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## Appeal Decision

Site visit made on 13 August 2019

**by David Wallis BSc (HONS) PG DipEP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 September 2019**

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**Appeal Ref: APP/W0530/W/19/3230103**

**Green End / Heath Road, Gamlingay SG19 3JZ**

- 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 David Barford, Wyboston Lakes Limited against the decision of South Cambridgeshire District Council.
  - The application Ref S/3170/17/OL, dated 4 September 2017, was refused by notice dated 7 February 2019.
  - The development proposed is self-build/custom build development for up to 9 dwellings.
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### Decision

1. The appeal is allowed and outline planning permission is granted for self-build/custom build development for up to 9 dwellings at Green End/Heath Road, Gamlingay SG19 3JZ in accordance with the terms of the application, Ref S/3170/17/OL, dated 4 September 2017, subject to the conditions listed in the attached schedule.

### Application for Costs

2. An application for costs has been made by Mr David Barford, Wyboston Lakes Limited against the Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. The application is made in outline form with all matters reserved. I have had regard to the submitted illustrative drawings submitted with the application as these are a useful guide as to how the site might be developed.
4. Gamlingay Parish Council (the Parish Council) has notified the appeal that there is a Regulation 14 Pre-Submission Draft Neighbourhood Plan in consultation. It has been confirmed by the LPA that there is no Neighbourhood Plan at present. Since it is unknown whether it will be made (adopted) in its current form and it could be subject to change, I give very limited weight to its content.
5. The Parish Council also draws attention to a Village Design Guide that was submitted for consultation with the LPA in May 2019. The LPA have not yet adopted this as a Supplementary Planning Document, informing this appeal that it is in draft only.
6. The appellant submitted a signed unilateral undertaking with the appeal. The Council raised concern about the wording within the agreement with regard to

disposal of dwellings within the development. The appellant disputed the need for changing the wording but nonetheless provide an alternative signed unilateral undertaking with some amendment. Due to the sequencing of submissions, I consider the revised unilateral undertaking supersedes the earlier version and I shall base my decision accordingly.

### **Main Issues**

7. The main issues are:

- whether there are material considerations to warrant a departure from the Development Plan
- the effect of the development upon landscape character.

### **Reasons**

*Whether there are material considerations to warrant a departure from the Development Plan*

8. It is common ground between the parties that the Council can demonstrate a deliverable five-year housing land supply and thus it is recognised that the proposals are a departure from the Development Plan (DP). The appeal scheme conflicts with the Council's adopted strategy for the location of new housing in conflict with DP Policies S/7 and S/9. I find no reason to disagree.
9. The LPA is a Right to Build Vanguard Authority with a statutory duty under Section 2A of The Self Build and Custom Housebuilding Act 2015 (as amended), (the Act), to "give suitable development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area."
10. The appellant has put forward evidence relating to a shortfall in the delivery of self-build housing, which is uncontested by the LPA. This shortfall is significant. The Parish Council confirm there is demand within the village for this type of development. I therefore give significant weight to this factor.
11. The DP policies, whilst controlling the location of new housing, are silent on the matter of self-build housing strategy. Despite the LPA ability to demonstrate a five-year housing land supply, this must be recognised as a minimum figure in light of the National Planning Policy Framework (the Framework), which encourages significantly boosting the supply of new homes.
12. The proposal would make a modest contribution of up to 9 self-build dwellings towards the shortfall. Whilst the appeal site would be on the edge of the village, it is within walking distance to the village centre and public transportation operates nearby. Shops, services and employment are therefore accessible. Therefore, there are economic, social and environmental sustainability benefits attributable to the development.
13. The appellant has submitted a unilateral undertaking, which would limit the appeal development to self-build housing. On this basis and for the reasons outline above, in this instance there are considerations that weigh heavily in favour of the development, that would justify departing from the development plan in this regard.

### *Landscape Character*

14. There is a tall, dense line of vegetation running the length of the appeal site's western boundary. This presents a green corridor fronting onto Heath Road on the approach into Gamlingay. Whilst the proposals would introduce a vehicular access into this hedge line, the development itself would sit behind this established landscaped corridor.
15. I observed from the site visit that some dwellings in Dennis Green on Heath Road are highly visible from the edge of Gamlingay by reason of their elevated position in the landscape. However, other parts of the hamlet are not visible due to the hedges and trees that line the highways. The appeal development would not feature in views up to Dennis Green, sitting close to the bottom of an undulation. The ability to enhance landscaping through planning conditions would further absorb the proposed development into the site.
16. The development of the site for up to 9 dwellings would represent a relatively low density. This is in contrast to the fairly dense and well-built up character of the immediate neighbouring area, that presents a reasonably abrupt urban edge facing onto the countryside. The lower density proposed development would act as a more sympathetic the transition between urban and rural areas. Therefore, the proposal would not have a significant visual effect on the open countryside.
17. In the wider context, the appeal site sits in between the edge of Gamlingay and the hamlet of Dennis Green. The separation between them is recognised by the Parish Council in its Village Design Guide as serving an important spatial function, keeping the settlements from merging. It is desirable to maintain this separation to preserve the historic character of the hamlets and to respect their identity.
18. The development of the appeal site would maintain a reasonably substantial area of open land in between the two settlements. There is reference in the evidence to that land potentially becoming an area of formal open space, although this is not part of the formal proposals and nor does the unilateral undertaking submitted seek to secure its use as such. This is a sizeable area of land that would continue to serve the purpose of keeping Gamlingay and the nearby hamlets physically separate. Whilst the proposals would bring the built form of the hamlets closer, for the reasons outline above, the development would not encroach upon the character or landscaped setting of the hamlets to a significant degree.
19. Therefore, whilst the development would inevitably change the local landscape, with careful consideration of the matters reserved for future consideration, this would not be visually or spatially harmful to the appearance of the area nor harmful to the wider landscape character. Consequently, in that regard, the proposal would not conflict with Policies S/7, HQ/1(a) or NH/2 of the DP. Amongst other things, these Policies require proposals to respect and respond to local landscape context.

