



Appeal Decision

Site visit made on 21 July 2014

by **J Flack BA Solicitor**

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

Decision date: 12 August 2014

Appeal Ref: APP/V0510/A/14/2218569

Land adjacent to 14A The Cotes, Soham, Cambridgeshire CB7 5EP

- 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 B Edwards against the decision of East Cambridgeshire District Council.
 - The application Ref 13/00670/FUL, dated 31 July 2013, was refused by notice dated 12 November 2013.
 - The development proposed is additions and alterations to existing annex to form separate dwelling and erection of garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be appropriate to its location in the context of development plan and national policy relating to new housing, having regard to the character and appearance of the area and the sustainability of the site's location; and
 - the effect of the proposal on highway safety.

Reasons

Whether the proposal would be appropriate to its location

3. Soham is one of three Market Towns designated by Policy CS1 of the Core Strategy¹ where approximately 70% of new housing development will take place. However, the appeal site lies outside the settlement boundary of Soham, and is designated as Countryside by Policy CS1, where development will be strictly controlled. This approach is expanded upon in relation to housing by Policy CS2, which states that outside settlement boundaries and allocated sites there will be a policy of strict control. A list of exceptions is provided, none of which are relevant to the appeal proposal. The starting point for my assessment is thus that the proposal is in apparent substantial conflict with these policies.

¹ East Cambridgeshire District Council Local Development Framework Core Strategy Development Plan Document, adopted October 2009

4. The appeal site is located on the north-west side of a narrow access track which extends from The Cotes in a north-easterly direction. Adjacent to the Cotes, this track serves a small number of small older houses arranged in two rows on either side of the track. At the far end of the track, beyond which are open fields, are two further pairs of older houses. However, between these groups of dwellings and their curtilages, development is substantially more sporadic: it is confined to the north-west side of the track, including a number of storage buildings, but also small areas of open land above and below the appellant's bungalow, No 14A. A long paddock runs along the whole of the south east side of this section of the track. The appeal site is to the north-east of 14A, separated from it by a low wall. A small wood-faced building, the annex referred to in the description of development, is located in the north-west corner of the site and there is a small gravelled area in front of it. The remainder of the site is open and largely laid to grass, although there are some fruit trees, and a digger located close to the site's north-west boundary with Blackberry Lane. This is a public footpath and runs parallel with the access track. I consider overall that the appeal site has a predominantly rural appearance, rather than that of a domestic garden.
5. Given the features I have described, whilst the section of the track between the small clusters of dwellings area at either end could not be described as undeveloped countryside, it equally does not have the feel of a built up area, having instead a relatively open and distinctly rural character which connects with the open countryside beyond. The appeal site makes a substantive contribution to this character, providing a valuable gap between built development which can be appreciated from the public footpath, there being views across the site to the paddock beyond. This contribution would be largely removed by the appeal proposal: whilst its design would be compatible with the adjoining dwelling at 14A, it would result in the creation of a substantial bungalow and double garage, and the remainder of the site would take on the appearance of a residential curtilage, being given over to access and turning areas together with a garden and other planting.
6. I conclude therefore that the proposal would be significantly at odds with and harmful to the character and appearance of the area. This serves to reinforce the proposal's conflict with the objectives of Policies CS1 and CS2 in protecting the countryside. The proposal would also be in significant conflict with the core planning principle set out at paragraph 17 of the National Planning Policy Framework that planning should take account of the different roles and characters of different areas, and amongst other things should recognise the intrinsic character and beauty of the countryside, and with the requirement of Paragraph 58 that decisions should aim to ensure, amongst other things, that developments respond to local character and reflect the identity of local surroundings.
7. Central Soham has a wide range of services and facilities, as one would expect of a market town. However, nothing in the evidence before me suggests that there are any significant services or facilities which are located near to the appeal site. Moreover, neither the access track serving the appeal site nor the section of the Cotes with which it connects have a footway or lighting: these, along with a 30 mph speed limit, begin some distance along the road towards Soham at Broad Piece, which has a noticeably more urban character than the area around the appeal site and lies within the settlement boundary. No evidence is before me of conveniently located public transport services, and to

access Soham along the Cotes on foot or by cycle would be very unattractive, particularly after dark or in poor weather conditions. The appellant has pointed to the newly built Slade Primary School and anticipated further development in this area, but the provision of this further development does not appear certain, nor the extent to which it would provide services and facilities useful to the proposal. In any case, as I saw on my site visit, reaching this area would involve a long walk across fields along a public footpath.

8. I conclude therefore that the appeal proposal would be unsustainably located, its access to services and facilities being poor and its occupiers dependent in practice on private vehicles. This further reinforces the proposal's conflicts with Policies CS1 and CS2 which I have identified, and the proposal would also be contrary to the requirement of Policy S6 of the Core Strategy that development should be designed to reduce the need to travel, particularly by car.
9. The appellant points out that Policies CS1 and CS2 of the Core Strategy allows for limited development in designated Smaller Villages. The evidence before me indicates that the appeal site is more accessible to local facilities than at least some of these Villages, but also that the purpose of Policies CS1 and CS2 is to balance the protection of the countryside with the need to support the viability of the Smaller Villages. By contrast, whilst there is some built development in the vicinity of the appeal site, it does not form part of a village or otherwise form part of a discrete and definable settlement. Moreover, Policy CS2 requires amongst other things that the small scale development it provides for should not have an adverse effect on the character of the area, whereas I have found that the proposal would have such an effect.
10. I consider therefore that the Core Strategy's policies in relation to designated Smaller Villages do not count in the proposal's favour, and the general approach of Policies CS1, CS2 and CS6 seems to me to accord with the Framework, which states at paragraph 55 that in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities, and at paragraph 35 that development should be located and designed where practical to give priority to pedestrian and cycle movements and have access to high quality public transport facilities. The proposal would be in substantial conflict with these policies; whilst paragraph 55 notes that development in one village may support services in a village nearby, the appeal site is not located within a village and such limited support to services as it would provide would be directed to Soham.
11. The evidence before me indicates that the appellant is suffering from a number of deteriorating medical conditions: the appellant's intention is to live in the proposed bungalow, which it is stated would be designed internally to accommodate his anticipated needs as his health deteriorates. However, what is sought is a permanent unrestricted permission for the proposal, and there is no substantial evidence before me that 14A is very likely to become unsuitable to the appellants needs in the near future. Moreover, whilst I appreciate that the appellant would prefer to construct a dwelling suited to his anticipated future needs, the evidence does not indicate that it would be impractical to adapt 14A if that were to be required. Whilst the list of exceptions set out at Policy CS2 is not exhaustive and I have some sympathy for the appellant's personal circumstances, I do not consider them compelling: they do not justify an exception to the strict controls over development imposed by Policy CS2, or

come close to outweighing the conflicts I have identified with this and other policies of the Core Strategy and with the Framework.

12. The appellant and the Council have both drawn attention to the recently issued interim report by the Inspector appointed to the examination of the Council's Draft Local Plan and its conclusions as to the supply of deliverable housing sites. Although the Council has been given a short opportunity to reconsider its housing allocations and the position may thus change, I consider that for the purposes of my decision the Council cannot at present be considered to have demonstrated a five-year supply of deliverable housing sites.
13. In those circumstances, paragraph 49 of the Framework provides that relevant development plan policies for the supply of housing should not be considered up-to-date, and paragraph 14 provides that where policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
14. The proposal would make a very limited contribution to the supply of housing and would also be of some benefit to the appellant's personal circumstances. However, neither these benefits nor any other positive attribute of the proposal would mitigate or come close to outweighing the proposal's significant conflicts with the Framework which I have identified.
15. I thus consider that in the overall context of the Framework's policies, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, and I conclude overall on this main issue that the proposal would not be appropriate to its location, given the substantial conflicts I have identified with development plan and national policy relating to new housing.

Highway safety

16. The submitted drawing² suggests that access would be taken from both Blackberry Lane and the access track, but the evidence before me is otherwise clear that access would be taken only from the latter, and I have assessed the appeal proposal on that basis. The appellant has provided a highways statement at appeal, and it provides evidence that whilst the national speed limit applies to The Cotes in the vicinity of the access track, actual traffic speeds are somewhat lower. In the light of this, the Council and the Highway Authority concur that adequate visibility can be provided for vehicles exiting the access track onto The Cotes, and I see no reason to disagree.
17. However, the access track is narrow, offering very limited opportunities for vehicles to pass. Visibility into the access track available to a driver seeking to turn into it from The Cotes is limited by the houses on either side, and whilst there is an open boundary between the track and the area to the front of the house to the north-west, the equivalent boundary with the curtilage of the house to the south-east is marked by a high hedge. There is thus some possibility that a vehicle would enter the track only to be obliged to reverse out. There is a wide highway verge at the junction of the access track and The Cotes; the owners of No 3 have agreed to the moving of the road sign at the junction. In any event a vehicle seeking to enter the access track, but unable

² 12:PE-AA-1

to do so due to an emerging vehicle, could already park within the verge to the side of the track if it had observed the emerging vehicle in time. However, it would then have to reverse out into the Cotes before being able to enter the track.

