



Appeal Decision

Site visit made on 30 November 2021

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd December 2021

Appeal Ref: APP/V0510/W/21/3275044

Land to the Rear of Garden Close, Sutton, Cambridgeshire, CB6 2RF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant subject to conditions of consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Abbey Developments Ltd against the decision of East Cambridgeshire District Council.
 - The application Ref 20/01169/RMM, dated 4 September 2020, sought approval of details pursuant to condition No. 1 of planning permission Ref: 17/01445/OUM granted on 18 January 2019.
 - The application was refused by notice dated 4 January 2021.
 - The development proposed is the appearance, landscaping, scale and layout for the erection of 53 homes including public open space. The Outline application was not EIA development and an Environmental Statement was not submitted
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Decision

1. The appeal is dismissed.

Procedural Matter

2. My attention has been drawn to several revised plans that were submitted to the Council. However, the information before me is indicative that these were not the subject of public consultation and were not formally considered by the Council. In consequence, the decision reached by the Council did not have regard to these amendments. In result, if I were to consider this appeal with reference to these amendments, it would cause prejudice given that interested parties would not have the opportunity to comment.

Main Issues

3. The main issues relevant to this appeal are:
 - whether an appropriate housing mix would be provided;
 - the effect of the development upon the character and appearance of the surrounding area;
 - the effect of the development upon the living conditions of the occupiers of the neighbouring property at 10 Oates Lane;
 - whether appropriate living conditions would be provided for the future occupiers of all of the dwellings; and
 - the effect of the development upon flood risk.

Reasons

Housing Mix

4. The appeal proposal consists of the reserved matters approval for 53 dwellings. Of these dwellings, 18 would be two-storey houses. Furthermore, of these 18 two-storey houses, six would be made available for occupation on market tenures.
5. In considering this appeal, I have been directed towards a number of policies, including Policy HOU1 of the Local Plan (2015) (the Local Plan). Amongst other matters, this seeks to ensure that developments in excess of 50 dwellings shall make a provision of housing suitable for older residents. In addition, Policy NP7 of the Sutton Neighbourhood Plan (2019) (the Neighbourhood Plan) requires that proposed residential developments meet the needs of the village.
6. These policies are consistent with the National Planning Policy Framework (the Framework). Amongst other matters, the Framework seeks to ensure that a variety of housing is provided to meet the needs of all members of the community.
7. The nature of the proposed development would be of predominantly larger houses. These would not necessarily be attractive to smaller households, such as those comprising older couples or individuals. This is because the dwellings within the proposed development may have a greater number of rooms than would be required by such a household.
8. This is a concern as the evidence before me is indicative that there is a shortfall in the number of two-bedroom dwellings within the settlement. Therefore, the predominance of larger homes within the proposed development would compound this shortfall and prevent an appropriate mixture of housing from being provided, even though there would be an increase in the supply of other dwellings within the development.
9. In addition, there is an over provision of three-bedroom dwellings within the proposed development. In particular, the Strategic Housing Market Assessment is suggestive that a lower level of three-bedroom dwellings could be provided on the site and still meet the needs of the local community.
10. I acknowledge that not all older residents may require a single-storey dwelling. However, the fact that some of single-storey dwellings and flats have been included within the scheme do not serve as an adequate alternative for an appropriate number of smaller houses within the proposed development. In consequence, the development would not respond to the needs of occupiers of the village.
11. I note that such concerns were not raised at the outline stage of the planning process. However, the Neighbourhood Plan had not been made at the time of the determination of the outline application. However, as the Neighbourhood Plan now forms part of the Development Plan, I am compelled to give it full weight.
12. I therefore conclude that the proposed development would not provide an appropriate housing mix. The development, within this regard, would conflict with Policy HOU1 of the Local Plan and Policy NP7 of the Neighbourhood Plan.

