearest windows. This relationship is, on balance, considered satisfactory.

The development is not considered to adversely affect the amenities of the neighbour at No. 33 Parsonage Way as this property has no windows in its south side elevation, and the windows to Plot 6 would be set 10.5 metres off the boundary and the garden would be screened by a protected tree.

The development is not considered to adversely affect the amenities of the neighbour at No. 4 Kinsey Place as this property has a roof light serving a non-habitable room in its west elevation and its garden is to the south away from the dwelling.

The development would not result in an unacceptable increase in the level of noise and disturbance that would seriously harm the amenities of neighbours as the gardens would remain close to the boundary as per the existing situation. A condition would be attached to any consent to control the hours of use of power operated machinery, noisy works and construction related deliveries to safeguard the amenities of neighbours.

However, the existing dwelling at No. 24 Parsonage Way is considered to result in overlooking and a loss of privacy to the gardens of the new dwellings on Plots 1 and 2. The first floor bedroom window and second floor bedroom and family room roof lights in the rear (south) elevation would be situated just 9 metres from the rear part of the garden and 20 metres from the main sitting out area to the rear of the dwelling. This relationship was the same as on the indicative plan of the previously refused application and is not considered acceptable.

The first floor window and roof light in the side elevations of No. 24 Parsonage Way would not result in a loss of privacy given the oblique angle of view of the window and high level of the roof light.

Notwithstanding the above, the existing protected trees close to the southern boundary of the site are considered to seriously harm the amenities of the future occupiers of the dwellings on Plots 7 and 8 through being visually dominant when viewed from their rear gardens.

The proposal would therefore contravene Policy DP/3 of the LDF.

Other Matters

A condition would be attached to any consent in to secure remediation for any contamination found on site during the development.

A condition would be attached to any consent in relation to foul drainage to ensure that an appropriate method is agreed.

Housing Land Supply

The National Planning Policy Framework (2012) (NPPF) requires councils to boost significantly the supply of housing and to identify and maintain a five-year housing land supply with an additional buffer as set out in paragraph 47.

The Council accepts that it cannot currently demonstrate a five year housing land supply in the district as required by the NPPF, having a 4.1 year supply based on the methodology used by the Inspector in the Waterbeach appeals in 2014. This shortfall is based on an objectively assessed housing need of 19,500 homes for the period 2011 to 2031 (as identified in the Strategic Housing Market Assessment 2013 and updated by the latest assessment of housing delivery (in the housing trajectory March 2017). In these circumstances any adopted or emerging policy which can be considered to restrict the supply of housing land is considered 'out of date' in respect of paragraph 49 of the NPPF.

Unless circumstances change, those conclusions should inform, in particular, the Council's approach to paragraph 49 of the NPPF, which states that adopted policies "for the supply of housing" cannot be considered up to date where there is not a five year housing land supply. The affected policies, on the basis of the legal interpretation of "policies for the supply of housing which applied at the time of the Waterbeach decision, were: Core Strategy DPD policies ST/2 and ST/5 and Development Control Policies DPD policy DP/7 (relating to village frameworks and indicative limits on the scale of development in villages).

Further guidance as to which policies should be considered as 'relevant policies for the supply of housing' emerged from a Court of Appeal decision (Richborough v Cheshire East and Suffolk Coastal DC v Hopkins Homes). The Court defined 'relevant policies for the supply of housing' widely and held that the term was so not to be restricted to 'merely policies in the Development Plan that provide positively for the delivery of new housing in terms of numbers and distribution or the allocation of sites,' but also to include, 'plan policies whose effect is to influence the supply of housing by restricting the locations where new housing may be developed.' Therefore all policies in the Council's development plan which have the potential to restrict or affect housing supply were to be considered out of date in respect of the NPPF. The decision of the Court of Appeal tended to confirm the approach taken by the Inspector who determined the Waterbeach appeal. As such, as a result of the decision of the Court of Appeal, policies including policy ST/5 of the Core Strategy and policies DP/1(a) and DP7 of the Development Control Policies DPD fell to be considered as "relevant policies for the supply of housing" for the purposes of NPPF para.49 and therefore "out of date".

However, the decision of the Court of Appeal has since been overturned by the Supreme Court, in its judgement dated 10 May 2017. The principal consequence of the decision of the Supreme Court is to narrow the range of policies which fall to be

considered as “relevant policies for the supply of housing” for the purposes of the NPPF. The term “relevant policies for the supply of housing” has been held by the Supreme Court to be limited to “housing supply policies” rather than more being interpreted more broadly so as to include any policies which “affect” the supply of housing, as was held in substance by the Court of Appeal.

