



Appeal Decision

Hearing held on 11 December 2018

Site visit made on 11 December 2018

by Rachael A Bust BSc (Hons) MA MSc LLM MEnvSci MInstLM MCMi MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2019

Appeal Ref: APP/G2815/W/18/3202732 Off Midland Road, Thrapston

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Adam Gaggini of Orbit Homes (2020) Ltd against the decision of East Northamptonshire District Council.
 - The application Ref 17/02142/REM, dated 5 October 2017, sought approval of details pursuant to Condition No 1 of planning permission Ref 12/01957/OUT, granted on 8 April 2016.
 - The application was refused by notice dated 21 March 2018.
 - The development proposed is the erection of up to 75 no. dwellings and associated roads (some matters reserved).
 - The details for which approval is sought are: appearance, landscaping, layout and scale.
-

Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. Since the Council made its decision a revised version of the National Planning Policy Framework (the Framework) has been published. The parties have had the opportunity to provide comments on the relevance of the revised Framework in this appeal. Accordingly any comments made in respect of the revised Framework have been taken into account in my determination.
3. At the Hearing a number of additional documents were submitted as listed at the end of this decision. Some documents (items 1 and 2) were additional copies which had already been provided as part of the appeal submission. The appellant submitted a copy of the layout for the adjacent site, known as Phase 4, for context. The Council confirmed it was the approved layout. I have had regard to it in reaching my decision.
4. Subsequent to the Council's decision of the appeal scheme, a revised reserved matters application (reference 18/01186/REM) for the appeal site was submitted. It was considered by the Planning Management Committee prior to this Hearing event and as such has the potential to represent a "fall-back" planning position that is relevant to the determination of this appeal. As such I requested a copy of the Planning Committee Report and Minutes (items 4-6).

5. At the Hearing I also requested a copy of the viability assessment which had been referenced in the parties' appeal submissions, but had not been presented to me as part of the appeal submission. At the time of the Council's decision it was not common practice for viability evidence to be made publicly available. However, following the publication of the revised Framework, paragraph 57 sets out an expectation that viability evidence should be made publicly available. A copy from the Council's file was provided and confirmed as the correct version by the appellant. Some discussion took place on this evidence and the interested parties present at the Hearing were afforded an opportunity to make any comments. Accordingly I have taken this evidence into account in the determination of the appeal.
6. Taking all matters into consideration I am satisfied that no prejudice would arise to any parties from my acceptance of the aforementioned documents as part of the appeal process.

Application for costs

7. At the Hearing an application for costs was made by Orbit Homes (2020) Ltd against East Northamptonshire District Council. This application is the subject of a separate Decision.

Main Issue

8. Having taken into account the discussion at the Hearing I consider the main issue in this appeal to be whether the proposed development would represent an acceptable overall layout, having regard to issues including the internal space within the dwellings; relationship to surrounding development and parking arrangements.

Reasons

9. The appeal site is the central portion of the residential allocation known as THR5 (Thrapston South) in the Rural North, Oundle and Thrapston Plan, adopted July 2011. The allocation has 4 phases, with phases 1, 2 and 4 already having planning permission. The appeal site is phase 3.
10. The principle of residential development has already been established by the site allocation in the development plan and the outline permission granted for up to 75 dwellings with access.

Internal space within the dwellings

11. It is not disputed that all of the proposed market dwellings meet the internal space standards set out in the Technical Housing Standards – nationally described space standards¹ (THS). The main parties accept that not all of the proposed affordable housing units comply with these standards. Notwithstanding that the reason for refusal refers to 12 units of the 19 units not meeting the THS standards; the Council could only refer me to 11 units at the Hearing.
12. Both parties agree that the 9 units of type 2BAC do not meet the overall internal space requirement in the THS. At the Hearing the appellant suggested that these were intended to be 2 bedroom, 3 person units. However, drawing number PL-130 Revision A clearly illustrates that this house type is intended to

¹ Technical Housing Standards – nationally described space standards, May 2016, DCLG

