



Appeal Decision

Site visit made on 20 July 2022

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2022

Appeal Ref: APP/C1570/W/21/3289112

Land rear of Smockmill House, Whiteways, Great Chesterford, Saffron Walden, Essex, CB10 1NX

- 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 & Mrs David and Sarah Burley against the decision of Uttlesford District Council.
 - The application Ref UTT/19/2243/FUL dated 6 September 2019, was refused by notice dated 27 September 2021.
 - The development proposed is the erection of 3 no. new dwellings with separate double garages alongside ancillary access, parking, landscape and associated works.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The Council has confirmed that following the receipt of the Local Highway Authority's response dated 15 July 2021, it no longer wishes to defend its second reason for refusal. In light of all I have read and seen I have no reason to disagree with this position and have revised the main issues to reflect this.

Main issues

3. The main issues are:
 - highway and pedestrian safety, with particular regard to whether there would be adequate visibility at the proposed access point onto the public bridleway;
 - whether future occupiers of the dwellings would be likely to experience acceptable living conditions in terms of noise impact.

Reasons

Appeal site context

4. The appeal site is positioned on the edge of Great Chesterford Village between the M11 motorway and London to Cambridge train line and consists of a rectangular grassland paddock enclosed by mature hedgerows. A small cluster of dwellings of varying architectural character and age lie adjacent to the site with agricultural fields to the north and south.

5. A long, narrow and bumpy hardcore/tarmac track with central muted strip of moss/vegetation ('the long access track') connects the paddock to Whiteways, a public bridleway of limited-width with a broken tarmac and compacted hardcore surface ('the public bridleway'). This in turn is connected to the adopted road network via a junction on Ickleton Road which lies adjacent to a railway level crossing.
6. Overall, I found the area to have a clear rural character, with the appeal site being set just outside the main built-up part of the village amongst a small cluster of dwellings on spacious verdant plots, with adjacent agricultural fields providing a soft-landscaped transition to the wider countryside beyond.

Highway and pedestrian safety, with particular regard to whether there would be adequate visibility at the proposed access point onto the public bridleway

7. My observations on-site revealed relatively poor visibility where the long access track meets the public bridleway due to overgrown vegetation at the appeal site boundary. Even if this vegetation was within the appellant's control and could be cut back, the submitted plans reveal that they do not control the land either side of this access point and would therefore be unable to provide appropriate visibility splays to ensure that those exiting the site via the long access track site could see oncoming pedestrians, cyclists, horse riders and vehicular traffic on the public bridleway.
8. I recognise that the plans reveal that refuse lorries could access the site and turn around safely and also note that the long access track and public bridleway already exist, are lightly trafficked and any vehicles would be travelling at low speeds. However, the existing use of the long access track to access the paddock would be considerably less intensive on an ongoing daily basis than the vehicular comings and goings associated with 3 permanent residential dwellings on the site, and as a consequence, I consider a higher standard of visibility is necessary in this instance. The compact width of the long access track and public bridleway would also give rise to a greater level of conflict between vehicles and pedestrians/cyclist/horse riders, which has reinforced my concerns on this.
9. Set against this context, and in the absence of evidence demonstrating otherwise, I do not consider there to be adequate space within the land controlled by the appellant for the provision of sufficient visibility splays to ensure that other users of the public bridleway would not be endangered.
10. The appellant states that the Council's consultation with the Local Highway Authority was unnecessary as the public bridleway is not an adopted road. However, even if this was not statutorily required, the Council is not legally restricted from going beyond this minimum consultation requirement if it so wishes. In this particular case, I do not consider it unreasonable or unusual for the planning case officer to have sought the views of a highway expert on a matter that relates to the safety of users of a public right of way, particularly where there exists the potential for conflict between pedestrians, cyclists, horse riders and vehicles. In any event, even if the Local Highway Authority had not been consulted and the reason for refusal had been only based on the professional views of the planning case officer, I would still have reached the same conclusion in respect of this matter.

11. The appellant has referred to two other planning decisions in 2015 and 2018 where the Local Highway Authority did not object on the same basis as the current scheme¹. However, I found none of these to be directly comparable to the appeal scheme in terms of development layout, quantum, contextual position within the cluster and connection point to the public bridleway. In any event, the existence of these other developments does not justify the harm I have identified.
12. In view of the above, I conclude that the scheme would result in an unsafe access point which would be harmful to highway and pedestrian safety. The proposal would therefore conflict with Policy GEN1 of the Local Plan² which seeks, amongst other things, to ensure that development does not compromise road safety and takes account of the needs of cyclists, pedestrians, horse riders and people whose mobility is impaired.
13. I also find that the scheme conflicts with Paragraphs 112 and 130 of the Framework³ which seek, amongst other things, to minimise the conflict between pedestrians, cyclists and vehicles and create safe places with a high standard of amenity for existing and future users. Furthermore, I am also satisfied that the scheme's refusal accords with Paragraph 111 which states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.
14. I recognise that the reason for refusal refers to the Local Highway Authority's Development Management Policies, which were adopted as County Council Supplementary Guidance in February 2011. However, I am unable to conclude if the scheme is in conflict with any of the policies contained within this document (Policies DM1 to DM22) as none of them have been specifically referred to in the reason for refusal and the accompanying evidence. It is important for the Council to note that reasons for refusal should be precise and just as it has referred to specific Local Plan policies, the same needs to occur with other planning documents containing a variety of different policies.

