



Appeal Decision

Site visit made on 16 February 2021

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd February 2021

Appeal Ref: APP/J1535/W/20/3263513

Trevelyan House, Goldings Hill, Loughton IG10 2SW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Trevelyan House Ltd against the decision of Epping Forest District Council.
 - The application Ref EPF/1317/19, dated 22 May 2019, was refused by notice dated 21 August 2020.
 - The application sought planning permission for demolition of three existing properties and associated buildings to be replaced with 8 no. dwelling houses, new access road, parking and landscaping without complying with a condition attached to planning permission Ref EPF/2379/17, dated 6 November 2017.
 - The condition in dispute is No 2 which states that: the development hereby permitted will be completed strictly in accordance with the approved drawings nos: FFK_001A, FFK_301B, FFK_303B, FFK_300L, FFK_112A, FFK_111A, FFK_110A, FFK_105, FFK_104, FFK_103, FFK_102, FFK_101, FFK_100D, FFK_002, FFK_314A, FFK_315B, FFK_316B, FFK_317B, FFK_318A, FFK_320A, FFK_321A, FFK_322A, FFK_323, FFK_324B, FFK_325B, FFK_326C, FFK_330B, FFK_331A, FFK_302B, FFK_304B, FFK_310A, FFK_313A, FFK_312, FFK_311.
 - The reason given for the condition is: to ensure the proposal is built in accordance with the approved drawings.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of three existing properties and associated buildings to be replaced with 8 no. dwelling houses, new access road, parking and landscaping at Trevelyan House, Goldings Hill, Loughton IG10 2SW, in accordance with the application Ref EPF/1317/19, dated 22 May 2019, without compliance with condition number 2 previously imposed on planning permission Ref EPF/2379/17, dated 6 November 2017, but subject to the conditions set out in the attached schedule.

Background and Main Issue

2. Planning permission was originally granted for residential development at the site under reference EPF/1578/16. An application to carry out the development without complying with the approved drawings was subsequently approved under reference EPF/2379/17. This appeal follows the refusal of an application to carry out the development without complying with the approved drawings for the latter permission.

3. The appellant proposes that the development is carried out in accordance with drawings that include the installation of 7 street lights within the site. The appellant has stated that the lights were installed following the submission of the application, albeit anti-glare shields are proposed and these have not been installed.
4. The main issue is the effect that the lights, as proposed, would have on the living conditions of the occupiers of the properties in Monkchester Close.

Reasons

5. The decision notice states that the height and position of the lights would harm the amenities of the occupiers of the neighbouring properties. Based on the evidence before me, including the representations from interested parties, the main issue principally relates to concerns regarding light pollution.
6. The lights are intended to illuminate the site's access road from Monkchester Close and a proposed access to Goldings Hill. There are 4 lights near to the properties in Monkchester Close and, of those, the 2 nearest to the access road feature lamps in positions that are higher than the adjacent boundary fencing to Nos 8, 9 and 10 Monkchester Close. No 10 features a conservatory which is close to the light nearest the site's vehicular entrance.
7. The proposal is supported by technical documents which indicate that light spillage towards the neighbouring properties would be limited. The Council's Environmental Health team has reviewed the information and raised no objection. Firm and substantive evidence has not been put forward to counter the response from Environmental Health. Moreover, I am satisfied that the anti-glare shields would limit light spillage towards the neighbouring properties. Therefore, based on the evidence before me, the proposal would not have significant negative impacts on the living conditions of the occupiers of the neighbouring properties in respect of light pollution. In addition, having regard to the size and position of the lights, the proposal would not have detrimental impacts on living conditions in other respects.
8. The lights would not have a significant negative impact on the living conditions of the occupiers of the properties in Monkchester Close. The proposal is in accordance with Policy DBE9 of the Epping Forest Local Plan and Alterations and Policy DM9 of the Epping Forest District Local Plan Submission Version, which seek to ensure that development would not result in an excessive loss of amenity for neighbouring properties and addresses issues of light pollution. It also accords with paragraph 180 of the National Planning Policy Framework (the Framework), which seeks to limit light pollution impacts.

Other Matters

9. The lights have decorative features and are distributed across the site such that they do not have a utilitarian appearance, harm the character or appearance of the area or the setting of the nearby conservation area, or clutter the site. There are street lights elsewhere in the vicinity. Substantive evidence has not been advanced which suggests that the addition of the proposed lights to the area would have harmful effects on wildlife, allotments, the Epping Forest or intrinsically dark landscapes.
10. The Council and interested parties have suggested that the number and height of the lights should be reduced. It is also put forward that the lights are

unnecessary and provide limited benefits. However, for the reasons set out above the proposal is acceptable and thus there is no sound basis for requiring alterations to the development.

11. It is advanced that the proposal is invalid as the application was not submitted within timescales set out by the Council's Planning Enforcement Officer. Whilst the timescales may not have been met, this does not have any bearing on the validity of the application or the appeal.

Conditions

12. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect.
13. The Council has not suggested conditions for this appeal; however, conditions are put forward in the committee report. As I have limited information before me about the status of the conditions attached to the permission under reference EPF/2379/17, I shall impose those conditions that I consider remain relevant, with editing where necessary to ensure precision and clarity. In the event that some conditions have in fact been discharged, that is a matter which can be addressed by the parties.
14. An approved plans condition is necessary in the interests of certainty. A condition to require the lights to be installed with anti-glare shields but otherwise as specified in the associated lighting report is also necessary to protect the living conditions of the occupiers of the neighbouring properties.
15. Conditions to require the development to be carried out in accordance with details that have already been approved that relate to materials, landscaping and tree protection are needed in the interests of the character and appearance of the area. Conditions with similar effects are needed in respect of boundary treatments, levels and construction method details to protect living conditions, drainage and flooding details to mitigate flood risk, and ecology details in the interests of biodiversity.
16. Conditions relating to land contamination are required in the interests of protecting public health and ecological systems. A condition to control construction hours and require an obscure glazed, partially non-openable window opening to be provided and retained for the second floor front facing opening at Plot 5 are necessary to protect living conditions. Finally, conditions to require that the access, parking and turning areas are retained and that residential travel information packs are provided will ensure that adequate provision is made and to ensure that sustainable modes of travel are promoted.

Conclusion

17. For the above reasons, the appeal is allowed.

Mark Philpott

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be completed strictly in accordance with approved drawings nos: FFK_001A; FFK_002; FFK_100D; FFK_101; FFK_102; FFK_103; FFK_104; FFK_105; FFK_110A; FFK_111A; FFK_112A; FFK_300M; FFK_301C; FFK_302C; FFK_303B; FFK_304B; FFK_310A; FFK_311; FFK_312; FFK_313A; FFK_314A; FFK_315B; FFK_316B; FFK_317B; FFK_318A; FFK_320A; FFK_321A; FFK_322A; FFK_323; FFK_324B; FFK_325B; FFK_326C; FFK_327A; FFK_330B; FFK_331A; 20653-08A; 14565-1-D.
2. All construction/demolition works and ancillary operations, including vehicle movement on site which are audible at the boundary of noise sensitive premises, shall only take place between the hours of 07.30 to 18.30 Monday to Friday and 08.00 to 13.00 on Saturdays, and at no time during Sundays and Public/Bank Holidays.
3. The Construction Method Statement approved under application reference EPF/0258/17 shall be adhered to throughout the construction period.
4. The development shall be carried out in accordance with material samples approved under application reference EPF/0258/17.
5. The development shall be carried out in accordance with surface water disposal details approved under application reference EPF/0258/17.
6. The development shall be carried out in accordance with the details of levels approved under application reference EPF/0258/17.
7. The development shall be carried out in accordance with the approved ecology information and recommendations supplied in the letter dated 29th April 2016 by AA Environmental Landscaping Limited.
8. The development shall be carried out in accordance with the approved details under application reference EPF/0258/17 of both hard and soft landscape works (including tree planting) and implementation programme (linked to the development schedule). If, within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective, another tree or shrub, or plant of the same species and size as that originally planted, shall be planted at the same place.
9. The development shall be carried out in accordance with the Tree Protection Plan Arboricultural Method Statement and site monitoring schedule approved under application reference EPF/0258/17.
10. The development shall be carried out in accordance with the remediation scheme approved under application reference EPF/1764/17.
11. Following completion of measures identified in the remediation scheme approved under application reference EPF/1764/17 and prior to the first occupation of the dwellings hereby permitted, a verification report that demonstrates the effectiveness of the remediation carried out, together with details of any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be

submitted to the Local Planning Authority for approval. The approved monitoring and maintenance programme shall be implemented in accordance with the approved timeframe for implementation, or within 3 months of the substantial completion of the development, whichever is later.

12. In the event that any evidence of potential contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with a methodology previously approved by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority, in accordance with the immediately above condition.
13. Prior to the substantial completion of the development hereby permitted, the measures contained within the flood risk assessment and management and maintenance plan approved under application reference EPF/0258/17 shall be carried out. The measures shall thereafter be maintained in accordance with the approved management and maintenance plan.
14. Prior to the first occupation of the dwellings hereby permitted, the access arrangements, vehicle parking and turning areas as indicated on the approved plans shall be provided, hard surfaced, sealed and marked out. The access, parking and turning areas shall be retained in that form in perpetuity for their intended purpose.
15. Prior to the first occupation of the dwellings hereby permitted, the Developer shall be responsible for the provision and implementation, per dwelling, of a Residential Travel Information Pack for sustainable transport, approved by Essex County Council, to include six one day travel vouchers for use with the relevant local public transport operator.
16. Prior to the first occupation of the dwellings hereby permitted, the boundary treatments approved under application reference EPF/0258/17 must be implemented as approved.
17. Prior to the first occupation of the dwelling at Plot 5 hereby permitted, the second floor front facing window opening at Plot 5 shall be entirely fitted with obscured glass to a height of 1.5 metres and have fixed frames to a height of 1.8 metres above the floor of the room in which the window is installed and shall be permanently retained in that condition.
18. Prior to the external lighting hereby permitted becoming operational, the lighting shall be installed in accordance with the approved plans with anti-glare shields fitted and as otherwise specified within the Outdoor Lighting Report dated 21 October 2019.