Character and appearance

13. The appeal site consists of an undeveloped site on the periphery of the village. In consequence, its character can be defined as being an urban fringe given that it forms a transitional space between the settlement and the rural areas beyond.
14. Amongst other policies, I have been directed towards the provisions of Policy NP5 of the Neighbourhood Plan. Amongst other matters, this seeks to ensure that the proposed development would contain predominantly single-storey dwellings. I acknowledge concerns raised by the appellant regarding the evidence base that supported the inclusion of the policy within the Neighbourhood Plan that seeks to ensure that the development of this site is predominantly of single-storey dwellings.
15. However, this Neighbourhood Plan has been subjected to an examination and being agreed at a referendum. In consequence, it forms part of the Development Plan and carries full weight in my considerations. The Policy is also consistent with the Framework, for it is intended to ensure that the development of this site maintains the character and appearance of the surrounding area.
16. There has been some debate regarding the number of dwellings required to ensure that the development would be predominantly of a single storey. However, given that a relatively small proportion of the proposed dwellings would be of this height, this objective has not been met.
17. In consequence, the proposed development, which the majority of the development would be houses would erode the character of the surrounding area. This is because it would have a more urbanised appearance. This is caused by the height of the development. Although the proposed development would be viewed at street-level, it would have a more urban character that would conflict with the appeal site's rural surroundings.
18. I acknowledge that the appeal proposal's layout is broadly consistent with the indicative layout submitted at the outline stage. However, the predominance of two storey dwellings that would be perceptible from outside of the appeal site's boundaries would erode the rural character of the surrounding area.
19. This is a concern given the prominence of the appeal site. The appeal site is located at the entrance to the village and therefore the development would be perceptible from some distance away. This means that the encroachment into the countryside would be readily apparent as the two-storey dwellings towards the centre of the development would be viewable.
20. In addition, the proposed development would result in the removal of a significant number of mature trees. Whilst these are not covered by a TPO, the evidence before me is not indicative of these trees being the subject of ill health. In addition, the prominence and size of the trees contributes to a more rural character.
21. Although the proposed development would include some replacement trees, these would take some time to become established. Given that the appeal site contains several trees of varying degrees of maturity, this would render the proposed development incongruous.

22. Therefore, there removal would create a more urban and built-up development that would fail to assimilate with the wider rural surroundings of the appeal site. Given that the development would be prominent and visible alongside the countryside, the overall reduction in the number of trees would be particularly harmful to the area's character. In addition, many of the nearby dwellings are of a lower height. Therefore, within this context, the proposed development would be discordant.
23. In addition, the design of the proposed dwellings is relatively functional and unembellished. This means that they fail to respond to the presence of distinctive and well-designed buildings that are a feature of the surrounding area.
24. The proposed layout includes some areas of public open space at the periphery of the site. However, these areas are relatively small and do not overcome the adverse effects as previously identified due to their relatively limited screening effects.
25. Whilst new landscaping could be planted within the appeal site, this would be relatively limited in terms of its location owing to the pattern of the proposed development. Moreover, such planting would take some time to become established, which would mean that the development would not be screened from an early stage of the construction process.
26. In addition, the screening effect offered by any additional planting would potentially diminish depending on health and seasons. In result, the potential new screening effect would be less than total and would not mitigate the previously described adverse effects.
27. Although the submitted details are consistent with the density of development deemed acceptable at the outline stage in the process, the layout and form of the development, including the predominance of two-storey houses is such that harm to the character and appearance of the surrounding area would arise. Furthermore, the adoption of the Neighbourhood Plan postdates the granting of outline planning permission.
28. I therefore conclude that the proposed development would have an adverse effect upon the character and appearance of the surrounding area. The development, in this regard, would conflict with the requirements of Policies ENV1, ENV2, and ENV7 of the Local Plan; Policies NP2 and NP5 of the Neighbourhood Plan; and Policy NE8 of the Natural Environment Supplementary Planning Document (2020).
29. Amongst other matters, these seek to ensure that development proposals should demonstrate that their location, form, design, edge treatment and structural landscaping will create positive, complementary relationships with existing development and will protect, conserve, and where possible enhance the settlement edge; be of a high quality design; maximise opportunities for creation, restoration, enhancement and connection of natural habitats as an integral part of development proposals; retain existing landscape features; be predominantly single-storey dwellings; and maintain existing trees and woodland cover.

