



Appeal Decision

Site visit made on 27 February 2024

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 March 2024

Appeal Ref: APP/P3040/W/23/3330093

Land South of Butt Lane, East Bridgford, NG13 8NY

- 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 Redrow Homes Limited against the decision of Rushcliffe Borough Council.
- The application Ref 22/01268/REM, dated 21 June 2022, was refused by notice dated 28 March 2023.
- The development proposed is Approval of reserved matters in respect of appearance, landscaping, layout and scale for the construction of 59 dwellings alongside associated site infrastructure, works and public open space pursuant to Variation of Condition permission 21/00664/VAR for the Variation of Condition 2 and 9 (to allow an alternative access to be constructed at the eastern end of the application site) of planning permission 19/00784/OUT.

Decision

1. The appeal is allowed and planning permission is granted for reserved matters in respect of appearance, landscaping, layout and scale for the construction of 59 dwellings alongside associated site infrastructure, works and public open space pursuant to Variation of Condition permission 21/00664/VAR for the Variation of Condition 2 and 9 (to allow an alternative access to be constructed at the eastern end of the application site) of planning permission 19/00784/OUT at Land South of Butt Lane, East Bridgford, NG13 8NY in accordance with the terms of the application, Ref 22/01268/REM dated 21 June 2022, subject to the conditions in the attached schedule.

Preliminary Matters

2. During the application process, the proposal was updated a number of times. The final update to the layout, made immediately before the Council's decision, was not accompanied by a full set of drawings to reflect the detail of that layout. In making their appeal, the appellant submitted that full set. Although not considered by the Council, they were before the Council in the appeal, and they are required in order to ensure consistency between the 'Planning Layout Rev M' (on which the Council took its decision) and the rest of the plans.
3. The Procedural Guide to Planning Appeals – England states that the appeal process should not be used to evolve proposals and is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application. I have had regard to the purpose of the updated plans, their relationship to the issues in the appeal, the Wheatcroft Principles and the interests of fairness. I have therefore determined the appeal on the basis of the amended plans, as the overarching layout to which they relate is that which was before the Council when it made its decision. The amendments are for consistency and clarity and no prejudice arises from my considering them.

Main Issue

4. The main issue is the effect of the proposal on the rural character of the area.

Reasons

5. The appeal site is allocated for residential development, and benefits from outline planning permission which limits, by condition, the maximum number of dwellings on the site to 60. Policies 8.1 and 8.2 of the Rushcliffe Local Plan Part 2: Land and Planning Policies (the Part 2 Plan) allocate land north of (Policy 8.1) and south of (Policy 8.2, the appeal site) Butt Lane for residential development. In doing so, each is required to complement the design of the other. They are also both required not to detract from the character of Butt Lane as a rural approach to the village.
6. Implicit in the allocation of a site for housing is that it would fundamentally alter the character of a site from unbuilt or rural to built-up. Despite that overarching change from rural to built-up, the plan seeks to retain a rural character to Butt Lane where it passes the site through sensitive frontage development.
7. The layout of the proposal as a whole is not dissimilar to other areas of housing within East Bridgford which I saw on my site visit. Notably areas to the north and west, including, but not limited to Holloway Close, Bridle Ways, Cross Lane and Ludgate Drive. Although this housing is relatively recent, it does nevertheless play a strong part in establishing the character of the area. Indeed, at present, but for a few individual dwellings on the approach to East Bridgford along Butt Lane, although set within a rural landscape, there is no particular land which has a transitional character, changing from the open countryside to the village. Rather, the change experienced along Butt Lane is somewhat abrupt, marked by the houses along Bridle Ways, Holloway Close and Cross Lane to the north, and the health centre to the south.
8. To my mind, this character would be retained by the proposal, but that change, from rural to built-up would simply happen further to the east than it does at present. The overall rural character of Butt Lane, particularly from the junction with the Fosse Way and when crossing the A46 would not change. Even accepting that change, the Butt Lane frontage of the proposal is noticeably greener and lower density than the rest of the site, respecting the desire in the plan for a sensitive frontage. The street-scene drawings are particularly important in demonstrating this approach.
9. I find no issue with the scale of the proposal. The allocation of the site in the Part 2 Plan established the principle of developing the site, and indeed, the outline planning permission set a maximum number of units on the site, which the proposal complies with. I do not consider, having regard to the layout of the site, its context or its relationship to its context, that the scale has led to a cramped, over intensive, or otherwise incongruous proposal. Despite the concerns in the Council's statement over the distribution of the affordable housing across the site, I note there is no objection to this from the Strategic Housing Manager and there is nothing to support the suggestion that the houses proposed as affordable housing would be of a lower quality than the rest of the site.