The effect of the Supreme Court’s judgement is that policies ST/5, DP/1(a) and DP/7 are no longer to be considered as “relevant policies for the supply of housing”. They are therefore not “out of date” by reason of paragraph 49 of the NPPF. None of these adopted policies are “housing supply policies” nor are they policies by which “acceptable housing sites are to be identified”. Rather, together, these policies seek to direct development to sustainable locations. The various dimensions of sustainable development are set out in the Framework at para. 7. It is considered that policies ST/5, DP/1(a) and DP/7, and their objective, individually and collectively, of securing locational sustainability, accord with and further the social and environmental dimensions of sustainable development, and accord therefore with the Framework.

However, given that the Council cannot demonstrate currently a five year housing land supply, its “housing supply policies” remain out of date (albeit “housing supply policies” do not now include policies ST/5, DP/1(a) or DP/7). As such, and in accordance with the decision of the Supreme Court, para. 14 of the NPPF is engaged and planning permission for housing development should be granted, inter alia, “unless an adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of [the] Framework taken as a whole ...”.

Balance

Given the Council’s lack of a 5 year housing land supply, the benefits of the development need to be weighed against the adverse impacts of the development.

The development is considered to have the following benefits: -

- i) The provision of eight dwellings towards the need for housing in the district including three affordable dwellings.
- ii) The provision of an adequate scale of development in a sustainable location in the village framework.
- iii) The provision of some employment during the construction of the development.
- iv) The contribution of the occupiers of the dwellings towards local services and facilities.

The development is considered to have the following adverse impacts: -

- i) Harm to the character and appearance of the area as a result of the layout of the development.
- ii) Adverse impact upon the amenities of the occupiers of the proposed dwellings on Plots 1 and 2 through a loss of privacy to their gardens from the existing dwelling at No. 24 Parsonage Way.
- iii) Adverse impact upon the amenities of the occupiers of the proposed dwellings on Plots 7 and 8 from the protected Cedar and Pine trees close to the southern boundary of the site visually dominating their gardens.

In this case, the impact upon the character and appearance of the area and the amenities of the future occupiers of the dwellings are afforded substantial weight with the provision of eight dwellings including three affordable dwellings given some weight. Therefore, the adverse impacts are considered to significantly and demonstrably outweigh the benefits.

Conclusion

Having regard to applicable national and local planning policies, and having taken all relevant material considerations into account, it is considered that planning permission should not be granted in this instance.

Recommendation

Refusal for the following reasons:

1. The proposed development by virtue of the siting of Plots 7 and 8 in close proximity to Horseheath Road, is considered to result in an unduly prominent cramped form of development at the entrance to the site that would harm the character and appearance of the area. The proposal is therefore contrary to Policy DP/2 of the South Cambridgeshire Local Development Framework Development Control Policies DPD 2007 that states all new development must be of high quality design and preserve or enhance the character of the local area.

2. The existing dwelling at No. 24 Parsonage way, by virtue of the position of the first floor bedroom window in the rear elevation, is considered to adversely affect the amenities of the future occupiers of the dwelling on Plots 1 and 2 through a loss of privacy. The proposal is therefore contrary to Policy DP/3 of the South Cambridgeshire Local Development Framework Development Control Policies DPD 2007 that states planning permission will not be granted where the proposed development would have an unacceptable adverse impact on residential amenity.

3. The existing protected trees close to the southern boundary of the site, by virtue of their positions, are considered to seriously harm the amenities of the future occupiers of the dwellings on Plots 7 and 8 through being visually dominant when viewed from their rear gardens. The proposal is therefore contrary to Policy DP/3 of the South Cambridgeshire Local Development Framework Development Control Policies DPD 2007 that states planning permission will not be granted where the proposed development would have an unacceptable adverse impact on residential amenity.

Background Papers:

The following list contains links to the documents on the Council's website and / or an indication as to where hard copies can be inspected.

- South Cambridgeshire Local Development Framework Development Control Policies DPD 2007
- South Cambridgeshire Local Development Framework Supplementary Planning Documents (SPD's)
- South Cambridgeshire Local Plan Submission 2014
- Planning File References S/3184/17/FL, S/0623/16/OL, S/2019/15/OL, S/2504/14/OL and S/2112/07/F

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