18. Reversing out of the track into the Cotes would clearly be undesirable, and the proposal would have thus have an adverse effect on highway safety. However, I do not consider that this would be significant, given the evidence as to traffic speeds in The Cotes, the available visibility at this junction, the relatively low volumes of vehicular movements likely to be generated by the proposal, and that this does not appear to be a particularly busy road. I conclude overall that the proposal would not have any significantly adverse effect on highway safety, and would sufficiently comply with the requirement of Policy S6 of the Core Strategy that proposals must provide safe and convenient access to the highway network, and with the Framework's requirement, at paragraph 32, that decisions should take account, amongst other things, of whether safe and suitable access to the site can be achieved for all people.

Conclusion

19. I have concluded that the proposal would not have any significantly adverse effect on highway safety, but neither this nor any other matter raised in the evidence before me serves to disturb or outweigh the conclusion I have reached on the other main issue, which is that the proposal would not be appropriate to its location given the substantial conflicts I have identified with development plan policy and the Framework. The appeal is therefore dismissed.

J Flack

Inspector



Appeal Decision

Site visit made on 29 June 2015

by **J Flack BA Solicitor**

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

Decision date: 27 July 2015

Appeal Ref: APP/V0510/W/15/3008325

3 The Cotes, Soham, Ely, Cambridgeshire CB7 5EP

- 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 Mr and Mrs G Moore against the decision of East Cambridgeshire District Council.
 - The application Ref 14/01074/OUT, dated 25 September 2014, was refused by notice dated 25 November 2014.
 - The development proposed is to provide 1 residential unit on rear garden land.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would be appropriate to its location, given the context of planning policy relevant to the provision of new housing, the character and appearance of the area and access to services and facilities.
 - The effect of the proposal on highway safety.

Reasons

Whether proposal appropriate to location

3. In its decision notice the Council referred to policies of both its Core Strategy¹ and its then draft Local Plan². Since then, however, as the Council makes clear in its statement at appeal, the Council has adopted the Local Plan³. This has superseded the Core Strategy, and accordingly the Local Plan constitutes the statutory development plan for the purposes of this appeal.
4. The appeal site lies some distance from the centre of the town of Soham. The appellants refer to the site being well within the Residential Development boundary, but that is not a term used by the Local Plan. This refers instead to defined development envelopes, and the site lies outside that for Soham.

¹ East Cambridgeshire District Council Local Development Framework Core Strategy Development Plan Document, October 2009

² East Cambridgeshire Draft Local Plan (Pre-submission version), February 2013.

³ East Cambridgeshire Local Plan, April 2015.

5. Policy GROWTH 2 of the Local Plan identifies Soham as one the market towns where the majority of development will be focussed. However, the policy distinguishes between land within defined development envelopes, where housing and other development to meet local needs will normally be permitted, and land which is outside envelopes. Here, development is to be strictly controlled to protect the countryside and the setting of towns, being restricted to listed categories. There is no indication in the evidence before me that the proposal would fall within any of these. It follows that the proposal would be in conflict with the locational strategy provided by Policy GROWTH 2.
6. The appellants have made criticism of the provision made for housing by the Core Strategy. However, the Local Plan has only recently been examined and found sound in the context of the policies of the National Planning Policy Framework (the Framework) and I have no reason to consider that the provision now made for housing in Soham is inadequate or inappropriate, or that the Policies of the Local Plan are in conflict with those of the Framework.
7. It follows that whilst the proposal would provide one new unit of housing, this is a very minor benefit and is considerably outweighed by the proposal's conflict with Policy GROWTH 2, This is a matter which counts heavily against the proposal in the context of the very recent adoption of the Local Plan.
8. The appeal site lies to the rear of 3 The Cotes, and appears to have previously formed part of that property's rear garden; it is presently subdivided from the remaining rear garden by a low fence. No 3 is an modest semi-detached house, one of a short row of such houses which front onto The Cotes. These houses have long rear gardens, beyond which there is a further row of houses with similar rear gardens. This forms a strong, spacious and readily legible pattern of development in the immediate vicinity of the site, which is not diminished by the presence of garages, sheds and other small scale outbuildings typical of domestic curtilages. This pattern of development contributes strongly to the semi-rural character of the area, complementing the more sporadic residential development to the rear of the rows of houses and the open countryside which lies to the north west.
9. The application was been made in outline with all matters reserved. Indicative layout drawings are before me, including one submitted at appeal which shows the floorplan of a small two bedroom bungalow, together with two car parking spaces and a reasonably generous rear garden. I accept that through the submission and approval of details relating to the reserved matters, the proposal could be limited to a modest dwelling such as this. However, even such a dwelling and its associated parking would represent a significant intensification of development in the context of the appeal site and its surroundings. The provision of any dwelling between the rows of houses would substantially and harmfully disturb the strong pattern of development I have identified, and it would be detrimental to the contribution this makes to the character and appearance of the area.
10. The appellants refer to an appeal decision at Cawston⁴. This is in Norfolk, and the factors relevant to character and appearance are generally unique to the site in question and few details are given in the decision; I note also that the Inspector concluded that the proposal would relate well to the position of other

⁴ APP/K2610/A/14/2226150

nearby dwellings; that would not be the case here, and I consider that this appeal decision does not count materially in favour of the proposal.

11. The proposal would therefore be unacceptably harmful to the character and appearance of the area. It would in that respect be contrary to Policy ENV1 of the Local Plan, which requires amongst other things that proposals demonstrate positive, complementary relationships with existing development.
12. I saw on my visit that Soham has a fairly comprehensive range of shops, schools and other services and facilities. However, these are largely located in the centre of the town, a considerable distance from the appeal site, and whilst the appellants states that public transport services run through the town, there is no evidence before me of such services running close to the appeal site. The appellants state that they have in the past regularly walked into Soham, but it would be long and unattractive journey by foot, cycle or mobility scooter, particularly in bad weather or after dark. The site is located only a few metres from the highway, which does not appear to be heavily trafficked: however, it is narrow, and regular street lighting, a footway and a 30 mph speed limit begin at a point some distance from the site along Broad Piece.
13. The appellants refer to the appeal decision at Cawston in this context, but the limited information contained within it as to the site's surroundings indicates that pedestrian and cycle access to facilities was materially more convenient that it would be here. I accord more weight to the appeal decision⁵ cited by the Council given that it related to a site adjacent to the appeal site, although the appeal proposal is to be judged on its own merits within the present physical and policy context.
14. Taking the above matters into account, I consider that the future occupiers of the proposal would in practice be very heavily reliant on the private car, and that the site is poorly located in terms of access to services and facilities. The proposal would be contrary to the requirement of Policy COM 7 of the Local Plan that development should be designed to reduce the need to travel, particularly by car.
15. I conclude therefore on the first main issue that the proposal would clearly be inappropriate to its location: it would conflict with development plan policy relating to the provision of new housing, it would be unacceptably harmful to the character and appearance of the area and it would be poorly located in terms of access to services and facilities.

Highway safety

16. Whilst access is a reserved matter, it is clear that access to the site would have to be taken along a surfaced private track which runs between 3 the Cotes and the neighbouring house. This track is very narrow and of insufficient width to allow two vehicles to pass within its confines. There is no dispute that the junction of the track with the highway allows sufficient visibility along the highway to drivers of vehicles emerging from the track at the junction. However, whilst the boundary between the open front curtilage of No 3 and the track is unmarked, the equivalent boundary of the adjoining house is marked by a high hedge which extends close to the highway. This and the two houses would restrict the visibility of a vehicle travelling along the track towards the

⁵ APP/V0510/A/14/2218569

highway. There is therefore a possibility that a vehicle might seek to turn into the track, only to have to stop suddenly within the highway or reverse out into it. The appellants state that they would be willing to widen the track using land in their ownership so that two vehicles could pass, but no detailed plans are before me, nor evidence that this would be achievable in terms of the existing rights of other persons to use the relevant land.

17. However, the private track already serves a number of dwellings, and there is no evidence before me that its use has caused any accidents within the highway. Moreover, as I have observed, this does not appear to be a heavily trafficked road, and the number of additional vehicle movements arising from the proposal would be small.
18. I conclude therefore that the proposal would not be materially harmful to highway safety even if the track were not to be widened. The proposal would therefore not be contrary to the requirement of Policy COM 7 of the Local Plan that proposals provide safe and convenient access to the highway network.

Conclusion

19. I have concluded that the proposal would not be materially harmful to highway safety. However, neither this nor any other matter raised in the evidence before me outweighs my conclusions on the first main issue. The appeal is accordingly dismissed.

J Flack

INSPECTOR