### **Other Matters**

20. The Parish Council point to a number of plots that have been developed in the village, with residents citing a residential scheme on the Green End Industrial Estate. I do not have full details of the circumstances or planning merits in any

of these cases. In any event, this appeal has been determined on its own merits and with regard to the Act.

21. The appeal site's history shows that it was a landfill site. The appellant's submitted report indicates that this need not block the proposed development subject to appropriate control.
22. Residents have raised concerns over flood risk and ecology. I acknowledge that any development has potential for impacting on drainage and habitat. However, I am satisfied that conditional approval of an appropriate drainage system as well as the statutory obligations regarding protected species would be sufficient to mitigate any potential conflicts arising from the proposal. Any impact arising would not have a significant effect.
23. The point of access into the appeal site is a matter reserved for future consideration. Concerns of residents relate to the speed of traffic entering the village and the nature of a proposed access, potentially causing a hazard to highway users. However, the Highway Authority has confirmed no objection to the proposal on highway safety grounds and, it would be reasonable to assume, would exercise judgement on the reserved matters to ensure no hazard is caused to highway users.
24. The nature of self-build housing is set out within the Act. Whilst this gives design freedoms for each self-build plot, any designs would need to be submitted to the LPA through a reserved matters application. The quality of the design, its character and appearance, and its relationship to neighbouring occupiers would be assessed at that stage.
25. I have considered the arguments that the grant of planning permission would set a precedent for other similar developments. However, each application and appeal must be determined on its own individual merits, and a generalised concern of this nature does not justify the withholding of permission.
26. I note that No 1 is a Grade II listed building and that the Council has not found harm to this heritage asset in its assessment. This heritage asset is a sufficient distance away from the appeal site so as to be unaffected by the development.

### **Conditions**

27. The standard conditions for the grant of outline planning permission are to be applied and amended to reflect that self-build dwellings would likely progress at different rates. Therefore a long timescale for submission of the reserved matters is necessary.
28. In order to meet national space standards a condition to control the proposed dwellings', gross floor space would be necessary.
29. A condition securing tree protection measures to preserve important biodiversity around the development site is necessary. Conditions regarding surface and foul water drainage are necessary to ensure the proposal does not increase the risk of flooding on-site or elsewhere.
30. Control of vehicle movements and construction hours is appropriate to ensure minimal disturbance to the living conditions of nearby occupiers. Given the history of the site for quarry and landfill purposes it would be necessary to

impose conditions relating to contamination investigation and remediation rather than a condition on archaeology.

31. The Highway Authority has requested a number of conditions. Full details of the access arrangements are to be submitted within the reserved matters secured under condition 1. The reserved matters will cover landscaping details so a separate condition on boundary treatments need not be applied.
32. The LPA has recommended conditions regarding energy efficiency and broadband connectivity. However, neither of these conditions are necessary to make the development acceptable in planning terms.

### **Conclusions**

33. The appeal is allowed, subject to conditions and the unilateral undertaking.

*David Wallis*

INSPECTOR

### **Schedule of Conditions**

- 1) Approval of the details of the layout of the development, the scale and appearance of buildings, the means of access and landscaping (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before the construction of the dwelling on that particular plot is commenced. The development of each plot shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 5 years from the date of this permission.
- 3) The development of each individual plot hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved for that plot.
- 4) The reserved matters shall set out schedules of gross internal floor space for each particular plot. The gross internal floor space across the whole of the development hereby permitted shall not exceed 999 square metres.
- 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved.

In this condition "retained tree" means a tree or hedgerow to be identified within any approved reserved matters plans and particulars.

- 6) No development shall take place until a surface water drainage scheme for the site based on sustainable drainage principles, has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall demonstrate that infiltration drainage is used where site specific BRE365/CIRIA 156 infiltration tests show it be appropriate and if infiltration is not appropriate the scheme should demonstrate that surface water run off up to and including the 1% Annual exceedance probability (AEP) rainfall event (including an appropriate allowance for climate change and urban creep) will not exceed the run off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before any dwelling hereby approved is occupied.
- 7) Prior to the commencement of any development, a scheme for the provision and implementation of foul water drainage shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and completed in accordance with the approved scheme prior to the occupation of the development.
- 8) No construction works shall commence on site until a traffic management plan has been submitted to and approved in writing by the Local Planning Authority. The principal areas of concern that should be addressed are:

- (i) Movements and control of construction vehicles (all loading and unloading shall be undertaken off the adopted highway)
- (ii) Contractor parking
- (iii) Control of mud and debris, in relationship to the functioning of the adopted public highway

Development shall commence in accordance with the approved details.

- 9) During the period of construction, no power operated machinery shall be operated on the site and there shall be no construction related deliveries taken at or dispatched from the site, before 0800 hours and after 1800 hours on weekdays and before 0800 hours and after 1300 hours on Saturdays, nor at any time on Sundays and Bank Holidays, unless otherwise previously in writing with the Local Planning Authority.
- 10) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
  - i) a survey of the extent, scale and nature of contamination;
  - ii) the potential risks to:
    - human health
    - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
    - adjoining land
    - ground waters and surface waters
    - ecological systems.
- 11) No development shall take place where (following the risk assessment undertaken in condition 10) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out before any part of the development is occupied.
- 12) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning

authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before any part of the development is resumed or continued.