10. I acknowledge the concerns of the Council around the garden sizes proposed, and their relationship to the 2009 Residential Design Supplementary Planning Document (the SPD). However, I do not find that the proposal is so inconsistent with it to be indicative of a design, scale and layout which is fundamentally incompatible with the size of the site or the character of its context.
11. The SPD requires that where smaller gardens are provided, it should be explained why this is acceptable and how the overall objectives of the SPD are still met. In addition, the SPD sets out factors which demonstrate why smaller gardens should be allowed, and the proposal meets at least two of these. Namely the close proximity to public open space (provided within the development and the village) or accessible countryside (a public right of way runs through the site, connecting to the wider local network) and that the development provides for a range of garden sizes (as shown on the submitted plans and consistent with the approach taken to the land north of Butt Lane).
12. The overall objectives of the SPD are clearly stated and include the achievement of the highest quality of development which reflects local distinctiveness. To my mind, the proposal complies with these overarching objectives and the detailed requirements around garden sizes. As a result, I do not find that the garden sizes in this proposal are indicative of a design, scale and layout which would represent a cramped and over intensive form of development detrimental to the rural character of the area.
13. The appellant has set out how the site layout complies with the broad parameters established in the allocation and the outline planning permission. These include, amongst other things, sensitive frontage development to Butt Lane and the countryside edges, as well as a green buffer to the east and retention of the public right of way through the site.
14. I do not consider that the stepping out of the access for plots 56 and 57, the turning head and the pumping station lead the proposal to conflict with those parameters. In this, I note that the parties agree that the part of the proposal which does fall within the Green Belt is not inappropriate development, and I agree with that position.
15. I also do not consider that the rerouting of the public right of way through the site would be indicative of a design, scale and layout which would represent a cramped and over intensive form of development detrimental to the rural character of the area, or that it signals an attempt to overdevelop the site. Indeed, I find nothing unusual in a public right of way, particularly one on the edge of a settlement, finding itself routed through new development. Moreover, the detailed design of the proposed route, including its relationship to the proposed planting and plots, would still offer a pleasant walking environment, linking to the open countryside beyond.

16. In allocating the site, the Council sought to ensure that the appeal site and the site to the north complement each other. Whilst there are differences between that approved layout and what is proposed here, I am satisfied that in terms of the density, layout and appearance of the site, particularly adjacent to, visible from, and affecting the character of Butt Lane, the two proposals are complementary.
17. Both feature single-sided access roads to the frontage properties, set back from the road with planting and landscaping. Houses on the appeal site are broken up into smaller groups, by accesses, reducing the apparent density viewed from Butt Lane, with a mixture of form and materials further breaking up the appearance of the proposal. Taking the two sites together, I therefore find that the overall design, scale and layout of the appeal proposal, would not harm the rural character of the area.
18. Overall, I therefore find that the proposal would not be contrary to Policy 10 of the Rushcliffe Local Plan Part 1: Core Strategy, adopted December 2014, or Policies 1 and 8.2 of the Part 2 Plan, as it would deliver a proposal, the design, scale and layout of which would not be cramped, over intensive or detrimental to the rural character of the area. The proposal would also be consistent with the guidance in, and the overarching objectives of, the SPD.
19. Over and above the development plan policies, with which I have not found conflict, the Framework now seeks beauty in addition to good design. Whilst beauty is of course subjective, the overall design, scale and layout of the proposal, when considered in the context of the rural edge, the approved development opposite, and the wider village, is appropriate. In addition, I consider that the proposal represents an efficient use of land. To my mind, the proposal does therefore, satisfy the requirements of the Framework.

Conditions

20. The Council has suggested a number of conditions to be attached, should planning permission be granted. Having had regard to the requirements of the National Planning Policy Framework and the Planning Practice Guidance I have imposed standard conditions concerning commencement (1) and compliance with the submitted plans (2). The submitted plans include details of the trees, vegetation and planting to be protected and retained, as well as new landscaping and a scheme to manage it. This is necessary to ensure the satisfactory appearance of the completed development. Condition 3 is necessary to ensure that the public right of way which crosses the site is protected. Conditions 4, 8 and 9 are necessary to ensure that the proposal can be implemented without harm to amenity, health or safety. Conditions 5 and 6 are necessary in the interests of highway safety. Condition 7 is necessary to ensure that surface water is properly managed. Condition 10 is necessary to ensure that material storage on the site does not harm biodiversity on the site or in the area.

21. The appellant has confirmed in writing that they have no objection to the terms of the pre-commencement conditions proposed by the Council. It is necessary and reasonable that the information required by these conditions be provided prior to the commencement of development, as these are matters which cannot properly or reasonably be addressed following the commencement of the development. I am therefore satisfied that the conditions I have imposed meet the tests in, and requirements of both the Framework and the Planning Practice Guidance.

Conclusion

22. For the reasons given above I conclude that the proposal accords with the development plan and there are no material considerations which indicate that a decision be taken other than in accordance with it. The appeal should therefore be allowed, and planning permission granted.

S Dean

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. That the development hereby permitted shall be carried out in accordance with the following approved plans, drawings, documents and details therein:

Application Form
BL-EB-100-001 Location Plan
D38120 Combined Phase I and II Report (Parts 1-4)
East Bridgford Planning Statement v3
Tavy Three Block Elevations – B1
Tavy Three Block Floor Plans – B1
Water Calculator
Housetypes Planning Pack
Large Conservatory 4 x 4.4m
Small Conservatory 3 x 3.4m
Parking Schedule
901 – Highgate Planning Floor Plans
901 – Highgate Planning Elevations
5781-100-001 Planning Layout Rev M
5781-200-001 Materials Drawing Rev H
BL-EB-PL700 Garden Areas Rev A
5781-200-002 Boundary Treatments Rev A
22-008-02-01.1 Rev D Engineering Layout
22-008_02_02_02.1 Rev D Tracking Sheet 1 of 1
22-008-02-03.1 Rev E Surface Finishes
5781-460A Layout with Tracking – Delivery
5781-000-001 Affordable Housing Plan Rev C
5781-000-002 Bin Collection Point Plan Rev C
5781-000-003 Car Charging Point Plan Rev C
10907 Landscape Management Plan Rev E
10907-FPCR-XX-XX-DR-L-0004-P09 Illustrative Landscape Masterplan
10907-XX-XX-DR-L-0001-P11 Public Open Space Proposals
10907-XX-XX-DR-L-0002-P11 Detailed On Plot Planting 1 of 2
10907-XX-XX-DR-L-0003-P11 Detailed On Plot Planting 2 of 2
Street Scenes Rev D

3. No works shall be undertaken on or affecting any part of the land comprising the highway known as East Bridgford Footpath No.24 until such time as a replacement footway has been provided to adoptable standard between Butt Lane, East Bridgford and the existing public right of way legally extinguished under S.257, Town and Country Planning Act 1990, accordingly.

4. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 1. the parking of vehicles of site operatives and visitors
 2. loading and unloading of plant and materials
 3. storage of plant and materials used in constructing the development
 4. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 5. wheel washing facilities.
 6. measures to control the emission of dust and dirt during construction
 7. a scheme for recycling/disposing of waste resulting from demolition and construction works.
 8. The routing of deliveries and construction vehicles to site and any temporary access points.
5. No part of the development hereby permitted shall take place until details of the new roads have been submitted to and approved in writing by the Local Planning Authority including longitudinal and cross-section, gradients, street lighting, Traffic Regulation Orders, drainage and outfall proposals, construction specification, provision of and diversion of utilities services, and any proposed structural works. The development shall be implemented in accordance with these details to the satisfaction of the Local Planning Authority.
6. No part of the development hereby permitted shall be brought into use until all access driveways and parking areas are surfaced in a bound material (not loose gravel). The surfaced drives and parking areas shall then be maintained in such bound material for the life of the development.
7. No part of the development hereby permitted shall be brought into use until the access driveways and parking areas are constructed with provision to prevent the unregulated discharge of surface water from the driveways and parking areas to the public highway. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.
8. Prior to the commencement of any on site works, a method statement detailing techniques for the control of noise, dust and vibration during demolition and construction shall be submitted to and approved by the Head of Environmental Health. The works shall be carried out in accordance with the approved method statement. In the interests of amenity, all demolition and construction works, including deliveries, shall be restricted to the following times, to cause the minimum amount of disturbance to neighbouring residents:

Monday – Friday 0700 – 1900 hours
Saturday 0800 – 1700 hours
Sunday/Bank Holidays - No work activity

If the use of a crusher is required, this should be sited as far as possible from nearby properties and be operated in accordance with its process permit.

9. Any soil or forming materials brought to site for use in garden areas, soft landscaping, filling and level raising shall be tested for contamination and suitability for use on site. Contamination testing should take place within UKAS and MCERTS accredited laboratories, unless otherwise agreed with the Borough Council. Laboratory certificates shall be submitted to and approved in writing by the Borough Council prior to any soil or soil forming material being imported onto the site. Details of the source and type of the imported materials and the estimated amount to be used on the site are also required to be submitted.
10. During the construction period, all materials shall be stored in a stable and secure manner and any open trenches, holes or excavations must be covered at night or installed with a wildlife ladder sloped 45° to the edge to prevent entrapment of protected species known to be in the locality. Any soil piles should also be covered over or compacted down.

End of Schedule of Conditions