



Appeal Decision

Site visit made on 16 October 2017

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 29th January 2018

Appeal Ref: APP/V0510/W/17/3178635

Land north of Field End, Witchford, Cambridgeshire CB6 2XE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Bovis Homes Ltd against the decision of East Cambridgeshire District Council.
 - The application Ref 16/01019/RMM, dated 29 July 2016, sought approval of details pursuant to condition No 2 of a planning permission Ref 15/01100/VARM, granted on 9 February 2016.
 - The application was refused by notice dated 10 April 2017.
 - The development proposed is the variation of condition No7. (Sustainable homes) of previously approved 14/00248/OUM for 128 residential dwellings with all matters reserved apart from means for access.
 - The details for which approval is sought are: appearance, landscaping, layout and scale.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Bovis Homes Ltd against East Cambridgeshire District Council. This application is the subject of a separate Decision.

Procedural Matter

3. The Council have referred me to the emerging East Cambridgeshire Local Plan Proposed Submission version. However, from the information before me the examination of the emerging plan has yet to be completed, and policies within it could be subject to change. I can therefore afford only limited weight to these policies.

Main Issues

4. The main issues are whether the future occupants of the development would have acceptable living conditions with particular regard to outlook, noise and air pollution; and the effect of the development on the character and appearance of the area.

Reasons

Living conditions

5. The Council's concern over the living conditions of the future occupants of the dwellings centres on the visual impact of the bund on the occupiers of plots 57 to 88 inclusive and on noise and air quality matters. The proposed development includes an acoustic bund which would be in the region of 2.7 metres tall and would be formed using a Tensar Earth Retaining System as the sides of the bund would be angled at 70 degrees. There would also be 2.7 metres high acoustic fences to plots 57, 88 and 89.
6. The proposed bund would be located in the region of nine metres away from the rear of several of the proposed dwellings which back onto the A142. The plans indicate that the land levels of the rear gardens would be raised so that the noise bund would be in the region of 2.2 metres above the ground level on the side of the proposed dwellings. Notwithstanding that, given the height and steepness of the structure, and the relative size of some of the garden areas, it would be a dominant feature when viewed from the ground floor of the proposed dwellings which back onto the bund and when the future occupiers utilise their rear garden areas. To my mind, this would result in an unacceptably dominant structure and would contribute to a poor standard of living conditions for the future occupiers of the development.
7. It is noted that the acoustic bund was as a result of discussions between the Appellant and the Council during the course of the consideration of the application, with the original proposal being a 2.7 metre high acoustic fence. The Appellant has indicated that they would be happy to revert back to this fence as an alternative to the bund. Whilst I consider that the fence would be a significant improvement over the appearance of the bund, given the relatively small garden depths the acoustic fence would still be a significant structure which would be dominant to the future occupants of the proposed dwellings. I am also unclear how the regarding of the land for the rear gardens would be affected by this change in the proposal.
8. It is clear that without any mitigation, the occupants of the properties would be subjected to unacceptable levels of noise. The Planning Practice Guidance (PPG) states at paragraph: 008 Reference ID: 30-008-20140306 that *'for noise sensitive developments mitigation measures can include avoiding noisy locations; designing the development to reduce the impact of noise from the local environment; including noise barriers; and, optimising the sound insulation provided by the building envelope. Care should be taken when considering mitigation to ensure the envisaged measures do not make for an unsatisfactory development'*.
9. The Council have acknowledged that the mitigation put forward by the Appellant provides a technical solution to the issue of noise and I have no reason to disagree.
10. Whilst the noise bund would provide mitigation to the outdoor amenity areas and the ground floor of the properties, the Appellants evidence indicates that the noise bund would not deflect noise at the first floor level of the affected properties as the 'deflected noise' line is shown as being below the eaves level of the properties. To that end, the mitigation required to achieve the required

- internal noise level for the first floor accommodation is reliant on the noise reduction properties of the buildings themselves and the acoustic glazing.
11. The mitigation put forward by the Appellant also relies on the first floor windows being closed throughout the night. In order to achieve ventilation in the bedrooms facing the A142, it is proposed that there is a ventilation system which would draw air from a non-noise sensitive elevation through an intake fan.
 12. Notwithstanding this technical solution put forward, I share the Council's concerns that the future occupiers of the development would be unable to open the rear windows without being subjected to excessive noise especially during night-time hours. Whilst ventilation would be possible by drawing air from the non-noise sensitive elevations, to my mind, this would not provide a suitable standard of living accommodation and would provide an unsatisfactory form of development.
 13. In respect of the on-going maintenance of such ventilation, the Appellant has stated that this would be done by the future occupier of each property, in a similar fashion to any standard bathroom or kitchen ventilation system. Whilst I accept this would be the case, such kitchen and bathroom ventilation systems are not essential to providing an acceptable living environment as it is usual that such rooms also have the facility to open windows to ventilate the room naturally.
 14. The Council have also referred to the overdevelopment of the site, by placing too many dwellings near the A142. However, the proposal provides for all of the required amenity, parking and space standards necessary to make an acceptable development. To that extent, the proposal could not be considered to be an overdevelopment of the site. However, that does not mean that the development would provide suitable living conditions for its future occupiers in respect of outlook or noise.
 15. Turning to the matter of air quality, I note that this matter was also considered at the outline stage, but at that point in time it was not known where the location of the new dwellings would be on the site. Notwithstanding that, the Council's concern effectively relate to the proximity of the new dwellings to the A142 and that the future occupants would be subjected to an unacceptable level of air quality.
 16. The outline application and the reserved matters submission were supported by an Air Quality Assessment (AQA). The Council has, in its appeal statement, referred to a traffic survey by Cambridgeshire County Council in November 2016 which appears to indicate a higher level of traffic along the A142 than originally shown in the AQA. However, as pointed out by the Appellant, the location of this survey would also include traffic heading into Witchford along Main Street rather than travelling past the appeal site. This would invariably include traffic heading to/from the industrial and commercial areas. The Council have also indicated that they consider that additional traffic may use this section of the A142 following the construction of the Ely Southern Bypass. However, they have provided very little evidence to demonstrate that this would be the case.
 17. Whilst a housing layout with a greater separation distance between the A142 and the new housing would invariably assist in allowing any air pollution to

dissipate, from the evidence before me, the current proposal would still result in an acceptable standard of air quality for the future residents of the site, and in particular the plots backing onto the A142. To that extent, the proposal would accord with Policy ENV9 of the East Cambridgeshire Local Plan (2015) (LP).

18. Notwithstanding my conclusions in respect of air quality, for the above reasons the proposal would not provide for suitable living conditions for the future occupiers of the development contrary to Policies ENV2 and ENV9 of the LP which amongst other matters seeks to ensure that the future occupiers of new development enjoy high standards of amenity.

Character and appearance

19. The appeal site is located between the A142 and the existing built up area of Witchford. The boundary to the A142 has tree planting along it which provides a degree of natural screening. The Council assert that the bund would be an incongruous feature along the roadside but accept that there is a landscape screen within the highway limits of the A142.
20. From my site visit I saw that the bund itself would be largely screened from the A142 by the existing landscaping but would be visible from within the development. Whilst I accept that there is no guarantee that the highway landscaping would remain, it would nevertheless provide a suitable level of screening for the acoustic bund together with the landscape coverage on the bund itself.
21. In addition to the above, I acknowledge that the bund would also be partially visible from within the appeal site. However, whilst I have already concluded that it would contribute to unsatisfactory living conditions to the future occupants of the dwellings adjacent to the A142 it would not result in significant harm to the character and appearance of the area. In this respect, I consider that this is not a determinative factor.
22. For the above reasons the proposal would not give rise to significant harm to the character and appearance of the area and would accord with Policy ENV2 of the LP which amongst other matters seeks to ensure that all development will be designed to a high quality and relate well to existing features.

Other matters

23. I have also had regard to the other matters raised in the representations including matters such as the future management of the site (including open space, landscaping and sustainable drainage systems), drainage of the site, the type of housing, traffic and pre-application consultation.
24. However, none of the matters raised amount to a substantial planning issue or something that could not be dealt with by means of suitably worded planning conditions. Additionally, matters relating to traffic generation were considered at the outline stage.

Planning balance

25. The Council have indicated that they now have a five year supply of housing land, although this is contested by the Appellant. However, the Appellant considers that this is not relevant anyway to the reserved matters submission

as the principle of the development of 128 dwellings has already been established. That said, it is clear that should I be minded to allow the appeal then this would invariably facilitate the delivery of much needed new housing.

26. However, in this case, I consider that the harm which would result from the unsuitable living conditions of the future occupants of the dwellings significantly and demonstrably outweighs the benefits of allowing the scheme.

Conclusion

27. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR

Richborough Estates