



Appeal Decision

Site visit made on 3 May 2016

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 18 May 2016

Appeal Ref: APP/V0510/W/16/3143972

11-13 Bernard Street, Ely, Cambridgeshire CB6 1AU

- 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 Chris Senior on behalf of Live Residential against the decision of East Cambridgeshire District Council.
 - The application Ref 15/00400/FUL, dated 9 April 2015, was refused by notice dated 7 August 2015.
 - The development proposed is erection of 2No. semi-detached dwellings with associated parking, landscaping and access arrangements.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of this appeal are:
 - the effect on the character and appearance of Ely Conservation Area;
 - the effect on the living conditions of the occupiers of neighbouring properties, with particular regard to outlook from Nos. 11 and 13 Bernard Street; and;
 - the effect on highway safety and parking arrangements.

Reasons

Character and appearance

3. The Ely Conservation Area includes the historic core characterised by the Cathedral, market place, town centre uses and the setting provided by Cherry Hill Park, and is complemented by the differing scale and density of waterside and quayside buildings to the east adjoining the River Great Ouse. The section of the Conservation Area to the west of the historic core is predominantly residential in character with a range of historic and traditional buildings of differing style, appearance and layout.
4. Bernard Street is within the western section of Ely Conservation Area and is characterised by its narrow width, cottage style appearance of individual properties and a consistent front build line of the rows of terraced, detached and semi-detached properties to either side of the highway that adjoin the back edge of the footpath. The appeal site is located on the southern side of Bernard Street between a two-storey detached property (No 11) and a two-

storey semi-detached property (No 13) and comprises a historic gap that consists of part of the curtilage and hardstanding previously used as off street parking for the neighbouring properties to either side.

5. The appeal proposal is for a two-storey semi-detached pair of dwellings that would be set back by approximately 6m from the back edge of the footpath with a hardstanding area between the dwellings and the highway to provide off street parking.
6. The set back position of the dwellings would appear out of place and significantly detract from the established pattern and layout of built form, characterised by the consistent build lines to each side of Bernard Street. The existing site comprises a historic gap between Nos. 11 and 13 which would be partially retained by the set back position of the dwellings when viewed along Bernard Street. However, the introduction of dwellings with incompatible build lines would be prominently visible from the frontage of the site and properties opposite. As a consequence, the development would be harmful to the character and appearance of the street scene, given it would not relate sympathetically to the local distinctiveness of surrounding properties or the characteristic sense of place within Bernard Street.
7. In reaching the above findings, I have taken into account that the dwellings have been designed to have a similar appearance to surrounding properties in terms of fenestration, general proportions and materials. In this respect, the use of buff facing brickwork, natural slate roofs and timber casement windows would respond to the character of surrounding properties. Furthermore, although the eaves and ridge height of the roof would be marginally higher than surrounding dwellings as indicated on the submitted plans, the limited difference would be largely imperceptible within the street scene due to the set back position of the dwellings. Nevertheless, the absence of concern in this regard does not justify the harm identified with respect to the layout of the development.
8. There are examples of different build lines in the wider area within the Conservation Area, including in the nearby Chiefs Street and Little Lane. However, the examples reflect dissimilar locations to Bernard Street with different characteristics and relationships to surrounding properties. As a consequence, the examples are not considered to replicate the circumstances of the development proposed or justify the harm identified. In any case, I have determined this appeal on its own individual merits.
9. I conclude that the proposed dwellings would fail to preserve the character and appearance of the Conservation Area and the development is therefore contrary to Policies ENV2 and ENV11 of the East Cambridgeshire Local Plan (LP), adopted April 2015. When considered together these policies seek to ensure new development is of a high quality design which must relate sympathetically to the local distinctiveness of the surrounding area, whilst preserving or enhancing the significance of the historic environment, including Conservation Areas. These policy aims are consistent with the National Planning Policy Framework (the Framework).
10. Paragraph 131 of the Framework requires that account be taken of the desirability of sustaining and enhancing the significance of heritage assets, and of new development making a positive contribution to local character and distinctiveness. When considering the impact of a proposed development on

the significance of a designated heritage asset, great weight should be given to the asset's conservation. Rather than make the positive contribution desired by paragraph 131 of the Framework, the proposal would harm local character. The harm caused would be significant in terms of the immediate surroundings of the proposal, but would be less than substantial to Ely Conservation Area as a whole. In these circumstances, paragraph 134 of the Framework requires that the less than substantial harm should be weighed against any public benefits.

