



Appeal Decision

Hearing held on 25 July 2023

Site visit made on 25 July 2023

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2023

Appeal Ref: APP/V0510/W/23/3317675

Land at Cambridge Road, Stretham, Cambridgeshire, CB6 3LW

- 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 Long Term Land Limited against the decision of East Cambridgeshire District Council.
- The application Ref 22/00180/OUM, dated 14 February 2022, was refused by notice dated 21 November 2022.
- The development proposed is the erection of up to 19 Affordable Homes with associated access, parking and landscaping.

Decision

1. The appeal is allowed and outline planning permission is granted for erection of up to 19 Affordable Homes with associated access, parking and landscaping at Land at Cambridge Road, Stretham, CB6 3LW in accordance with the terms of the application, Ref 22/00180/OUM, dated 14 February 2022, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made by Long Term Land Ltd against the decision of East Cambridgeshire District Council. This application is the subject of a separate Decision.
3. An application for costs was made by East Cambridgeshire District Council against Long Term Land Ltd. This application is the subject of a separate Decision.

Preliminary Matters

4. The appellant has submitted two duly executed legal agreements which I have taken into account. The first secures the development as affordable housing, the second unilateral undertaking provides for both an education and libraries contribution to Cambridge County Council and I have contemplated both further later in my decision.
5. The original application was made in outline with all matters reserved except for access and I have had regard to drawing no 3288-D1000 rev 02 and 2006310-004 rev B. I have dealt with the appeal on this basis and I have treated any details not to be considered at this stage as being illustrative only.

Main Issues

6. The main issues in this appeal are:

- whether the proposed noise mitigation measures result in an acceptable level of amenity to future occupiers, with particular regard to natural ventilation; and
- the effect of the development on the character and appearance of the area.

Reasons

Living conditions of future occupiers

7. The appeal site is located directly off the A10 Cambridge Road, and as a result a noise impact assessment (NIA) was submitted with the proposal in order to demonstrate that future occupiers of the proposed development would not be subject to undue levels of road noise.
8. This assessment concludes that acceptable levels of internal and external noise can be achieved through design, layout and mitigation, whilst maintaining ventilation to the properties. This is achieved through the use of Mechanical Ventilation Heat Recovery (MVHR) which is also a fundamental part of the passive house design that is envisaged for the development. The parties agree that the NIA demonstrates that acceptable living conditions can be achieved with MVHR and windows closed.
9. Concern has been raised that future occupants would be unable to open windows within the properties, without being subjected to unacceptable levels of noise. However, evidence provided as part of the appeal demonstrates that windows would be able to be opened at both ground and first floor levels on at least one quieter façade, during both daytime and night-time periods. Albeit, it has been put to me that with the windows opened there would be a significant reliance on marginal compliance with the internal British Standards for noise.
10. Policy ENV2 of the East Cambridgeshire Local Plan 2015 (LP) encourages innovative, creative good modern architectural design and requires new development to incorporate sustainable construction principles and methods as set out within policy ENV4, whilst also ensuring that occupiers enjoy high standards of amenity. Policy ENV4 sets out that new development should aim for reduced or zero carbon development, first by maximising energy efficiency and then incorporating renewable or low carbon energy sources on site.
11. Having regard to these policy requirements, I have taken into account that the properties are proposed to be designed to passive house standards, with MVHR being a fundamental part of their design principles. A passive house design offers a number of benefits to future occupiers, including increased energy efficiency than that of a standard construction home and lower energy and water costs.

12. Airtightness is a critical part of passive house design and therefore, when windows are open the effectiveness of the heating and cooling system of the building are compromised. Therefore, occupiers of this type of property are actively discouraged from opening windows. There is nothing before me which suggests that residents living in a passive house designed development would not be provided with the high standards of amenity that Policy ENV2 seeks to achieve.
13. The Council has provided me with a number of appeal decisions, where Inspectors have found that the use of MVHR would not provide an acceptable standard of living accommodation for future occupiers. However, none of the examples provided are for passive house development and therefore the considerations are not the same as those before me.
14. Based on evidence before me that some windows could be opened without compromising the amenity of future occupiers, together with the proposed development being constructed to a passive house design, the development would provide a high-quality living environment, in accordance with Policy ENV2 of the LP. The development would also accord with Policy ENV4 which aims for reduced or zero carbon development.

Character and appearance

15. The site comprises an open field located between the evenly spaced pairs of semi-detached dwellings which predominately line the A10 and a smaller group of development on the other side, as the pattern of development becomes more loose knit as the A10 continues into the countryside beyond the settlement of Stretham.
16. The appellant's design and access statement (DAS) sets out that the character of the buildings in Stretham can be broadly split in to 3 categories, the historic pre war centre, twentieth century post war and recent twenty-first century developments. The appeal site is adjacent to dwellings which are indicated within the DAS as twentieth century post war development, which are 2 storey pitched roof scale, set back from the street and frequently present gable roofs to the street frontage.
17. Policy ENV1 of the LP sets out that proposals should be informed by the Cambridgeshire Landscape Guidelines, however the Council confirmed that this document was not relevant to the consideration of the appeal and in any event I have not been provided with a copy by either party. The second part of the policy requires development to create positive, complementary relationships with existing development.
18. Policy ENV2 requires development to be high quality, having regard to local context, whilst making efficient use of land while respecting the density and character of the surrounding area. It also seeks to ensure that the location, layout, scale, form and massing relate to the surrounding area as well as creating quality new schemes in their own right.

19. Noting the wider character of the area, the development of the site as suggested on the illustrative plans, with a mix of frontage development following the rhythm and pattern of closely grouped development along the A10, with a looser form of development to the rear would respect the density and character of the surrounding area, providing complementary relationships with the existing development.
20. Concerns have been raised with regard to the proposed layout of the dwellings, with the appellant submitting a number of iterations of the illustrative masterplan, which has in part been influenced by the findings of the noise impact assessment. It is agreed that the need to provide adequate mitigation for future occupiers from noise arising from the A10 is a constraint which is likely to affect the layout and orientation of development, however the application is in outline and details of layout, scale and appearance are not before me.
21. The description of development is for up to 19 dwellings which is a maximum and not a minimum figure. As such, whether the site can accommodate that level of development whilst enabling the constraints of the site to be adequately mitigated, whilst ensuring that the layout and scale of development is compatible with the character and appearance of the area, remain sufficiently flexible such that it has not affected my findings on character and appearance.
22. I therefore conclude that the proposed development would not harm the character and appearance of the area. The development would be in accordance with policies ENV1 and ENV2 of the LP which seeks to ensure that development complements the context and wider character of the area.

Planning Obligations

23. The appellant has provided two legal agreements under section 106 of the Town and Country Planning Act 1990, which includes a number of obligations which would come into effect if planning permission were to be granted. I have considered the obligations in light of the Framework, Planning Practice Guidance and the Community Infrastructure Levy Regulations (the CIL Regulations). These state that a planning obligation must be necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
24. The section 106 agreement provides for the delivery of 100% of the dwellings to be affordable dwellings for rent and intermediate housing and would be in line with Policy HOU4 of the LP, which sets out that where affordable housing is to be provided on exception sites planning obligations will secure its affordability in perpetuity. Furthermore, the provision of affordable houses would accord with the Framework which seeks to ensure a sufficient supply of homes to reflect identified needs. I am satisfied that this planning obligation meets all three tests and so is necessary. I give this obligation significant weight.

25. The unilateral undertaking sets out a contribution towards the delivery of an education contribution for both early years and secondary education. The additional pupil yield from the proposed development and other nearby developments cannot be met by Witchford Village College as the catchment secondary school for Stretham village. However, the appellant has indicated that the obligation should not be necessary, as the expansion can be provided for through the Councils CIL charging schedule.
26. The Council's CIL was adopted in December 2012 and implemented from February 2013. It sets out that the District Council will continue to use S106 planning obligations to secure site specific infrastructure and facilities or services that are essential for the development to take place, or are needed to mitigate the impact of a specific development at the site or neighbourhood level.
27. The Council's Community Infrastructure Levy, Infrastructure List identifies both Littleport Schools and Soham Village College and the County Council have confirmed that CIL contributions have been sought for Littleport Secondary School. The County Council confirm that no CIL money has been requested or secured for the expansion of early years provision in Stretham or for the expansion of Witchford Village College.
28. Furthermore, the advice in the Planning Practice Guidance confirms that authorities can choose to pool funding from different routes to fund the same infrastructure provided that authorities set out in their infrastructure funding statements which infrastructure they expect to fund through CIL. Therefore I am satisfied that education contributions for Witchford Village College can be secured through the obligation as it is not listed on the Councils infrastructure list.
29. The appellant has also suggested that as the development is to serve those having a local connection that any children are likely to be already accommodated within local schools and therefore a contribution is not required. However, paragraph 4.5.2 of the LP sets out that whilst priority will be given to those in housing need with a connection to the village, this will include a cascade provision for those with a connection to neighbouring villages and then those in the wider locality. Therefore, there is a lack of certainty that additional places would not be required, or that existing housing vacated by those who do meet the criteria would not also be located within the catchment of Witchford Village College and therefore additional places would still be required.
30. Therefore, I am satisfied that the obligation is required to meet the needs of the future residents of the scheme and to mitigate the impact of development on the nearest Secondary School, so is necessary.
31. The obligation also makes provision for a contribution to secure the provision of additional capacity at Ely Library to mitigate the impacts of the provision of new dwellings. The County Council have confirmed that this would represent the proportionate cost of enhanced static library provisions, with no physical changes to the existing building. It would be used to enhance space used for study, access to PCs, internet connection and support clubs which run in the library. I am satisfied that this planning obligation meets all three planning obligation tests and so is necessary.

32. On this basis, I consider that both of the submitted agreements accord with the criteria of Regulation 122 of the CIL and with paragraph 57 of the Framework. I can therefore reasonably take them into account.

Conditions

33. The Council has suggested conditions which I have considered against the advice in the Framework and Planning Practice Guidance. I have attached conditions relating to the submission of reserved matters and the time limits associated with this. I have also included a condition specifying the relevant plans as this provides certainty.
34. In order to ensure any archaeological finds are adequately identified and protected I have included a condition requiring the submission of a written scheme of investigation.
35. The submission and implementation of a construction management plan is necessary to minimise detrimental effects to the living conditions of neighbouring residents and ensure highway safety during the construction phase.
36. To ensure that any unexpected contaminants are correctly identified and remediated to ensure that the future users of the site are protected from risks associated with contaminants it is necessary to require an assessment of the risks posed and details of remediation.
37. To manage the surface water environment of the scheme a condition is necessary that secures a detailed surface water drainage scheme to be submitted to and agreed by the Council and details of foul drainage works to be agreed.
38. In order to ensure that the development is appropriate in terms of scale in relation to neighbouring properties, details of existing and finished ground and slab levels are required.
39. To protect future occupiers from noise arising from the A10, the recommendations set out within the submitted NIA shall be adhered to and incorporated into a scheme which reflects the reserved matters of layout, scale and design.
40. To protect and enhance biodiversity I have found it necessary to impose a condition requiring details of biodiversity mitigation and enhancements to be submitted and agreed.
41. In order to ensure adequate water supply for emergency use, details of fire hydrants are required and I have imposed a condition which requires the works to be completed prior to the occupation of any dwelling.
42. To ensure highway safety, conditions to secure the construction of the new access, the stopping up of the existing agricultural access and the prevention of surface water run off onto the highway are required.
43. Finally, a condition is required to ensure that the development is constructed to passive house principles as set out in the submitted energy and sustainability strategy.

Conclusion

44. I therefore conclude that the proposal would accord with the development plan as a whole and, as other material considerations do not indicate a decision to the contrary, that the appeal should be allowed.

G Pannell

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Andrew Tabachnik KC – 39 Essex Chambers
Chris Frost – Future Planning Development
Toby McCulloch - Metropolis Planning and Design LLP
Adam Bamford – Cass Allen

FOR THE LOCAL PLANNING AUTHORITY:

Simon Ellis – Planning Manager
Gavin Taylor – Planning Officer
Chris Smith – Environmental Health Officer

SCHEDULE OF CONDITIONS

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 2) The development 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.
- 3) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 3288-D1000 rev 02 Location Plan; 2006310-004 rev B Proposed Site Access Arrangements.
- 5) No demolition/development shall take place until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;

- iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- 6) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 5.
- 7) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel washing facilities;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) in the event of the foundations from the proposed development requiring piling, detailing the type of piling and mitigation measures to be taken to protect local residents from noise and/or vibration
 - vii) measures to control surface water run-off from the site during any construction works;
 - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - ix) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 8) 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 the development is resumed or continued.
- 9) Concurrently with the submission of reserved matters a detailed design of the surface water drainage of the site shall be submitted, include a timetable for implementation. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

The scheme shall be based upon the principles within the agreed Flood Risk Assessment and Foul and Surface Water Drainage Strategy for Planning, prepared by Unda Consulting Limited (ref: Ref: 90709-FuturePD-Stretham v3.0 160522) dated 16 May 2022 and shall also include:

- a) Full calculations detailing the existing surface water runoff rates for the QBAR, 3.3% Annual Exceedance Probability (AEP) (1 in 30) and 1% AEP (1 in 100) storm events;
 - b) Full results of the proposed drainage system modelling in the above-referenced storm events (as well as 1% AEP plus climate change), inclusive of all collection, conveyance, storage, flow control and disposal elements and including an allowance for urban creep, together with an assessment of system performance;
 - c) Detailed drawings of the entire proposed surface water drainage system, attenuation and flow control measures, including levels, gradients, dimensions and pipe reference numbers, designed to accord with the CIRIA C753 SuDS Manual (or any equivalent guidance that may supersede or replace it);
 - d) Full detail on SuDS proposals (including location, type, size, depths, side slopes and cross sections);
 - e) Details of overland flood flow routes in the event of system exceedance, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants;
 - f) Demonstration that the surface water drainage of the site is in accordance with DEFRA non-statutory technical standards for sustainable drainage systems;
 - g) Full details of the maintenance/adoption of the surface water drainage system and any other arrangement to secure the operation of the scheme throughout its lifetime;
 - h) Permissions to connect to a receiving watercourse or sewer;
 - i) Measures taken to prevent pollution of the receiving groundwater and/or surface water
- 10) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted, concurrently with the first submission of reserved matters, to and approved in writing, by the local planning authority.
- 11) Concurrently with the first submission of reserved matters the following information shall have been submitted to and approved in writing by the local planning authority:
- i) a full site survey showing: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals and floor levels of adjoining buildings;
 - ii) full details of the proposed finished floor levels of all buildings and hard landscaped surfaces.

The development shall be carried out in accordance with the approved details.

- 12) Construction work shall not take place until a scheme for protecting the proposed noise-sensitive development from noise from the A10 shall have been submitted to and approved in writing by the local planning authority. The scheme shall reflect the principles of the recommendations identified in Cass Allen RP01-21602-R0 revision 3 dated 1 March 2023 and associated documentation. All works which form part of the scheme shall be completed before any part of the noise sensitive development is occupied and retained thereafter.

- 13) Concurrently with the first submission of reserved matters a scheme of biodiversity mitigation and enhancement, including a timeframe for implementation and a long-term management plan, informed by an ecological appraisal of the site shall be submitted to and approved in writing by the local planning authority. The biodiversity improvements shall be installed prior to the first occupation of the hereby approved development and thereafter maintained in perpetuity.
- 14) Prior to works proceeding above slab level, a scheme for the provision and location of fire hydrants to serve the development to a standard recommended by the Cambridgeshire Fire and Rescue Service or alternative scheme shall be submitted to and approved in writing by the Local Planning Authority. The hydrants or alternative scheme shall be installed and completed in accordance with the approved details prior to the occupation of any part of the development.
- 15) Prior to first occupation of the development, the works as detailed in principle on drawing 2006310-004 Revision B shall have been completed to the satisfaction of the local planning authority and shall thereafter be retained.
- 16) The existing agricultural access(es) to A10 Cambridge Road shall be permanently and effectively closed and the footway shall be reinstated in accordance with a scheme to be agreed with the Local Planning Authority, within 28 days of the bringing into use of the new access.
- 17) The access and all hardstanding within the site shall be constructed with adequate drainage measures to prevent surface water run-off onto the adjacent public highway and retained in perpetuity.
- 18) The detailed design of the dwellings hereby permitted shall incorporate the five principles of passive house design, as set out within submitted the Energy & Sustainability Strategy, October 2022. Prior to occupation of any dwelling, evidence shall be submitted to the local planning authority to demonstrate that the development has been constructed adopting these principles.

-END-