- be a 2 bedroom, 4 person unit. Given this discrepancy in evidence I have considered this appeal on the basis of the plans which have been submitted.
13. In addition, the Council contend that 2 of the ground floor maisonettes (MAISV2 GF and MAISV3 GF, both 1 bedroom, 2 persons) fail to meet the internal space standards in the THS.
 14. The THS have been adopted by the Council in Policy 30(b) of the North Northamptonshire Joint Core Strategy (JCS). Notwithstanding the lack of absolute clarity by the main parties, having considered the schedule on drawing reference RDC1069-104 Revision G, I find that a total of 12 of the affordable units do not meet the THS. This includes the 9 units (type 2BAC), the 2 ground floor maisonettes (type MAISV2 GF and MAISV3 GF), together with the first floor maisonette (2 bedroom, 3 person type MAISV2 FF). All of these units have gross internal areas which are below the minimum set out in the THS.
 15. The appellant suggests that although some of the affordable units do not meet the THS, they nevertheless meet the space standards set out in the Housing Quality Index by Homes England. Be that as it may, these standards do not form part of the development plan nor are they identified as a relevant material planning consideration in the Framework or Planning Practice Guidance. These standards have not been submitted to me as evidence, consequently I can make no meaningful comparison between them and the THS. In any event, I am not persuaded that these standards are relevant to the determination of this appeal, particularly given that the THS is explicitly referred to within the development plan.
 16. The appellant contends that the reason for the affordable dwellings not meeting the space standards in the THS is based upon viability. Although I have been provided with viability evidence in the form of a development appraisal² this only addresses the issue of the viability of the scheme as taken forward in the reserved matters. I have no evidence before me to indicate how the viability of the development would be altered by the additional floorspace required for the 12 affordable units to comply with the THS. I note that in an email³ from the Council to the appellant it is suggested that the independent review of the development appraisal identified that it would be possible for the standards in the THS to be complied with across the scheme. Accordingly, I can only find that there is no evidence to substantiate the appellant's contention. As such I do not accept that there are other material planning considerations which outweigh the development plan with regard to internal space standards.
 17. Consequently, I find that in relation to internal space standards the appeal proposal conflicts with Policy 30(b) of the JCS. This policy seeks, amongst other things, that all new dwellings must meet the national space standards as a minimum. Failure to comply with this policy would result in accommodation which would not provide acceptable living conditions for its intended occupiers.

² Orbit Thrapston Phase 3 Development Appraisal, dated 13/10/2017.

³ Email dated 27 February 2018 from Carolyn Tait, Senior Development Control Officer to Callum Bodsworth and Adam Gaggini (Orbit) and Simon Copson covering the Orbit Thrapston Phase 3 Development Appraisal (dated 13/10/2017).

Relationship with surrounding development

18. At the Hearing it was confirmed that there was no concern with the relationship between the appeal proposal and Phases 2 and 4 of the overall site allocation. The concern of the Council and of interested parties is the interrelationship between the appeal proposal and the existing development on Ash Court and Oakleas Rise.
19. No specific separation distances between properties in the development plan or supplementary planning documents have been drawn to my attention. In relation to Plot 39 the side elevation would be 13 metres from the rear elevation of No 55 Oakleas Rise. The appeal proposal would introduce a visual change, but it is not unusual in housing layouts for side elevations of properties to face the rear elevations of other properties. However, the scale and massing of the blank elevation of Plot 39 in such close proximity to the property at No. 55 would be oppressive and would cause material harm to the outlook of these existing occupiers when viewed from their modest rear garden and windows on the rear elevation.
20. No 6 Ash Court is the closest dwelling to the appeal site. It is located in a corner with its side elevation facing Plots 33 to 35. During the site visit I saw for myself the interrelationship between the windows of No 6 and the appeal site. In particular the dining room window of No 6 is reliant upon light from the appeal site due to the design of the attached garage and the link to the main dwelling. In my judgement the proposed garage block for Plots 33 and 34 would be sited too close to No 6 and it would have an unacceptable impact, in terms of light and overshadowing, on the dining room window.
21. Development on Plots 33 to 36 inclusive would introduce built development across the entire southern boundary of No 6. The overall bulk, massing and 2.5 storey height of Plots 33 to 36, would lead to a cumulative and unacceptable overbearing relationship to No 6 Ash Court.
22. The side elevation of Plot 27 does not sit directly behind the dwelling of No 9 Ash Court itself. Plots 31 to 33 directly face the rear elevation of Nos 7 and 8 Ash Court. The distance between these facing elevations was stated to be 20 metres. Given these facts I am satisfied that Plots 27 and 31 to 33 would have a satisfactory relationship to Nos 7, 8 and 9 Ash Court.
23. Consequently, I find that the appeal proposal would have an unacceptable relationship to No 6 Ash Court and No 55 Oakleas Rise, resulting in harm to the living conditions of the existing occupiers. It would be contrary to Policy 8(e)(i) of the JCS, which seeks, amongst other things, that development does not have an unacceptable impact on the amenities of neighbouring properties.

Parking arrangements

24. The Council and interested parties, including the Highway Authority, are concerned about the overall level of parking provision; the parking arrangements with regard to the use of tandem parking and the impact of the parking arrangements on pedestrians and other road users. In addition, at the Hearing I asked the parties for their views on the effectiveness and usability of the proposed parking arrangements.
25. The Council in its determination has referred to the Northamptonshire Parking Standards 2016 (NPS). However, I am mindful that these standards do not

- form part of the statutory development plan. The NPS are the standards of the Highway Authority; they have not been adopted by the Council as a supplementary planning document. On the basis of the evidence presented at the Hearing, the NPS does not appear to have been subject to any consultation or any form of independent scrutiny. Whilst they may represent a material planning consideration, given the above factors, I attach limited weight to the contents of the NPS in the determination of this appeal.
26. Policy 8(b)(ii) of the JCS refers to parking provision needing to be in accordance with adopted standards. From the evidence before me the Council has not adopted any specific parking standards in accordance with this criterion. However, some parking standards are contained elsewhere within the development plan, although these pre-date the JCS.
 27. The appeal site falls within the area covered by the Rural North, Oundle and Thrapston Plan, adopted July 2011. This plan is part of the statutory development plan and in Policy 6 it requires new residential developments to have an average maximum residential parking standard of 2 spaces per dwelling in Thrapston outside of the defined town centre.
 28. Policy 6 pre-dates both the original and revised Frameworks. Whilst neither of the main parties suggests that Policy 6 does not accord with the Framework I must be mindful that paragraph 106 of the Framework identifies that maximum parking standards should only be set where there is a clear and compelling justification that they are necessary for managing the local road network or for optimising the density of development in city and town centres and other locations that are well-served by public transport. As such Policy 6 is not entirely consistent with the Framework. I note that the Council has not used Policy 6 in its determination and do not therefore contend that the appeal proposal conflicts with this policy. As such the position taken by the Council in suggesting that the total parking provision conflicts with Policy 8(b)(ii) of the JCS is in my judgement untenable.
 29. The appeal proposal has parking provision in the form of allocated spaces, car ports, garages and visitor spaces. I do not agree that garages should not be counted as a parking space. Where appropriate and necessary a suitable planning condition can be used to ensure that garages are retained for parking. In the absence of any up to date parking standards in the development plan there is no cogent evidence before me to demonstrate that the appeal provision includes insufficient overall parking provision for residents and visitors.
 30. At the Hearing it was suggested that irrespective of driveways being able to accommodate 2 vehicles parking in a tandem arrangement; occupiers would be likely to park one of their two vehicles on the road. Tandem parking on driveways within residential development is not unusual. I do not consider it to be unreasonable to expect occupiers to manage their own driveway parking allocation, and any inconvenience to other residents whilst manoeuvring their vehicles would be for a limited time. I note that the approved layout on the adjacent site within Phase 4 contains tandem parking arrangements which the Council has deemed to be acceptable.
 31. The overall parking arrangement does include elements of tandem parking within shared parking courts. The appellant has indicated that such parking arrangement only applies to the affordable housing units and as such could be

satisfactorily managed through tenancy or management arrangements. Be that as it may, I have no substantive evidence before me to demonstrate that acceptable management provisions could be put in place. In particular, I am conscious that the definition of affordable housing in the Framework includes tenures which would fall outside the scope of tenancy style arrangements. Therefore I am not persuaded that tandem parking arrangements in shared parking courts represents an acceptable form of parking.

32. The overall layout is somewhat parking dominated with much of the parking provision either forming shared parking courts or continuous parking provision along road frontages. The overall number of dwellings on the site has resulted in a layout that does not allow extensive use of driveways within properties. The overall parking arrangements would not be effective and useable, as the siting of a number of the spaces would not allow vehicles to satisfactorily manoeuvre without firstly having to travel a significant distance. In this regard the appeal proposal fails to meet the requirements of Policy 8(b)(ii) of the JCS.
33. Policy 8(b)(i) of the JCS seeks to prioritise the needs of pedestrians, cyclists and public transport users. The proposed layout prioritises the need for parking provision over those of pedestrians and other road users including cyclists. The extensive length of road frontages containing parking spaces would result in excessive lengths of vehicle crossovers (dropped kerbs) which would not prioritise the usability of the pavement for pedestrians. Throughout much of the development, the layout would lead to a significant opportunity for conflict between vehicle manoeuvring and pedestrians in particular. I find that the scale of this potential conflict renders the parking arrangements unacceptable with regard to pedestrians and other road users.
34. Taking all matters into consideration in relation to the parking arrangements, I therefore find that the appeal proposal would conflict with Policy 8(b)(i) and (ii) of the JCS.

Overall layout

35. The outline consent establishes the principle that a development of up to 75 properties is acceptable in principle on the appeal site. However, given the nature of the matters reserved on that outline consent, it is still appropriate for the reserved matters process to consider aspects of appearance, landscaping, layout and scale.
36. Taking into account my findings in relation to the unacceptable effects upon the living conditions of adjoining occupiers and the unacceptable parking arrangements as well as the failure to provide satisfactory living conditions for future occupiers I conclude that the proposal would not represent an acceptable overall layout. As such the appeal proposal would not constitute sustainable development and fails to comply with Policies 8 and 30 of the JCS.

Other matters

37. I have had regard to the Council's resolution to grant consent for a revised reserved matters scheme for 65 dwellings on the appeal site subject to the completion of a deed of variation in relation to the existing section 106 agreement. There is no reason to believe that this agreement, and the revised reserved matters consent will not be forthcoming. As such it is a material consideration within this appeal. However, the scheme for 65 dwellings is for a

lesser quantum of development and this other scheme is materially different to that before me.

Conclusion

38. The appeal proposal would contribute to the delivery of housing on an allocated urban extension, including an agreed proportion of affordable housing. This weighs in favour of the appeal proposal. However, for the reasons set out above, the impacts of the development would significantly and demonstrably outweigh the benefits when assessed against national and local policies and the development plan when taken as a whole. Consequently, the appeal should be dismissed.

Rachael A Bust

INSPECTOR

APPEARANCES

APPELLANT:

Mr S Silcocks MRTPI	Harris Lamb
Mr A Gaggini	Orbit Homes
Mr C Bodsworth	Orbit Homes

LOCAL PLANNING AUTHORITY:

Mr D Wishart	Principal Development Management Officer, East Northamptonshire District Council
Ms C Tait	Senior Development Control Officer, East Northamptonshire District Council

INTERESTED PARTY:

Councillor D Read	Thrapston Town Council
-------------------	------------------------

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Second copy of the Hearing notification letter dated 7 November 2018 and list of addresses the letter was despatched to.
- 2 Second signed copy of the Statement of Common Ground, dated 16.11.2018.
- 3 Approved layout of Phase 4, drawing reference 1345-02 Rev. W.
- 4 Application reference 18/01186/REM (revised reserved matters), Planning Management Committee Report, dated 14 October 2018.
- 5 Application reference 18/01186/REM (revised reserved matters), Planning Management Committee - Committee Update Report, dated 14 November 2018.
- 6 Application reference 18/01186/REM (revised reserved matters), Planning Management Committee Minutes, dated 14 November 2018.
- 7 Policy 6 of the Rural North, Oundle and Thrapston Plan, adopted July 2011.
- 8 Orbit Thrapston Phase 3 Development Appraisal, dated 13/10/2017.
- 9 Email dated 27 February 2018 from Carolyn Tait, Senior Development Control Officer to Callum Bodsworth and Adam Gaggini (Orbit) and Simon Copson covering the Orbit Thrapston Phase 3 Development Appraisal (dated 13/10/2017).