Living conditions of the occupiers of No. 10

30. The appeal site consists of an undeveloped area of land on the edge of the settlement. The appeal site is near to No. 10, which is a detached dwelling. To the side and rear of the dwelling is a garden.
31. By reason of the layout of the proposed development, the proposal would result in building works, in the form of a dwelling and garage being sited close to the neighbouring property.
32. In result of this increase in built form, combined with the general proximity to the shared boundary would result in an overbearing effect upon the garden space. In consequence, the proposed development would result in a loss of outlook for the occupiers of the neighbouring property.
33. Furthermore, owing to the similarities in the land levels between the appeal site and the neighbouring property, there would not be sufficient variation in the landscaping or boundary treatments to mitigate, or overcome, the adverse effects arising from the increase in built form.
34. In addition, by reason of the presence of an area of open space within the proposed development, close to the rear boundary of No. 10. Owing to this proximity, the proposed development would allow for views into the neighbouring property's garden. Moreover, as this is an area of public open space there would be various recreational activities taking place. This has the potential to create increased noise and disturbance. This would reduce the ability of residents of the occupiers of No. 10 to fully utilise their garden.
35. I note that the proposed development would include changes to the treatments of the shared boundary with No. 10. However, even if this were to be implemented, the proposed development would still give rise to adverse effects arising from the proximity of the development, including vehicle manoeuvring and outdoor recreation. Therefore, these changes do not overcome my previous concerns.
36. The appeal documentation includes a revised scheme. However, if I were to consider the revised scheme, it would not allow for interested parties to comment upon its contents. Therefore, this could potentially cause prejudice and therefore I have determined this appeal with reference to the documents considered by the Council.
37. By reason of the scale of the proposed development, this open space which would be the largest area within the proposed development has the potential to be used on a particularly intensive basis. In consequence, the proposed development would lead to a notable erosion of the living conditions of the occupiers of No. 10. These factors would arise even though the separation distances between proposed and existing dwellings would not result in any additional harm.
38. I therefore conclude that the proposed development would have a significant adverse effect upon the living conditions of the occupiers of the neighbouring property. The development, in this regard, would conflict with Policy ENV2 of the Local Plan. Amongst other matters, this seeks to ensure that developments relate well to existing features.

Living conditions of future occupiers

39. The appeal scheme, amongst other dwellings, would include a dwelling shown on the submitted plans as being Plot 40. This would be near to a line of trees that are covered by a Tree Preservation Order (a TPO).
40. By reason of the layout of this dwelling, a significant number of views from within the dwelling would be towards these trees. By reason of their proximity to the proposed dwelling and their form and height, this would result in the occupiers of the dwelling experiencing a reduced level of light and outlook.
41. As a result of this arrangement, combined with the general orientation of the appeal site, the proposed development would result in the occupiers of the dwelling not experiencing appropriate living conditions. In consequence, the proposed development is likely to result in increased pressure to carry out works to the protected trees in order to improve light and outlook.
42. Should such works be carried out to the trees, the development would have an adverse effect upon the character and appearance of the surrounding area owing to an erosion of its more verdant quality.
43. I acknowledge that as the trees are the subject of a TPO, an application to the Council would be required in order to undertake such works. However, whilst this provides a mechanism for managing works to the trees, should permission not be forthcoming the occupiers of the dwellings to be sited on Plot 40 would not have appropriate living conditions.
44. Given the proximity of the dwelling to the trees, it would not be possible to mitigate the lack of outlook through an alternative mechanism. I understand that the space has been provided in the area surrounding the tree to enable the construction of the proposed development. In addition, a management strategy could be secured for the open space, which would include the protected trees. However, this would not overcome the potential lack of outlook.
45. The layout of the development and the precise dwelling to be located on Plot 40 is such that the occupiers of this dwelling would receive an appropriate level of light. Whilst this is a matter of note, it is only one of all the matters that must be assessed and therefore does not outweigh my previous concerns.
46. Similarities have been drawn to the relationship between the dwelling on Plot 40 and the protected tree and the relationship between other dwellings and trees within the proposed scheme. Although this may be the case, the other trees are not covered by a TPO. Therefore, if works were required to the other trees at some point in the future, it would not have the same effect as potential works to the protected trees.
47. I therefore conclude that the proposed development would not provide an appropriate level of light and outlook for all of the future occupiers. The development, in this regard would conflict with Policies ENV1, ENV2 and ENV7 of the Local Plan. Amongst other matters, these require that developments conserve and, where possible, enhance public amenity; relate well to existing features; and be sensitive to protected trees.

