



Appeal Decision

Site visit made on 27 January 2015

by Louise Phillips MA (Cantab) MSc MRTPI

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

Decision date: 17 February 2015

Appeal Ref: APP/D0515/A/14/2219030

Kingswood Park, Kingswood Road, March, Cambridgeshire, PE15 9RT

- 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 Ms Sarah Brind, Sanctuary Group against the decision of Fenland District Council.
 - The application Ref F/YR13/0724/F, dated 11 September 2013, was refused by notice dated 19 December 2013.
 - The development proposed is described as "the erection of 22 dwellings: 2 x 2-storey block of flats comprising of 10 x 1-bed dwellings; and erection of 1 x single storey 2-bed dwelling, 11 x 2-storey 2-bed dwellings, including sheds, refuse store and cycle store involving demolition of existing care home (retrospective) and works to western footpath of Kingswood Road".
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 22 dwellings (2 x 2-storey block of flats comprising of 10 x 1-bed dwellings; 1 x single storey 2-bed dwelling; 11 x 2-storey 2-bed dwellings), including sheds, refuse store and cycle store and works to western footpath of Kingswood Road at Kingswood Park, Kingswood Road, March, Cambridgeshire, PE15 9RT in accordance with the terms of the application, Ref F/YR13/0724/F, dated 11 September 2013, subject to the conditions set out in Annex A.

Procedural Matters

2. The description of development in the heading to this letter is that used on the decision notice and appeal form. It reflects the revision made during the application process to reduce the number of dwellings proposed from 24 to 22. The Council determined the application on the basis of the revised scheme and I have determined the appeal on the same basis. For clarity, I have amended the description slightly in my formal decision at paragraph 1.
3. The decision notice refers to policies in the Fenland Local Plan Core Strategy, Submission Version September 2013. This has now been superseded by the Fenland Local Plan (Local Plan), which was adopted by the Council on 8 May 2014. I am advised that the change in circumstances affects only the policy numbering, so that the Policies previously referred to as CP7; CP9 and CP16 are now Policies LP7; LP9 and LP16 respectively. As there is nothing before me to suggest that the wording of the policies has been altered, I have used the adopted versions in making my decision without further reference to the parties.

Main Issues

4. The main issues are whether the proposed development would prejudice the comprehensive development of the West March Strategic Allocation Urban Extension of which it forms a part; and its effect on the character and appearance of the area.

Reasons

5. The appeal site is located on the west side of March, which is classified as a Primary Market Town in Policy LP3 of the Local Plan. Consequently, it is one of four settlements expected to accommodate the majority of the District's new residential and other development during the plan period. To facilitate this, two Strategic Allocations are identified in Policy LP9, at South-East March and West March. The appeal site forms part of the latter, which, overall, is expected to accommodate approximately 2,000 new dwellings.
6. Policy LP7 of the Local Plan concerns the development of urban extensions. It states that, with the exception of "inconsequential very minor development", proposals which come forward before the production and agreement of a broad concept plan will be refused. No such plan has yet been agreed for the West March allocation and so, on the basis that a development of 22 new homes cannot reasonably be defined as inconsequential, the appeal scheme conflicts with Policy LP7.
7. However, the purpose of Policy LP7 is to ensure a co-ordinated approach to new development so that delivery coincides with that of key infrastructure, and that matters such as access and open space can be properly considered. In assessing whether the proposed development would compromise these aims, it is significant that the appeal site is at the very edge of the strategic allocation. Whereas the majority of the area included therein comprises open land, it forms part of the existing urban area, having been occupied until recently by a residential care home. Whilst Policy LP9 is clear that the allocation should be accessed from the A141 to the west, the site benefits from existing pedestrian and vehicular access at the end of Kingswood Road, a residential street, and it is clearly bounded by mature vegetation.
8. Having regard to all these factors, and to the small scale of the development proposed relative to the total envisaged, I conclude that the appeal scheme would not prejudice the comprehensive development of the West March Strategic Urban Allocation. I am mindful of the disadvantages of piecemeal development, but this site relates well to the existing built up area of the town. Moreover, its characteristics described above distinguish it from the undeveloped land within the wider allocation so that its development in advance of a concept plan should not be seen as a precedent for the release of small sites generally.
9. Therefore, while the proposed development would conflict with the terms of Policy LP7 of the Local Plan, it would not compromise the objectives of Policy LP9 for West March. In light of the Government's aim to boost significantly the supply of housing as set out in paragraph 47 of the National Planning Policy Framework (the Framework), the absence of demonstrable harm outweighs the conflict with the former policy.

Character and Appearance

10. The appeal site lies at the southern end of Kingswood Road, a residential street composed of detached dwellings. The properties close to the site on the opposite (east) side of the carriageway are large detached houses in large plots, but the road as a whole includes houses of various sizes and styles as well as a number of bungalows. The development in nearby Birchwood Road, Brewin Avenue and Butt Avenue consists of mainly detached and semi-detached houses. The northern boundary of the appeal site adjoins the rear gardens of several houses in Butt Avenue.
11. The proposed development would provide 22 one or two bedroom dwellings: as 10 flats; 11 houses; and one bungalow. The flats would be in two separate blocks, of four and six units respectively, and each block would be two storeys tall. Two of the houses would be detached, as would the bungalow, while the other houses would be either semi-detached or terraced. The houses and the bungalow would have private gardens, but the flats would share outdoor space and much of the parking for the development overall would have a communal appearance (although the plans suggest that spaces would be allocated to individual dwellings).
12. The provision of flats would differ from the prevailing form of residential development in Kingswood Road and the other nearby roads referred to above. However, the blocks of flats would be of a modest size and, by virtue of the simple design proposed, they would not look dissimilar to a small terrace of houses. In my view, neither the flats nor the terrace proposed would be visually or otherwise incompatible with the various detached and semi-detached forms of housing observed in the wider area. Similarly, while communal gardens and parking areas are not seen elsewhere, the ratio of green space to hardstanding proposed would be generous. Indeed the development would have a considerably more leafy appearance than the majority of the surrounding streets and it would not give rise to an unduly harsh urban environment.
13. Moreover, the site itself is well screened from public views, benefiting from mature trees and other vegetation along its northern, western and southern boundaries. There is only limited vegetation on the eastern boundary, but the site is separated from the adjacent properties on Kingswood Road by an unmade track, which itself is very well screened. Therefore the differences between the existing and proposed forms of development in the area would not be readily apparent. The block of flats closest to the site access would be visible from Kingswood Road, but it would be set back within the site so that it would neither appear prominent nor discordant.
14. For all these reasons, I conclude that the proposed development would not be harmful to the character and appearance of the area. It would not conflict with Policy LP16 of the Local Plan in respect of the quality of the environment it would create.

Other Matters

15. The 22 additional dwellings proposed would be a benefit of the scheme. The appellant is a Housing Association and it has submitted an executed Unilateral

Undertaking pursuant to Section 106 of the Act¹ which would secure all the units as affordable housing. This would exceed the general requirement in Policy LP5 of the Local Plan for schemes of 10 or more dwellings to provide 25% as affordable houses.

16. However, the proposal has been assessed on the basis that the development would be exclusively affordable housing and the evidence suggests that other planning obligations, such as financial contributions towards education, would have been necessary if it were not². Therefore, while I consider that the site would be equally suitable for the usual combination of market and affordable housing, the provisions of the Unilateral Undertaking are necessary to manage the effects of the development in other respects. I am therefore satisfied that it meets the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and I have had regard to it accordingly.
17. In reaching my decision, I have had regard to the concerns raised by consultees and interested parties and I note in particular that the Middle Level Commissioners (MLC), as engineers to the Internal Drainage Board, object to the scheme on the basis of surface water drainage. The site lies in an area where there is a known issue with surface water flooding and the appellant has submitted a Flood Risk Assessment³ (FRA) accordingly. The MLC states that the FRA does not meet its requirements and so considers that the appellant has failed to prove that a viable scheme for water level and flood risk management could be constructed and maintained.
18. However, the MLC is not specific about the way in which the submitted FRA is deficient, nor about why the drainage strategy proposed would not be effective. It would consist of a piped system draining to an underground tank in the north-west corner of the site. Water would then be pumped across third party land to a watercourse to the south east. The MLC is concerned that pumps should be used as a last resort, but the scheme overall seeks to respond to local ground conditions which are unsuitable for infiltration drainage and to ground levels which make a gravity outfall unfeasible. Again, no better alternative is suggested.
19. The FRA indicates that various permissions would be needed to implement the scheme and that a management and maintenance regime would be required. Nonetheless it is clear that consideration has already been given to both issues and I am satisfied that the evidence before me demonstrates that a viable solution to surface water drainage is achievable. The outstanding matters could therefore be controlled by pre-commencement conditions.
20. I also acknowledge the concerns raised by interested parties in respect of highway safety risks caused by additional traffic on Kingswood Road. However, the issues raised by local residents have been considered by the Highway Authority, which raises no objection subject to footway improvements. These are shown on drawing No 20529_03_001 submitted with the application. The Highway Authority comments that Kingswood Road has a substantially greater theoretical capacity than would be generated by the existing and proposed level of development and my observations on site bore this out.

¹ Town and Country Planning Act 1990.

² County Council comments as referred to in Section 6 of Officer's Report; and Education Supplementary Planning Guidance.

³ Flood Risk Assessment, Ref 20529/09-13/3374 Rev A, by M-EC, dated 13 September 2013.

21. The road is a relatively quiet residential street in which the majority of dwellings have off-road parking. Whilst I observed roadside parking in some places, this, combined with the need to negotiate a bend, is likely to slow the speed of traffic. The road widens near to the entrance to the site and visibility from it is good. Overall I am satisfied that the proposed development would not be to the detriment of highway safety.
22. Turning to other matters raised, given the distance between the existing and proposed dwellings and the screening present on the boundaries of the site, the development would not give rise to any overlooking detrimental to neighbouring living conditions. Nor is there any detailed evidence before me to suggest that the loss of the previous care home use or a lack of capacity in local services and infrastructure should warrant the dismissal of the appeal. Consequently, none of the other matters raised outweighs or alters my findings in relation to the main issues of the appeal.

Conclusion and Conditions

23. For the reasons given above, I conclude that the appeal should be allowed. I have considered the conditions suggested by the Council in light of the advice in the Planning Practice Guidance. I have imposed the standard time limit for the commencement of development, and a condition to require the development to be carried out in accordance with the approved plans. The latter is for the avoidance of doubt and in the interests of proper planning. The conditions relating to landscaping, materials and trees are necessary to protect the character and appearance of the area and that regarding vegetation clearance is necessary to protect nesting birds.
24. The site lies in an area of known archaeological potential and so a condition is required to protect any remains which might survive. A scheme of external lighting is required in order to provide good living conditions for future residents and in the interests of crime prevention.
25. I have imposed conditions relating to the construction of roads, footways, parking and turning within the site itself, another to secure the provision of a Construction Management Plan and another requiring that any damage caused by the developer to the highway should be repaired at the developer's expense. These are necessary for reasons of highway safety and in the interests of future occupiers and nearby existing residents. Whilst not suggested by the Council, I have imposed a condition to require the proposed pedestrian improvements along Kingswood Road to be implemented prior to occupation of the development. As the works formed part of the submitted application, this should come as no surprise to the parties.
26. The appellant's Contaminated Land Assessment⁴ concludes that remediation is required to protect human health from contamination. I have therefore included a condition to ensure that this happens. Finally, for the reasons given in my report, a condition requiring details of foul and surface water drainage is required to prevent pollution and to manage flood risk.

Louise Phillips

INSPECTOR

⁴ Phase II Contaminated Land Assessment Report, by MLM, dated 14 August 2012.

Annex A – Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20529_00_001; 20529_03_001; 20529_03_003; 20529_06_001; 001 Rev W; C1440/100 Rev B; C1440/101 Rev B; C1440/120 Rev B; C1440/121 Rev B; C1440/134 Rev A; C1440/135 Rev A; C1440/136 Rev A; C1440/137 Rev A; C1440/138 Rev A; C1440/139 Rev A; C1440/140 Rev D; C1440/145 Rev A.
- 3) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; hard surfacing materials and other hard landscape features and their materials; existing trees, hedges and other soft landscape features to be retained; planting plans, including specification of the species, sizes and percentage mix to be provided; planting or other features to enhance the value of the development for biodiversity and wildlife; siting and timing of construction activities so as to avoid harm to nature conservation features; and management and maintenance arrangements.
- 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 buildings or the completion of the development, whichever is the sooner; and any trees or plants which, 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 approval to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards unless the local planning authority gives written approval to any variation.
- 5) Vegetation clearance shall only take place outside the bird breeding season of March to August inclusive. Should this not be possible, the local planning authority shall be given at least 14 days notice, in writing, of the intention to carry out such works and a nesting bird survey shall be undertaken 24-48 hours before the works commence by an experienced ecologist. The report shall be submitted to, and approved in writing by, the local planning authority before the works commence.
- 6) No development shall take place, and no materials shall be brought onto the site, until all the trees to be retained are protected in accordance with British Standard 5837:2012. The measures for protection in accordance with that standard shall be implemented and retained until the completion of the development for Building Regulations purposes.
- 7) No development or preliminary ground work of any kind shall take place on the site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The written scheme of investigation shall include a timetable for the investigation work.

- 8) No development shall take place until a scheme for the provision of external lighting has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme before any of the dwellings are occupied and it shall be retained as such thereafter.
- 9) No development shall take place until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted (including the walls and roofs) have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 10) No development shall take place until a scheme for the construction of estate roads, private driveways and footways, to include finished levels, forms of construction and surface water drainage, has been submitted to and approved in writing by the local planning authority. The approved works shall be completed to at least binder course surfacing level to the adjoining highway, Kingswood Road, prior to the first occupation of any dwelling on the site.
- 11) No development shall take place until a condition survey of the highway between the site and the junction with Burrowmoor Road has been submitted to and approved in writing by the local planning authority. Any subsequent damage to this highway caused by delivery and construction traffic associated with the development hereby approved, as evidenced through a report to be compiled by the developer, shall be remedied by the developer at its own expense in accordance with a scheme of works to be agreed in writing by the local planning authority. The report shall be submitted to the local planning authority within one month of the completion of the final dwelling, or within a period of two years from the commencement of the development, whichever is the sooner.
- 12) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be adhered to throughout the construction period. It shall provide for:
 - i) the parking of vehicles of site operatives and visitors
 - ii) routes for construction traffic
 - iii) temporary facilities, clear of the public highway, for the parking, turning, loading and unloading of all vehicles visiting the site during the period of construction
 - iv) hours of proposed development related activities
 - v) measures to prevent the deposition of mud on to the highway
 - vi) measures for the protection of pedestrians and cyclists
 - vii) any proposed temporary traffic restrictions
- 13) No development shall take place until:
 - a) A scheme to remedy the land and groundwater contamination affecting the site has been submitted to and approved in writing by the local planning authority. The scheme shall be based upon the findings of the site investigation and results of the risk assessment included in the Phase II Contaminated Land Assessment Report, by

MLM, dated 14 August 2012. The scheme shall be implemented as approved.

- b) Following the implementation of the approved scheme, two copies of a Completion Report, confirming the objectives, methods, results, and conclusions of all remedial works undertaken, together with any requirements for longer-term monitoring, maintenance and arrangements for contingency action, have been submitted to and approved in writing by the local planning authority.
- 14) No development shall take place until a scheme for the provision and implementation of foul and surface water drainage facilities have been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for the works, confirmation that any consents or permissions required to install the necessary infrastructure have been obtained, and arrangements for long term monitoring and maintenance. The scheme shall be carried out as approved and retained as such thereafter.
- 15) No dwelling shall be occupied until the associated area for parking and turning shown the approved plans has been drained and surfaced in accordance with details to be submitted to and approved in writing by the local planning authority, and that area shall not thereafter be used for any purpose other than the parking and turning of vehicles.
- 16) No dwelling shall be occupied until the site access and pedestrian improvements shown on drawing No. 20529_03_001 have been implemented and the satisfactory completion thereof has been acknowledged in writing by the local planning authority.

End.

Richborough Estates