11. The development offers potential benefits in terms of increasing housing supply and housing choice. The proposal would also have economic benefits to the local area through Council tax, Community Infrastructure Levy and New Homes Bonus revenue. Furthermore, there are short term and temporary economic benefits with respect to the necessary construction works associated to the development. However, the scale of these benefits is limited for a development comprising two dwellings and does not outweigh the harm identified. In addition, although the site is located close to the town centre in close proximity to public transport, shops and services, it is not an effective use of land given the harm identified. Consequently, there are insufficient public benefits to outweigh the less than substantial harm caused to the Conservation Area.

Living conditions

12. The individual plot sizes are below the 300 square metre guide line in the East Cambridgeshire Design Guide Supplementary Planning Document (SPD), adopted March 2012 and the footprint of the dwelling exceeds the guide of a third of the plot size. However, given the close proximity to the town centre and the form and character of development in the surrounding area, it is common ground between the main parties that the development would ensure satisfactory living conditions for future residents and retain appropriate private amenity space for Nos. 11 and 13. Based on the evidence before me and my observations of the site, I have no reason to take a different view on these matters. Nevertheless, the Council have raised concern with respect to the relationship of the proposed dwellings to Nos. 11 and 13 and the effect on the living conditions of the occupiers of these properties.
13. Plot 1 as identified on the submitted plans would be located adjacent to No 11 and in close proximity to the common boundary. In this respect, due to the set back position of the proposed dwellings, there would be an unbroken two storey projection of built form for around 5m beyond the existing rear elevation of No 11. The resultant bulk and massing of the development when viewed from this aspect would have a harmful overbearing effect upon windows in both ground and first floor levels of the rear elevation of the property, together with the adjoining section of the rear garden. The harmful effect would be worsened by the presence of an existing two storey rear outrigger of similar depth to the opposite side of the rear elevation of No 11, as the cumulative effect of built form to either side would result in a harmful sense of enclosure upon the windows and part of the rear garden. As a consequence, the development would have a detrimental effect upon the outlook from No 11 and therefore would significantly harm the living conditions of its occupiers.
14. Plot 2 as identified on the submitted plans would be located adjacent to No 13 and in close proximity to the common boundary. No 13 has an existing two

storey rear outrigger that aligns with its side elevation and its presence would prevent an overbearing effect of the development upon existing windows in the rear elevation and the rear garden. However, the side elevation of No 13 facing the site includes a number of existing windows and openings. Although the position of the proposed dwellings would be set back from the clear glazed windows identified as serving a dining room at ground floor level and a landing window at first floor level, it would introduce a substantial elevation of built form of two storey height in close proximity. This would include a projection of built form of around 9m in length when viewed from these windows. The resultant bulk and massing of the development would have a considerable overbearing effect upon the outlook from these windows which would significantly harm the living conditions of the occupiers of No 13.

15. With respect to matters of privacy, there are side facing windows indicated on the submitted plans within the two storey rear outrigger elements of each of the proposed dwellings. However, these windows serve bathrooms and therefore could be appropriately conditioned to secure obscure glazing which would prevent direct overlooking of Nos. 11 and 13. Furthermore, there is adequate separation distance to all other surrounding properties to avoid issues of overlooking and loss of privacy. Nevertheless, the absence of concern in this respect does not justify the harm otherwise identified.
16. I have taken into account that the appellant currently has control of Nos. 11 and 13 together with the appeal site. However, this does not outweigh the harm identified with respect to these properties as the particular circumstances of the occupants of each property may change over time whereas the relationship of the development to its surroundings would be permanent.
17. I conclude that the proposed dwellings would significantly harm the living conditions of the occupiers of Nos. 11 and 13 Bernard Street due to the overbearing effect upon the outlook from these properties. The proposal is therefore contrary to Policy ENV2 of the LP which seeks to ensure that development has no significantly detrimental effect on the residential amenity of nearby occupiers of dwellings. These policy aims are consistent with the Framework.

Highway safety and parking

18. Policy COM8 of the LP suggests that development proposals should provide adequate levels of car parking broadly in accordance with the Council's parking standards. The Council have suggested that given the proximity of the site to Ely town centre, the provision of 1 parking space per dwelling would be justified. The appeal proposal includes the provision of hardstanding to the front of the proposed dwellings comprising dimensions of approximately 11.5m in width and 5m in depth. The appellant has indicated that the hardstanding would accommodate 4 off-street parking spaces to serve the proposed development and Nos. 11 and 13 based on the Highway Authority minimum dimensions for a parking space of 2.5m x 5m.
19. The Council have expressed concern in terms of the practical use of the car parking area given the restricted space for reversing of vehicles when on-street parking occurs on the opposite side of Bernard Street. However, there is no evidence before me to suggest that the existing access arrangements to the off-street parking spaces, including reversing manoeuvres, has resulted in accidents or risks to highway safety. In such circumstances, I consider that

the development would provide safe and convenient access from the highway network to the off-street car parking spaces. Nevertheless, I consider it reasonable that the hardstanding would only have sufficient width for a maximum of 3 off-street car parking spaces in a side by side arrangement. In reaching this view, I have taken account of the requirements for pedestrian access to the rear gardens of the proposed dwellings and Nos. 11 and 13, together with the necessity that the parking is suitable for people with impaired mobility.

20. The shortfall of off-street parking of 1 parking space in terms of the Council's parking standards would increase demand for on-street parking. Nevertheless, on-street parking is a feature of Bernard Street with the site having been an exception in providing off-street parking spaces for Nos. 11 and 13. The highway is narrow and only has sufficient width for vehicles to pass in either direction when on-street parking is not present. As a consequence, Bernard Street cannot currently accommodate on-street parking for all properties on both sides of the highway whilst maintaining vehicular access. In such circumstances, it is reasonable to consider that a proportion of on-street parking associated to properties in Bernard Street would inevitably be dispersed to nearby streets.
21. During my visit to the site and its surroundings in the late morning, I observed that although Bernard Street had limited available capacity for on-street parking, the adjoining Chiefs Street had significant availability. It is reasonable to consider that parking demand would increase at peak times (i.e. early mornings, evenings and overnight). However, I have no substantive evidence before me which would suggest that a modest increase in on-street parking demand arising from the development could not be safely accommodated on-street either in Bernard Street or within the surrounding area, including within the nearby Chiefs Street.
22. The submitted plans do not indicate provision for secure cycle storage in accordance with the requirements of Policy COM8 of the LP. However, if the appeal were allowed, a condition could be imposed to secure details and appropriate implementation of cycle storage.
23. I conclude that the proposed development would not cause harm to highway safety and parking arrangements. The proposal therefore would comply with the requirements of Policies COM7 and COM8 of the LP. Furthermore, the development accords with paragraph 32 of the Framework in that there would be no severe residual cumulative impacts arising from the development on highway safety.

Other Matters

24. The development would require the removal of a number of trees within the site. I have no substantive evidence before me relating to the health and status of the individual trees. However, based on my observations of the site, the trees are ornamental garden species located in positions that offer only a very limited contribution to the character and appearance of Ely Conservation Area. In such circumstances, if the appeal were allowed and planning permission granted, a condition requiring replacement trees and landscaping would provide appropriate mitigation.

25. Third party representations have suggested additional benefits to housing supply and housing choice in terms of affordable housing and starter homes. However, the evidence before me indicates that the development is for 2 market dwellings that fall below the threshold for the provision of affordable housing and are not identified as starter homes.

Conclusion

26. I have found no harm in terms of the effect of the development on highway safety and parking arrangements. However, the absence of harm in this respect does not justify harm identified in terms of the other main issues. I have considered the public benefits in assessing the proposal and they would not be sufficient to outweigh the less than substantial harm to Ely Conservation Area which I have identified. In addition I have found that the proposal would also significantly harm the living conditions of occupiers of Nos. 11 and 13 Bernard Street. Taken individually and in cumulative, the harm identified is decisive upon the outcome of this appeal and reflects conflict with the development plan and the Framework that is significant and overriding.
27. For the reasons given above and taking all other matters into consideration, I conclude that this appeal should be dismissed.

Gareth Wildgoose

INSPECTOR