Flood risk

48. The appeal site contains a watercourse. This would run through part of the gardens of some of the proposed dwelling. In consequence, over time, the occupiers of the relevant dwellings would become responsible for keeping the watercourse free of debris in order to enable it to run.
49. Whilst the occupiers of the dwellings would need to undertake additional tasks in order to keep the watercourse clear. However, the layout of the development and its relationship with the watercourse would be familiar to potential occupiers when deciding whether to occupy one of the proposed dwellings.
50. In consequence, the occupiers of these dwellings would be aware of their future responsibilities and what this might entail. In consequence, occupiers of the development would have sufficient awareness of the need to undertake such works at an appropriate time. In addition, the evidence before me indicates that prior to the relevant dwellings being occupied, the developer has management system in place that would ensure that the water course is sufficiently maintained.
51. In addition, the occupiers of the development would need to keep the watercourse clear in order to prevent flooding at their own properties. This would also ensure that the watercourse is kept clear and would prevent occurrences such as the build-up of debris within it. This would also be for the benefit of those that occupy land upstream.
52. The evidence before me indicates that the submitted drainage system would be of sufficient operational capacity to ensure that it could accommodate the drainage requirements of the proposed development, having had regard to the currently undeveloped nature of the appeal site. Therefore, subject to appropriate maintenance, the development would not increase the risk of flooding either on site or elsewhere. I have no reason to believe that the occupiers of the development would be unwilling, or unable, to carry out such maintenance.
53. I therefore conclude that the proposed development would not have an adverse effect on flood risk either on the appeal site, or elsewhere. The development, in this regard, would conform with the requirements of Policies ENV2 and ENV8 of the Local Plan; and the Cambridgeshire Flood and Water Supplementary Planning Document (2016).
54. Amongst other matters, these seek to ensure that developments must demonstrate that appropriate surface water drainage arrangements for dealing with surface water run-off can be accommodated within the site, and that issues of ownership and maintenance are addressed; have regard to the local context; and that the layout of any proposed development should take into consideration areas of flood risk present on the site

Other Matters

55. The proposed development would provide new landscaping. Whilst this might offer improvements to local biodiversity and would also offer access to fruit trees, the benefits offered by this would be relatively small and would not outweigh my previous conclusions.

56. I acknowledge concerns regarding the delivery of housing in the surrounding area. However, the evidence before me is indicative that the Council can demonstrate a five-year housing supply. Therefore, whilst the proposed scheme would aid the delivery of housing within the area, the evidence before me is not indicative that dismissing this appeal would prevent the Council from delivering an appropriate level of housing within its area.
57. In result, the benefits arising from the proposal in terms of the increase in the local housing supply do not outweigh the breaches of Development Plan Policy and the significant harm that emanate.
58. I have also been referred to other allocated sites that do not have the same requirement to provide the same housing mix (in terms of type and number of storeys). However, in considering this appeal, I have been directed towards adopted policies within the Development Plan that apply to this site. The scheme would breach these policies, and from this, harm would emanate. Therefore, I am compelled to give weight to this harm.

Planning Balance and Conclusion

59. Whilst the proposed development is unlikely to have an adverse effect upon flood risk, this is outweighed by the adverse effects arising from the mixture of dwellings within the development; the adverse effects upon the character and appearance of the surrounding area; the lack of appropriate living conditions for all the future occupiers of the development; and the erosion of the living conditions of the occupiers of a neighbouring property.
60. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR