



Appeal Decision

Site visit made on 29 May 2018

by **Graham Chamberlain BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State for Communities

Decision date: 11th June 2018

Appeal Ref: APP/V2635/W/18/3195074

Land south of Prince Henry Place, Downham Market, Norfolk PE38 9BL

- 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 Bob Fidock against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 17/00581/FM, dated 4 February 2017, was refused by notice dated 8 November 2017.
 - The development proposed is described as '19No 2 and 3 bedroom dwellings with associated garages/parking, access road, landscaping and open space. This provides a mix of 15No market sale dwellings and 4No affordable high quality dwellings'.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issues

2. An application for an award of costs was made by Mr Bob Fidock against King's Lynn and West Norfolk Borough Council. This application will be the subject of a separate Decision.
3. The appeal has been submitted with the two layout drawings presented to the Council. The most recent revision does not indicate a pedestrian route into Howdale Rise. It is not entirely clear why this entrance is necessary as pedestrians would end up in the same place and the route from Howdale Rise would not be quicker or more direct than that from Prince Henry Place. As such, I have based my assessment on layout drawing 3023/P02 Revision H.
4. The main issues in this appeal are the effects of the proposed development on:
1) The character and appearance of the area; and 2) The living conditions of the occupants of the properties in Prince Henry Place, with particular reference to noise and disturbance from construction works and subsequent occupation.

Reasons

The effect on the character and appearance of the area

5. The appeal site encompasses part of a small overgrown paddock located to the south-east of the town centre. It is currently accessed from Prince Henry Place through a field gate. The development to the north and east encompasses a conventional and reasonably homogeneous residential estate the scale and form of which is nearly all bungalows. The appeal site is predominately viewed in the context of this estate development as it is necessary to travel through it

to access it. Furthermore, public views of the appeal site from outside the estate from the west are from some distance across a playing field and there are very limited views of it from Ryston End, a private residential street to the south. The properties in Ryston End sit in large generously landscaped plots and exhibit a mixture of different forms, styles and heights.

6. The Council's Planning Brief 15 published in 1999 provides a brief for the development of the appeal site. It was published to supplement the residential allocation of the appeal site in the King's Lynn & West Norfolk Local Plan 1998. The local plan is no longer extant and the site is no longer allocated. As a consequence, the brief has no formal status. Nevertheless, it makes some useful observations and was informed by public consultation. It sets out a design concept for the development and states that '*much of the neighbouring development consists of bungalows in relatively small gardens and this suggests the site will be best developed with single storey housing although there may be opportunities for two storey development in the southern part*'. Having seen the site, I see no reason to take a significantly different approach, particularly as this analysis provides sufficient flexibility for a contextual response without copying the form of the adjacent development.
7. The appeal scheme is for the erection of 19 homes. Two bungalows would be located to the north of 82 Ryston Road but the rest of the properties would be chalets or two storeys tall and this would be at odd with the broad scale of development to the north and east. Thus, the development would appear as a strident enclave of compact two storey development between an estate of mainly single storey properties to the north and west and the more spacious and verdant residential development to the south. As such, it would not respond adequately to the spacious character of development in Ryston End or the single storey form of development in Howdale Rise and Prince Henry Place.
8. In particular, Plots 3 and 4 and 5 and 6 would be particularly noticeable as they would be located towards the north-eastern corner of the appeal site. These properties would appear particularly stark in views from Howdale Rise as they would be located next to bungalows and viewed in the context of a cul-de-sac of single storey properties. The landscaping around the site's boundaries would provide a form of visual divide with the adjoining development but its effectiveness would be limited in winter months and landscaping should not be used to screen unacceptable development as it may fail or die in the future.
9. Some attempt has been made to integrate the proposed development with its surroundings. For example, the chalet style properties are intended to act as a visual bridge between the single storey development in Prince Henry Place and the taller development within the appeal scheme. However, a street scene elevation has not been submitted demonstrating how the chalet properties would sit against the bungalows in Prince Henry Place and therefore it is difficult to gauge how successful the design concept would be. In addition, the development would have a simple estate layout and the pavements would continue through from Prince Henry Place. In this respect the proposal would respect the layout of the development to the north but this would not outweigh the other limitations I have identified.
10. I therefore conclude that the appeal scheme would harm the character and appearance of the area. The proposal would therefore be contrary to Policy DM15 of the Site Allocations & Development Management Policies Plan 2016

(DMP), which states the scale, height and massing of a development should respond sensitively and sympathetically to the local setting of adjacent streets. The proposal would also be at odds with Policies CS04 and CS08 of the King's Lynn & West Norfolk Borough Council Local Development Framework – Core Strategy 2011, which have similar aims. The Core strategy pre dates the National Planning Policy Framework but Policies CS04 and CS08 are consistent with Paragraphs 17 and Section 7 therein. As such, any conflict with them can be afforded significant weight.

