



Appeal Decision

Site visit made on 17 February 2020

by S A Schinaia MSc EngD FGS

an Inspector appointed by the Secretary of State

Decision date: 7th July 2020

Appeal Ref: APP/V2635/W/19/3240927

Land to the south of Prince Henry Place, Downham Market

- 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 Bob Fidock against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 19/00597/FM, dated 30 March 2019, was refused by notice dated 3 September 2019.
 - The development proposed is described as "Proposed development of 19No. 2 and 3 bedroom dwellings (including 4No. affordable units) with associated garages/parking, access road, landscaping and open space".
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Bob Fidock against King's Lynn and West Norfolk Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. Since the refusal of planning permission, a Planning Obligation by Deed of Agreement under Section 106 of the Town and Country Planning Act 1990 has been agreed by the Council with the owners of the appeal site. The Deed is for the provision of four Affordable Dwellings as part of the appeal development. The reason of the Deed is: "to secure the planning obligations contained in this Deed should the Planning Permission be granted on Appeal".
4. A scheme with a similar layout of dwellings was refused planning permission in 2017 and subsequently dismissed on appeal¹ in 2018.

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of the occupants of the properties in Prince Henry Place, with particular reference to noise and disturbance from construction works and subsequent occupation.

¹ APP/V2635/W/18/3195074

Reasons

6. The appeal site occupies a large plot south of Prince Henry Place (PHP) within the development area of Downham Market and is adjacent to school playing fields to the west and residential dwellings to the other sides. The site is a former paddock land and currently is an overgrown field. The scheme would include a singular vehicular access point from PHP and a central turning head with private drives giving access to the individual properties. Most of the 19 dwelling units have parking within the curtilage. The units are a mixture of semi-detached and terraced houses. The appeal site was allocated for residential development in the previous local plan, but now is within the development boundary of Downham Market.
7. To the north of the appeal site at the proposed access there is the Prince Henry Place estate, an assisted sheltered housing scheme for retired people with medical needs. In the previous appeal the Inspector had concluded that the level of disturbance in terms of noise and traffic during occupation of the proposed dwellings would not result in untypical levels of noise and that additional traffic from the singular vehicular access outside the properties of PHP would be confined to an existing road upon which there is already traffic. However, since that decision was made the status of the use of gardens within PHP has been clarified and residents of PHP have commented on the potential impacts of the scheme.
8. The appellant in his statement has maintained that there is no evidence that more vulnerable adults exist locally than in other areas of the country or why they need specific protection. However, the Council has received several objections to the proposal from the local neighbours, including residents of the PHP sheltered housing scheme who live in properties adjacent to the access of the proposed development. According to the residents' representations, they appear to be vulnerable people affected by disabilities and medical conditions that include reduced mobility with the use of wheelchairs and other walking aid, sight impairment and respiratory diseases. They have maintained that they would not be able to cope with the extra amount of noise, poor air quality and traffic that would be generated by the proposed scheme, both during construction and occupation.
9. The bungalows in PHP have only one form of private garden and most of these are front gardens adjacent to the road, not screened by any vegetation or fences. During the site visit, I could see that there is a communal garden behind the bungalows to the west, but access is through communal paths and not through direct entry from the houses. Therefore, residents can access directly only their front gardens, which are their private and main easily accessible green space for recreation. Furthermore, I consider that due to their disabilities and other medical conditions, residents would be in their home most of the day and use their front garden more than other residents, especially if they have mobility issues.
10. I agree with the Inspector of the previous appeal that local residents are already used to some degree of traffic from PHP and adjacent Howdale Rise; however, both roads are cul-de-sacs with a limited number of dwellings. It is expected that the proposed 19 dwellings may result in traffic trips from up to more than 40 cars, considering that each dwelling complies with the Council's minimum requirements of two parking spaces for two and three-bedroom

houses and several of the proposed dwellings have three parking spaces according to the appellant's Design and Access Statement. Accordingly, given that the only access to the proposal is through PHP, the amount of daily car trips may go up considerably compared to the current traffic volume.

11. Such traffic would create disturbance in terms of noise and air pollution that might be expected and acceptable in the majority of residential areas, especially if there is expected growth planned in terms of residential units. I note that some residents with respiratory disease are concerned about the pollution caused by additional traffic from residents' vehicles of the proposed development and the possible amount of dust that can be produced during building works. The appellant has maintained that the Council has not provided data on noise assessment.
12. Although opportunities to monitor and then potentially mitigate noise and air pollution might be effective in typical residential areas, this might not be advisable in the case of the residents of PHP, due to the sensitive nature of their health conditions and risks of long-term exposure. Once the development is occupied, it might be difficult to implement or enforce mitigation measures to return noise and air parameters to safe levels. For example, whilst construction works may be regulated by a construction management plan, it would be much less practical to modify the use of private cars by future residents of the proposed development.
13. In the previous appeal, the Inspector only discussed noise and traffic issues and had recognised that it was uncommon for an estate road to go through a sheltered housing scheme, although he did acknowledge that exposure to noise and disturbance would be of greater concern. The absence of a reference to the impact of potentially harmful noise on residents in a previous Council's planning brief document led him to conclude that the proposal would not result in an untypical level of noise during occupation.
14. Unlike the previous appeal, PHP residents' representations regarding their health issues and disabilities have helped to clarify why and how the proposed development would affect their living conditions. Although their representations are not supported by expert medical opinion, they live in an assisted and sheltered housing scheme and I have no reason to doubt their precarious medical conditions. In the absence of noise and air quality assessment and given the vulnerability of the residents in PHP, I consider that the disturbance from the occupation of the new scheme may harm significantly the living conditions of existing residents, especially the quality of life of those with medical conditions that can be greatly affected by detrimental environmental conditions.
15. I noted that some PHP residents point out that the amount of traffic generated during construction, in the form of heavy trucks transporting material and trips of construction workers, would cause distress in terms of noise as well as interfere with the daily traffic generated by the visits from their carers or other forms of assistance, including ambulances for normal visits or emergency runs to hospitals. However, such disturbance would be time limited and vary according to the stage of construction works, such that some activity may be less noisy than others. I agree that a construction management plan, secured by a planning condition, would be necessary and effective to mitigate disturbance during working hours from delivery times, parking and storage

areas. Such arrangements would be acceptable to mitigate time limited disturbance, if there was no other identified harm.

16. The Council has maintained that the loss of adjacent green space with associated wildlife would have an impact on the mental health of the residents in PHP, especially in consideration of studies highlighting the beneficial effect of the natural environment on people suffering from medical conditions. Although the appeal site is not currently accessible to the public due to the presence of a gate, I accept that the undeveloped land currently provides green and spacious qualities to area, as well as supporting wildlife. However, the sheltered housing scheme in PHP already benefits from a communal garden with a pond. Furthermore, to the west of both the appeal site and the PHP dwellings there are the large grounds of the Downham Market Academy; therefore, overall the proposal would not lead to a significant erosion of green space in the surroundings. However, this would not outweigh the harm I have found.
17. For the above reasons, I conclude that the proposal would be detrimental to the living conditions of the residents in PHP due to the impact of the occupation of the scheme, where additional traffic and car use would have in terms of noise and poor air quality on their quality of life and health. The proposal would therefore be in conflict with Policy CS08 of the King's Lynn and West Norfolk Local Development Framework Core Strategy (2011), which seeks to promote community wellbeing, and Policy DM 15 of the Site Allocations & Development Management Policies Plan (2016), which seeks to create a high-quality environment without detrimental impact on the amenity of new and existing residents, also in terms of noise and poor air quality.
18. The proposal would also be in conflict with paragraphs 115, 127(f) and 180 of National Planning Policy Framework (2019). Paragraph 115 seeks to create safe places and promote well-being. Paragraph 127(f) seeks for developments to create safe places and promote health and wellbeing. Paragraph 180 seeks to ensure that new development is appropriate for its location taking into account the likely effects, also cumulative, of pollution on health, living conditions and the natural environment.

Other Matters

19. The appellant has addressed the shortcomings in terms of design and layout identified in the previous appeal. To adapt the proposal to the character and appearance of the existing dwellings surrounding the scheme, the ten dwellings adjacent to PHP and Howdale Rise would be bungalows, while the two storey houses would be close to the communal garden to the northwest and along the southern boundary of the property adjacent to Ryston End. I am satisfied that the scheme would maintain the density of development and the character and appearance of the area.
20. I acknowledge the concerns of residents regarding highway safety, due to the increased traffic and the constrained conditions of roads. However, I am satisfied that, subject to conditions to carry out the proposed works for highway improvement and conditions to highway management and parking during construction, there would be no harm to highway safety.
21. The scheme would provide four affordable dwellings that have been secured by a planning obligation submitted as part of a s106 agreement, in accordance with the provisions of Policy CS09 of the Core Strategy on affordable housing.

The beneficial contribution to the delivery of affordable housing in the borough would weigh in favour of the proposed development, however this would not outweigh the harm identified above.

Conclusion

22. For the above reasons, I conclude that the appeal should be dismissed.

S A Schinaia

INSPECTOR