Appeal Decision

Site visit made on 19 November 2008

by C J HOILE MA (OXON) MRTPI

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

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Decision date:
4 December 2008

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Appeal Ref: APP/W0530/A/08/2082851
82 Mill Lane, Sawston, Cambridge CB22 3HZ

- 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 Fabco Properties Ltd against the decision of South Cambridgeshire District Council.
- The application Ref: S/2435/07/F, dated 20 December 2007, was refused by notice dated 21 February 2008.
- The development proposed is described in the decision notice as "Change of Use of Shop/Dwelling to Dwelling with Home Office; Erection of Bungalow and Garage; Formation of Driveway and Realignment of Public Right of Way Erection of Boundary Fencing".
- For the purposes of determining this appeal, the Council accepts that the words "erection of boundary fencing" in the decision notice are incorrect, as that matter did not form part of the application development.

Decision

1. I allow the appeal, and grant planning permission for the change of use of the shop/dwelling to a dwelling with home office; the erection of a bungalow and garage; and the formation of a driveway (involving the future realignment of a public right of way) at 82 Mill Lane, Sawston, Cambridge CB22 3HZ in accordance with the terms of the application, Ref: S/2435/07/F, dated 20 December 2007, and the plans submitted with it, subject to the following conditions:

   1) The development hereby permitted shall begin not later than three years from the date of this decision.

   2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

   3) No development in respect of the bungalow, garages and driveway shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping which shall include indications of all hard surfaces, walls, fences and other boundary treatment, access features, existing trees, hedges and shrubs on the land, and details of any to be retained, together with measures for their protection in the course of development.

   4) All planting seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons

following the occupation of the building, or the completion of the development, whichever is the sooner; and any trees or plants that within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.

5) The proposed access, turning area and parking provision shall be provided before the bungalow hereby permitted is occupied and thereafter retained as such.

6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no windows, doors or openings of any kind, other than those expressly authorised by this permission, shall be inserted in the front, side(north) and rear elevations of the bungalow above ground floor level.

7) The proposed home office shall only be used in connection with the existing dwelling and at no time shall be used as a separate self-contained unit.

8) No development shall take place within the appeal site until the appellants, or their agents or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

9) No part of the development that results in the diversion of the public footpath that runs through the site shall be commenced until the diversion as shown on submitted drawing No. (00) 01A has been agreed and the footpath has been provided in accordance with the approved drawing.

Procedural Matters

2. At the site meeting I mentioned that the case file contained a draft Unilateral Undertaking, but no completed document. Subsequently, a completed Unilateral Undertaking, dated 19 November 2008 was submitted to the Planning Inspectorate. It contains a covenant that there will be full completion of the restoration works to No. 82 prior to any residential occupation of the new bungalow.

Main issue

3. Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving this C17th listed building or its setting, or any features of special architectural or historic interest that it possesses. From what I have seen and read I consider that the main issue in this appeal is whether the setting of No. 82 would be materially damaged by the erection of a new building to the rear.

Reasons

4. The Council's decision considered that the most relevant policy in the South Cambridgeshire Local Development Framework Development Control Document

2007 is CH/4 - Development within the Curtilage or Setting of a Listed Building. The supporting text to this policy includes a sentence saying that planning permission will be refused where the Council considers that the proposal would dominate the building by scale, mass, form or appearance, or harm the visual relationship between the listed building and its formal or natural landscape surroundings. The decision notice refers to the loss of the informal green space around the building, and the changed relationship of the building and its natural landscape surroundings, including the restriction of views of the listed building from the footpath to the north.

5. Though holding the new dwelling to be unacceptable in principle on this site for that reason, the Council does not consider the position of the proposed bungalow, away from the street frontage, to be out of character with the pattern of development in the locality: it mentions the set-back position of Nos. 92 and 94 in this context. Nor does it argue that the amenities of the residents of the adjacent Nos. 80 and 84, or of 21 and 22 Uffen Way to the north, would be seriously harmed by the new building or its access drive. There is no criticism of the design of the bungalow.

6. The Council has no objection to the use of the whole of the listed building as a dwelling. However, it does not accept that the now empty building is in such a physical state as to be "at risk". It acknowledges that, if I do not find the new building, new garages and attendant works materially harmful to the setting of No. 82, there is no need to consider whether the appeal proposals as an entity should be approved as enabling development.

7. The evidence is that similar planning proposals were refused in May 2007. The Council has, however, granted listed building consent for the listed building elements within these proposals: works of internal and external alteration; the replacement of external boarding by render; removal of the shower room; the addition of a new dormer window to the rear elevation; and the replacement of the corrugated roof with longstraw thatch. That consent did not deal with any garage or drive for future residents of the listed building, or any other new building works, despite the wording of the listed building consent application.

8. I saw that No. 82 is a building of relatively modest size, though with a frontage notably wider than its neighbours in Mill Lane. The building is embedded within a locality of conventional suburban housing of various dates. Immediately to the west there is a terrace of late C19th houses. East of the cottage's existing curtilage is an open grassed area devoid of landscaping, within which a hard-surfaced footpath runs northwards to join another similar footpath running east-west. East of that open area is a positively unattractive line of flat-roofed two-storey housing, which appears to date from the later 1960's or early 1970's.

9. There is no clear evidence before me of the historic curtilage of No. 82, but I think it highly unlikely that it was the same as now before the adjacent terrace was constructed in the late C19th. Its present garden is long and narrow, extending a similar length to those of its neighbours on either side, and all are bounded on their northern edge by the afore-mentioned footpath running east-west. No. 82's present garden would be truncated by the appeal scheme. Over half of its length, and about 65% of its area would go to accommodate the proposed garages and bungalow; however, there would be an additional tranche

of land added to the north-east part of the re-configured garden to give it a more uniform width than now. I consider that the area new garden area would not be unusually small by the standards of other houses; landscaping conditions can and should ensure that it would be laid out and bounded in a positively attractive manner.

10. I consider that the proposals would do very little visual harm to the setting of No. 82. The setting on to Mill Lane would be little changed, and the adjoining open land between Nos. 80 and 82 possesses no positive visual quality save openness. The property's eastern boundary would remain open to view, though given a small slice of additional land beyond the rendered flank wall. The ground between Nos. 82 and 80 would remain free of building, save that an access road to a garage building between No. 82 and the proposed bungalow would replace much of the present grassed area, and the footpath would be realigned along the side boundary of No. 80. The satisfactory diversion of the footpath – a matter not before me – would be a pre-requisite before any development could take place, but nothing in the evidence seriously suggests that this would be problematic.

11. The present visibility of the rear of the listed building from the north is partial, obtained over the garden area, where planting would always confine clear views to the upper parts. If the appeal proposals were implemented, not dissimilar views of the structure would remain for those using the existing east-west footpath and the realigned footpath running close to the boundary of No. 80. I find that the present setting of No. 82, seen from the north, is not one of any particular positive visual quality, or one which positively enhances the building's architectural or historic interest.

12. The Council has put forward suggested conditions in the event of my allowing the appeal. I am satisfied that the gist of all of them is necessary, relevant to planning and the development permitted, reasonable, precise and enforceable. The appellant has raised the possibility of a further condition to enable a satisfactory common boundary between Nos. 80 and 82, retaining some part of the flank wall of the existing rear addition to No. 82. Condition 3 in my decision enables the Council to make a judgement on this matter in the context of a detailed landscaping submission from the appellants.

Conclusions

13. For the reasons given above and having regard to all other matters raised, I conclude that these proposals do not breach the intentions of Policy CH/4 and that the appeal should succeed.

C J HOILE

INSPECTOR