The effects from noise and disturbance from construction works and occupation

11. The properties in Prince Henry Place are part of a sheltered housing development. Some of these dwellings front onto the road that vehicles entering the appeal site would need to travel along. These properties are set back from the edge of the carriageway behind generous front gardens and integral garages. Only a handful of the windows in these properties face onto the road. This configuration does not suggest the properties in Prince Henry Place would be particularly susceptible to noise and disturbance from an increase in traffic. Nevertheless, I understand that the occupants of these properties are elderly or less able and therefore exposure to noise and disturbance could be of greater concern, especially as they may spend long periods at home.
12. The noise and disturbance emanating from construction works would be time limited but it has not been clarified in the submissions how long the construction phase would last. The Council's submissions suggest it could be in the region of two years and the appellant has not disputed this contention. Two years is not a short period of time to live with excessive noise and disturbance but I have seen nothing of substance to suggest the construction activity would be excessively noisy for long periods. Instead, construction activities would ebb and flow. For example, internal fitting out may not be as noisy as ground works and heavy vehicles, such as delivery lorries, may be a daily occurrence but are unlikely to be a constant feature throughout the day.
13. Had the scheme been otherwise acceptable then a planning condition could have been imposed requiring the submission of a construction management plan prior to the commencement of development. The plan would have addressed matters such as the hours of operation, areas for parking and storage and when deliveries would take place. Such a condition would have been necessary given the proximity and apparent sensitivity of the occupants of Prince Henry Place to noise and disturbance. Both the appellant and the Council's Planning Officers agree on the necessity of such a condition.
14. However, the Council has not provided any substantive evidence, including any expert opinion, which suggests the construction noise and disturbance would be so severe that a construction management plan would not amount to adequate mitigation. Instead, the Council's Community Safety and Neighbourhood Nuisance Officer did not object to the proposal because such a condition could be imposed.
15. The evidence before me suggests it is uncommon for an estate road to go through a sheltered housing scheme but in this instance the appeal site was previously allocated for residential development in the superseded local plan. It seems somewhat inconsistent for the Council to now take the view that the construction of a residential development within the site would now result in

harmful levels of noise and disturbance to nearby residents. I accept that the site is no longer allocated but this is because it is within the settlement boundary of Downham Market where the principle of development is acceptable within the context of the extant DMP. It is a point of note that the Planning Brief referred to earlier does not make reference to potentially harmful noise impacts from the construction or occupation of development within the site.

16. In respect of occupation, the appeal scheme would result in more vehicle trips passing outside the properties in Prince Henry Place but these would be confined to an existing road upon which there is already traffic. The properties in Prince Henry Drive benefit from garages and off road parking so the movement of vehicles within the cul-de-sac is already part of its character. Substantive evidence has not been presented to suggest the occupation of the proposed dwellings, including the use of the rear gardens, would result in untypical levels of noise when considered relative to the existing residential properties nearby, such as those in Howdale Rise, which have rear gardens close to some of the sheltered housing without there being any ostensible noise nuisance.
17. In conclusion, subject to the imposition of a suitably worded planning condition, the construction and subsequent occupation of the appeal scheme would not result in harmful levels of noise and disturbance. Thus, a conflict with Policy DM15, in so far as it seeks to prevent significant adverse noise impacts, would not occur.

Other Matters

18. The appeal scheme would provide economic benefits to the construction industry through jobs and the circulation of funds. In addition, the properties would be located close to the town centre and therefore future residents could walk or cycle to facilities and spend locally. Moreover, a planning obligation has been submitted with the appeal scheme that would secure the provision of four affordable homes. This is necessary in order for the proposal to adhere to Policy CS09 of the CS. Nevertheless, these benefits could be achieved with a scheme that better reflects its context and therefore they are not determinative points in favour of allowing the appeal.
19. Various concerns have been raised by interested parties including inadequate health and educational infrastructure, the loss of an open space, the risk from flooding and the impacts upon highway safety, biodiversity and the privacy and outlook of neighbours. However, given my overall conclusion it has not been necessary for me to consider these matters further as the appeal has failed on a main issue.

Conclusion

20. The appeal scheme would not harm the living conditions of nearby residents but it would harm the character and appearance of the area. Thus, it would be contrary to the development plan as a whole and material considerations do not indicate planning permission should be forthcoming in spite of this. Accordingly, I conclude the appeal should be dismissed.

Graham Chamberlain
INSPECTOR