Whether future occupiers of the dwellings would be likely to experience acceptable living conditions in terms of noise impact

15. The appeal site is in close proximity to the M11 motorway and the London to Cambridge train line. On the basis of my observations on-site, I found the resultant noise from these sources to be at such a high level that I would not consider residential development to be acceptable in the absence of suitable mitigation.
16. The Council's Environmental Health Service initially objected to the scheme on the basis that a noise survey had not been submitted⁴. It appears that this led to the submission of a noise assessment by the appellant because a further objection by Environmental Health was then made some 3 months later stating that this assessment did not contain sufficient information as it was undertaken in 2015 and related to an adjacent site⁵.

¹ Planning Permission UTT/15/1787/FUL for two dwellings and Outline Planning Permission UTT/17/3624/OP for one dwelling.

² Uttlesford Local Plan, Adopted 20 January 2005.

³ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.

⁴ Response dated 21 October 2019.

⁵ Response dated 12 February 2020.

17. The appellant disputes the Council's position on this and states that a further noise survey was conducted in September 2020, which contained further information regarding noise mitigation measures. The appellant goes on to say that the revised noise survey was submitted with the application. This is corroborated by the Council's appeal statement, in which it states that a noise assessment was received and uploaded to its website on 1 March 2021, following which Environmental Health provided a further response dated 9 June 2021 still objecting to the scheme on the grounds of insufficient information.
18. Neither the Council's Decision Notice, the planning appeal form submitted by the appellant or the appellant's list of plans, drawings and documents make reference to any of the submitted noise surveys or the acoustic plan dated 6 July 2021 and noise reduction values dated 6 July 2021. The Council has however confirmed in its appeal statement that this absence on the Decision Notice was due to a clerical error and clarified that it considered all of these documents.
19. In light of the above, and having reviewed all the evidence before me from both the Council and appellant, I am somewhat perplexed that I can find no copy of any of the relevant noise surveys referred to (along with the accompanying acoustic plan and noise reduction values) and as a consequence, have concluded that there is insufficient information for me to be able to assess this matter. However, given that I am dismissing the appeal for other reasons, it has not been necessary for me to request a copy of this information as even if I had found there to be sufficient noise mitigation resulting in satisfactory living conditions, it would not have altered the outcome.
20. In view of the above, I confirm that I am unable to conclude whether the scheme would accord or conflict with Policy ENV10 of the Local Plan, which seeks, amongst other things, to ensure that housing is not permitted if occupants would experience significant noise disturbance.

Planning balance

21. Although the Local Plan is over 5 years old, Paragraph 219 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework.
22. Policy GEN1 of the Local Plan is broadly consistent with the Framework insofar as it relates to the main issue of this case and I am satisfied that the proposal conflicts with the development plan.
23. I note the Appellant's frustrations regarding the manner in which the formal application was processed, but this has little bearing on the planning merits of the scheme before me and is a matter between the parties.
24. The Council and appellant agree that there is a shortfall in the District's 5-year housing land supply. This means that the Framework's presumption in favour of sustainable development applies. I recognise that the scheme would result in environmental, economic and social benefits from; (a) a quickly-deliverable contribution towards the Council's 5-year housing land supply via a windfall site in a sustainable non-isolated location; (b) future occupiers contributing to the vitality and viability of shops, services, facilities, businesses and community

organisations in the surrounding area; (c) an effective & efficient use of under-utilised land as supported by Paragraphs 119, 120, 124 and 125 of the Framework; and (d) local employment during construction. However, given the small size of the development in terms housing units, I consider these benefits to be of limited value and that the adverse impacts of the scheme would significantly and demonstrably outweigh these, when assessed against the policies in the Framework when taken as a whole.

25. In view of the above, I conclude that the proposal does not accord with the development plan and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.

Conclusion

26. I have been unable to determine whether there is any harm in respect of the main issue relating to living conditions with regard to noise impact. However, even if I had been able to assess this and concluded that there was none, I am nonetheless satisfied that the harm identified in respect of the main issue relating to highway and pedestrian safety is sufficient to still justify dismissal of the appeal.
27. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR