



Appeal Decision

Site visit made on 15 November 2022

by S Crossen BA (Hons) PgCert PgDip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2022

Appeal Ref: APP/V0510/W/22/3300259

Land to the West of the Primary Road accessed between No. 2 and No. 4 Fordham Road, Isleham CB7 5QZ

- 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 Ms Ruby Lord of Bloor Homes against the decision of East Cambridgeshire District Council.
 - The application Ref 21/01636/FUL, dated 12 November 2021, was refused by notice dated 8 April 2022.
 - The development proposed is the erection of four market dwellings, garages, parking spaces, hard and soft landscaping, access and all other associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of four market dwellings, garages, parking spaces, hard and soft landscaping, access and all other associated infrastructure at Land to the West of the Primary Road accessed between No. 2 and No. 4, Fordham Road, Isleham CB7 5QZ in accordance with the terms of the application, Ref 21/01636/FUL, dated 12 November 2021, 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 Ms Ruby Lord of Bloor Homes against East Cambridgeshire District Council. This application is the subject of a separate decision.

Preliminary Matters

3. I have taken the address from the application form omitting elements that were not relating to the address.
4. An "amended boundary treatment details plan" and "back to back assessment plan" has been submitted by the appellant since the decision was issued.
5. Amended plan ref P18-1261-35 RevA submitted with the appeal, sought to increase the height of the boundary fence. However, I cannot be sure all parties, including third parties would have been aware of changes to the scheme. Therefore, to avoid prejudice to these parties I have considered the scheme on the basis of the plans before the council at the time of their decision. A back to back plan ref P18-1261_34 RevA has also been submitted which provides measurements between the houses subject to this appeal and existing houses which I have had regard to in determining this appeal.

6. At the time of my site visit, I saw that the construction of houses was substantially completed. However, I noted that solar panels exist on the roofs of the 4 appeal properties which are not shown on the submitted plans. I have dealt with the appeal on the basis of the proposed plans as submitted.
7. Since the Council issued the decision on the planning application the Isleham Neighbourhood Plan 2022 has now been made. Both parties have referred to the document in their respective appeal statements and I have taken account of this in my reasoning below.

Main Issue

8. The main issue is the effect of the proposed development upon the living conditions of the occupiers of the neighbouring residential properties with particular regard to privacy.

Reasons

9. The appeal site is a plot between a row of houses and bungalows part of a larger new estate. The application proposes four new houses, all having habitable room rear windows at ground and first floor level which face the shared boundaries to houses on Hall Barn Road.
10. The nearest houses to the rear of the appeal site sit behind a row of back land development houses which face Hall Barn Road and are accessed by a shared driveway. The rear of these houses faces the appeal site and have rear ground and first floor habitable room windows and rear gardens with boundary fencing.
11. East Cambridgeshire District Council has a Design Guide Supplementary Planning Document (SPD) adopted March 2012 which sets out that the distance between rear inter-visible windows should be a minimum of 20 metres and requires the rear elevation of any dwelling to be located at least 10 metres from the rear boundary. The evidence demonstrates that the intervisibility distance between these windows exceeds 20 metres and that the garden length also exceeds 10 metres to the original rear elevations of existing houses but that subsequent conservatory extensions leave less than 10m of garden length between them and the rear boundary.
12. At the time of my site visit four houses were substantially completed, although these may differ in detail to the plans, which form the basis of my reasoning, I have no reason to believe that the houses are not built in the correct position as shown on the plans. Accordingly, I was able to view the development from the rear gardens of both the appeal site and an adjacent house to the rear. I found that the habitable room windows were visible from the adjacent habitable room windows of properties between the new and existing houses and from their respective gardens.
13. The distances I saw between the houses during my site visit were sufficient that there is no unacceptable impact on privacy, even if a minor shortfall exists between the conservatories and new houses. The measurements in the submitted "back to back assessments plan" are taken from different points to the committee report as they include the conservatories, they illustrate that the development exceeds the minimum standards set out in the SPD between windows and highlight the shortfall in garden length between the conservatories and rear boundaries of the nearest existing houses. The conservatories are closer to the garden boundary than the SPD requirement,

however the minimum distances between the conservatory windows and those of the new houses is exceeded and the boundary fence provides mitigation.

14. The prime garden area, usually the focus of activity by occupiers, is the area immediately to the rear of a house. Although the first floor windows of the new houses were visible, both the prime garden area and the habitable room windows of the new houses are a substantial distance away from those at the existing houses.
15. At my site visit I found that any difference between the ground levels of the appeal site and adjacent houses was not significant, and that the ground floor window views between the new and existing houses were interrupted by the boundary fence.
16. I found that the distance between windows was sufficient to protect privacy, regardless of the height of the first floor windows or the number of habitable room windows. Furthermore, overlooking already occurs between the existing houses due to their proximity so the relationship between these existing houses and new houses is not uncommon here.
17. The relationship between the appeal houses and existing houses is not repeated across the rest of the new estate, in other instances where existing back land development exists, new bungalows have been built adjacent. However, I saw that some overlooking already occurs between properties in this area. Although not back to back this includes between houses behind the appeal site and for this reason this is an area where the minimum standards are sufficient to provide acceptable levels of privacy that might be reasonably expected here.
18. I therefore conclude that the proposed development does not have an unacceptable effect upon the living conditions of the occupiers of the neighbouring residential properties to the appeal site with particular regard to privacy. As such there is no conflict with policy ENV2 of the East Cambridgeshire Local Plan, adopted April 2015, Policy 3 of the Isleham Neighbourhood Plan 2021-2041 made April 2022, and guidance provided in the SPD adopted March 2012. These policies and this guidance seek, amongst other things, new development to provide good design that provides a good standard of amenity for existing and future occupiers or land and buildings.

Other Matters

19. In relation to flooding I do not disagree with the Councils conclusion in the committee report that drainage has been addressed and any outstanding issues could be conditioned.
20. Whether the development results in a loss of light or would introduce glare from artificial lights within the appeal houses affecting existing houses, the distance between these buildings is sufficient that I am satisfied that any effect cannot be considered significant.
21. Information about previous planning permissions, covenants and history of the appeal site and the wider development beyond are not material to my determination of this appeal which I have considered on its own merits.

Conditions

22. I have had regard to the conditions suggested by the Council. I have imposed a condition specifying the approved plans as this provides certainty. I have attached a condition to mitigate for ground contamination in the interests of human health. I have included a condition to ensure works are carried out in accordance with the Construction Environmental Management Plan in the interests of living conditions. To prevent increased flood risk and preserve water quality I have imposed a drainage condition prior to occupation. A condition securing parking provision is imposed in the interest of highway safety. A condition requiring details of soft and hard landscaping and boundary treatment is imposed to protect the character and appearance of the area.
23. I have included a condition that the biodiversity improvements outlined in the Preliminary Ecological Appraisal Report shall be carried out prior to occupation and maintained thereafter in the interests of protected species and have included a condition for the provision of solar panels in the interests of reducing carbon emissions.
24. I have not included a condition for materials because the submitted plans are sufficient in detail and so this requirement is unnecessary. I have not imposed the proposed condition requiring details of EV charging points because these matters are covered by building regulation and are therefore not necessary.

Conclusion

25. For the reasons given above I conclude that the appeal should be allowed.

S Crossen

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the approved plans and details: P18-1261_23 rev B, P18-1261_24 rev D, P18-1261_25 rev C, P18-1261_26 rev B, P18-1261_27 rev C, P18-1261_28 rev C, 394.PL-01, 394.PL-06, 394-1.PL-01, 394-1.PL-06, 470.PL-01, 470-1.PL-01, GL01.PL-01, P18-1261_32 rev D, P18-1261_34, Preliminary Ecology Enhancement (EA129-PD-929), Hallam Indicative Ecology Box Locations, Wilton Indicative Ecology Box locations, CEMP (422533 V7) November 2021, Preliminary Ecological Appraisal Report Version 1.
- 2) 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.
- 3) Work shall be carried out in accordance with the Construction Environmental Management Plan (CEMP) regarding mitigation measures for noise, dust and lighting during the construction phase. The development on site shall be in accordance with the construction and delivery times as specified in the CEMP and adhered to at all times during all phases.
- 4) Prior to occupation of any dwelling hereby approved details for the disposal of foul and surface water shall be submitted to and approved in writing by the Local Planning Authority. The details shall be implemented prior to the occupation of the dwellings and maintained in accordance with the approved details thereafter.
- 5) Prior to occupation of any dwelling the proposed on-site parking area shall be laid out, demarcated, levelled and surfaced in accordance with the approved plans P18-1261_26 B and P18-1261_27 rev C and thereafter retained for that specific use.
- 6) Prior to occupation of any dwelling hereby approved a full schedule of all landscaping works shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include, planting plans, a written specification; schedules of plants noting species, plant sizes, proposed numbers/densities; and a detailed implementation programme. It shall also indicate all existing trees and hedgerows on the land and details of any to be retained. The works shall be carried out in accordance with the approved details prior to the end of the first planting season following occupation of the development. If within a period of five years from the date of the planting, or replacement planting, any tree or plant (including retained existing trees/hedgerows) is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place.

- 7) The boundary treatments shall be erected in accordance with drawing P18-1261_25 C prior to the occupation of the dwelling they serve and retained thereafter.
- 8) The biodiversity improvements outlined in the Preliminary Ecological Appraisal Report Version 1 dated September 2021 and as indicated on plan EA129-PD-929, and on the Indicative Ecology Box Locations plans; Hallam 470.PL-01 and Wilton 394.PL-01, shall be installed prior to the first occupation of the hereby approved development and thereafter maintained in perpetuity.
- 9) Prior to the occupation of any dwelling hereby approved details for solar panels relating to that dwelling shall be installed in accordance with details that have first been submitted to and agreed in writing by the lpa and retained thereafter.