

Appeal Decision

Site visit made on 6 September 2018

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 27 September 2018

Appeal Ref: APP/W0530/W/18/3197008

Land at rear of 'The Retreat', Fewes Lane, Longstanton, Cambs CB24 3DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Gerry Caddoo against the decision of South Cambridgeshire District Council.
 - The application Ref S/2937/16/FL, dated 28 October 2016, was refused by notice dated 4 September 2017.
 - The development proposed is the erection of a 3-bedroomed bungalow with parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a 3-bedroomed bungalow with parking, on land at the rear of 'The Retreat', Fewes Lane, Longstanton, Cambs CB24 3DP, in accordance with the terms of the application, Ref S/2937/16/FL, dated 28 October 2016, subject to the conditions appended hereto.

Preliminary Matters

2. The Council's decision to refuse planning permission cited two reasons. One of these related to affordable housing. Subsequently, in an email dated 6 September 2018, the Council has confirmed that it no longer wishes to pursue that refusal reason.
3. During the course of the appeal, in July 2018, the revised version of the National Planning Policy Framework (the NPPF) came into effect. The appellant and the Council were given the opportunity to comment on any implications for the appeal.
4. An application for costs has been made by the appellant against the Council. That application is the subject of a separate decision.

Procedural Matters

5. A neighbouring occupier, Mr D Fulton, questions the validity of the appeal, and raises issues of procedural fairness. In this connection, my attention is drawn to various provisions in the Town and Country Planning (Development Management Procedure) Order 2015 (the DMPO), and also to the Planning Practice Guidance (PPG), and the Council's own local validation requirements. Amongst other things, the 'red line' around the application site should include all the land necessary to carry out the proposed development. As examples, this may include land required to access the site from a public highway, and visibility splays.

6. However, these examples are not necessarily relevant in all cases. In the present case the application site, as defined on the submitted Location Plan, encompasses the proposed new dwelling and its garden area. Although access to the site is via an unadopted road (Fews Lane) and a shared private driveway, no alterations are proposed to either of these, nor to their visibility splays, and for reasons that I shall explain, I do not consider that any such alterations are reasonably required. In addition, whilst land outside the red line might be needed for parking and other purposes during construction, these are not part of the development itself. No development is therefore proposed or required outside the application site, and on this basis, I consider that the boundary as defined meets the necessary statutory requirements. In this respect the development now proposed is clearly distinguishable from the appeal case cited by Mr Fulton¹.
7. The application and appeal were each accompanied by an ownership Certificate under DMPO Article 14. As far as I am aware, there is no challenge to the accuracy of those certificates. With regard to Fews Lane and the shared driveway, there was no requirement for notice to be served on the owners of these areas, because they are outside the application site. In any event, it is evident that adjoining occupiers were notified by the Council, and a notice was placed in a local newspaper. There is no evidence that any owner has been denied the opportunity to comment, or otherwise disadvantaged.
8. The local validation requirements, and the PPG, also ask for any adjoining land owned by the applicant to be outlined in blue. In the present case, no such land was identified. It is not clear whether this was an error, bearing in mind the potential for ownership to be split between related individuals and companies, but to my mind nothing turns on the point. It is clear that the Council was aware that the applicant either owned or controlled the existing property 'The Retreat', and took this into account. There is nothing to suggest that any other land outside the application site could or should have been identified as blue land. Consequently any failure in this respect cannot have affected the Council's decision, and nor is there any apparent reason why it should affect the outcome of this appeal.
9. In addition, Mr Fulton requests that a decision on the appeal be held back for four weeks, to allow him further time to comment, because of difficulties in accessing some of the documents via the Council's website. However, I note that the documents are also available to inspect at the Council's offices, and Mr Fulton acknowledges that he has been aware of the appeal since March of this year. Comments were initially requested by 8 August 2018, but in Mr Fulton's case, this was extended up to 18 September. In the circumstances, I see no compelling reason to delay my decision further.
10. In view of all the above matters, and having regard to the particular facts of this case, I am satisfied that the appeal is valid, and that there is no evidence of any procedural unfairness to any interested party. I have therefore proceeded to determine the appeal on this basis.

Main Issue

11. In the light of all the above matters, there is one main issue in the appeal. This concerns the proposed development's effects on highway safety.

¹ APP/K1128/W/17/3187008, land at Venn farm, Brixton, Devon

Reasons for decision

12. The Council's remaining refusal reason relates to highway safety issues, during the construction period only. The refusal notice suggests that construction vehicles could cause disruption of the highway and interference with the passage of through vehicles, on a road where the principal function is said to be carrying traffic freely and safely between centres of population. To my mind this paints a picture which is at odds with reality.
13. On my visit I saw that the village of Longstanton lies close to the B1050, which is a local road running from the A14 at Bar Hill to Earith, and thence providing access to a network of smaller roads and settlements in the Fens. At one time, the B1050 evidently ran through the centre of Longstanton, along the High Street, but some years ago the village was by-passed, so that the signposted route now skirts its western edge. This new by-pass is a high-standard modern road, which appears to have ample capacity for the likely volume of through traffic. In contrast, the old route through the village centre and the High Street, which is now unclassified, is a slower alternative with no discernible advantage. At the time of my visit, despite being around 9am on a school day, the level of traffic in the High Street appeared quite low. There is no evidence before me to suggest that these conditions were in any way unusual.
14. Fews Lane is an unmade road with a gravel surface. The lane does not meet modern highway standards in terms of its geometry or its construction, but it serves only five existing dwellings, including two recently built adjacent to the appeal site. There is sufficient width in the lane for two cars or light vans to pass each other, and for either of these to pass a pedestrian or cyclist. When a larger vehicle is involved, there will be a need for some care, but that is not an unusual situation, and nor does it mean the lane is dangerous. Visibility at the junction with the High Street is slightly restricted, but not unduly so. There is no evidence of any accident record. The proposed development would add only one further dwelling, of no more than average size. Apart from construction traffic, the Council does not dispute that the traffic generated by the new dwelling can be accommodated safely. In all these respects, the proposed development would provide safe and appropriate access, complying with the relevant provisions of Policy DP/3².
15. With regard to the construction phase, the appellant has submitted a Traffic Management Plan (TMP)³. The Council considers that this is insufficient to guarantee the safety of all highway users, and this view reflects the advice of the Highway Authority (HA), whose consultation response identifies various detailed criticisms of the TMP. But the HA acknowledges that what it sees as defects in the TMP could be overcome by relatively minor amendments. The Council has made no further comment, and therefore appears to accept the HA's advice on these points. I note that an earlier TMP was agreed with the same applicant in connection with the adjoining development. It is therefore quite clear that, were I to agree that some form of management plan for construction traffic was necessary, an acceptable plan could be secured by condition.

² Of the South Cambridgeshire Development Control Policies, adopted July 2007

³ The document referred to here is the Traffic Management Plan submitted with the application; subsequently, on 6 September 2018 the appellant submitted a Construction Transport Management Plan by SLR Consultants, but this was ruled inadmissible because it was outside the usual appeal deadlines, and I have paid no regard to it

16. However, having regard to all the above matters, that is not my view. The proposed development is only a single dwelling, and the construction period envisaged in the TMP is fairly short. The appeal site is not unduly constrained. Traffic on the High Street is relatively light. None of these circumstances indicates a need for any particular requirements regarding construction traffic. Many small developments are able to take place without any specific or detailed conditions relating to construction traffic, and there seems no reason why the appeal scheme should be any different. It follows that the Council's refusal reason is not justified.
17. Returning briefly to Mr Fulton's contentions, the suggestion seems to be that if the red line had included Fewes Lane, and the theoretical visibility splays, then the Council could have imposed conditions relating to these, possibly requiring widening, resurfacing, or clearance of vegetation. But in the light of my findings above, such works are not necessary on safety grounds, and I note that this view is also shared by the Council. Indeed, the Council comments that their effect would be visually damaging, and I agree.
18. I therefore conclude that the appeal proposal would not have any significant effects on highway safety. In this respect the scheme accords with the relevant policy requirement under Policy DP/3.

Other Matters

19. The proposed dwelling would be single storey, and therefore would not cause any overlooking or overshadowing to other nearby properties. The site is in a residential area, where other properties are quite close to each other, and hence there is no reason to think that one more dwelling would be likely to add unacceptably to the level of noise, nor create unacceptable odours from cooking or refuse bins. In none of these respects is there any apparent likelihood of any significant adverse effects on neighbouring occupiers.

Conclusions

20. For the reasons explained above, I conclude that that the proposed new dwelling would have no significant adverse effects on highway safety, and in this respect it would accord with the development plan. No other material considerations have been demonstrated that justify withholding planning permission. The appeal is therefore allowed.
21. In granting permission, although I have found that conditions relating to traffic management or road improvements are unjustified, I agree that a number of others are needed. In particular, conditions relating to foul and surface water drainage are necessary, to prevent flooding, and these need to take effect prior to commencement, to ensure an orderly sequence of works. A restriction on the hours of noisy operations is reasonable, during construction, to protect living conditions in the area. A condition requiring adherence to the approved plan is needed, in the interests of certainty. These conditions are set out in the attached schedule. However, a specific condition controlling run-off from the new dwelling's driveway is unnecessary, as this can be controlled by the condition that I have imposed relating to surface water drainage.

J Felgate

INSPECTOR

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions:

- 1) The development shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the approved plan, Drawing No. FLL-NB2-02.
- 3) During the period of the construction of the development, no power-operated machinery shall be operated in connection with the development, and no deliveries of materials or equipment shall be either received or despatched from the site outside the following hours:
Weekdays: 08.00 – 18.00 hours
Saturdays: 08.00 – 13.00 hours
Sundays and Bank Holidays: none
- 4) No construction work shall be commenced until full details of the proposed arrangements for foul water drainage have been submitted to the local planning authority and approved in writing. The new dwelling shall not be occupied or brought into use until the foul water drainage system has been installed and made operational, in accordance with these approved details.
- 5) No construction work shall be commenced until full details of the proposed arrangements for surface water drainage, both from the building itself and from the proposed driveway area, have been submitted to the local planning authority and approved in writing. The new dwelling shall not be occupied or brought into use until the surface water drainage system has been installed and made operational, in accordance with these approved details.