



Appeal Decision

Site visit made on 2 November 2012

by Terry G Phillimore MA MCD MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 November 2012

Appeal Ref: APP/V0510/A/12/2178023

**Land to the North of Nos 10 and 23 The Oaks, Soham, Cambridgeshire
CB7 5AA**

- 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 Oliver & Mrs Van Roy against the decision of East Cambridgeshire District Council.
 - The application Ref 11/01001/FUL, dated 9 November 2011, was refused by notice dated 3 February 2012.
 - The development proposed is erection of four dwellings with garages and a car port and the creation of a new vehicular access from The Oaks.
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Decision

1. The appeal is allowed and planning permission is granted for erection of four dwellings with garages and a car port and the creation of a new vehicular access from The Oaks at Land to the North of Nos 10 and 23 The Oaks, Soham, Cambridgeshire CB7 5AA in accordance with the terms of the application, Ref 11/01001/FUL, dated 9 November 2011, subject to the conditions nos. 1-14 in the attached schedule.

Procedural Matter

2. Following the provision of further information, the Council has not pursued its reason for refusal based on failure to submit an adequate tree survey. The findings of the arboricultural report support the conclusion that, subject to an appropriate condition, the proposal is acceptable in this respect.

Main Issue

3. The main issues are:
 - a) the effect the proposal would have on highway safety;
 - b) whether the proposal should be accompanied by planning obligations.

Reasons

Highway safety

4. The Oaks is a cul-de-sac some 100m long. It is a private road built in the 1980s and lined by houses. The site lies at the end of the road, and the proposal involves an extension of the existing turning head to provide a vehicular access. The proposal would add a further 4 houses to the existing 18 houses along The Oaks.

12. I have had regard to references made to parking associated with a nearby school and new development that has taken place in The Butts. However, taking all the above into account, the proposal would not have an unacceptable impact on highway safety.
13. Various points are made on the scope for adoption of The Oaks and the requirements that would need to be met for this to be done, including with respect to visibility. This matter affects private interests, one of which is meeting the costs of maintenance of the road. I recognise the significance of this to third parties, but in planning terms there is no sound reason to conclude that the road is inadequate to serve the proposed development.

Planning obligations

14. Reference has been made to the preparation of planning obligations pursuant to section 106 of the Act, but there are no completed obligations before me.
15. The Council seeks financial contributions totalling £29,362 towards education and community facilities, emergency services, sport facilities, open space and transport. The appellant has expressed a willingness to make such payments. Policies CS7 and S4 of the East Cambridgeshire Core Strategy are relevant on these matters. Reference is also made to the Council's Developer Contributions Supplementary Planning Guidance. However, there is no quantified evidence of the additional demands on facilities or infrastructure that are likely to arise from the proposed development; details of existing facilities or infrastructure and current evidence on the extent to which they are able or unable to meet those additional demands; or details of the facilities or infrastructure on which any financial contributions would be spent. I am therefore unable to conclude that the contributions sought are fairly and reasonably related to the development and necessary to make it acceptable, which are statutory tests under Regulation 122 of the Community Infrastructure Levy Regulations for obligations to be taken into account. The absence of completed obligations on these matters therefore does not affect my conclusion.
16. Policy H3 of the Core Strategy requires residential developments of 3 or more dwellings in Soham to provide a minimum of 30% of the total number of dwellings to be affordable. Other requirements are included in the policy on the form of affordable housing and its allocation. A proposed bungalow is designated as an affordable dwelling and, although only 25% of the scheme, this level of provision has been found acceptable by the Council in this case. The submitted draft heads of terms include means of securing the form of the affordable housing and the stage of its provision within the development, but again there is not a completed planning obligation. However, in the circumstances of reasonable clarity on what is required to be provided by way of an on-site affordable housing scheme, a planning condition to secure this can be imposed.

Other matters

17. The site lies within the Soham Conservation Area and near to the Grade II listed building of The Hall. It appears that the site has previously been in ownership associated with The Hall, but not as part of its curtilage. The site is well screened by vegetation, and the development of the proposed houses, which would be in keeping with others in the area, would have little visual

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan; PC.375.P201/A; PC.375.P202; 180/813/002/A.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until detailed drawings at a scale of 1:20 of the proposed windows and external doors including garage doors have been submitted to and approved in writing by the local planning authority. The window details shall show sections, opening arrangements and glazing bar patterns. Details of the proposed materials and colour finishes shall be included. All works shall be carried out in accordance with the approved details.
- 5) The development hereby permitted shall be carried out in strict accordance with the method and extent of tree protection measures detailed in the Tree Survey produced by Acacia Tree Surgery Ltd dated 10 May 2012. These tree protection measures shall be retained for the duration of the works. Within the areas so fenced off, the existing ground level shall neither be raised nor lowered (except as may be approved by the local planning authority as part of the development) and no materials, equipment, machinery or temporary buildings or surplus soil shall be placed or stored. If any trenches for services are required in the fenced-off areas, they shall be excavated and back-filled by hand and any tree roots encountered with a diameter of 5cm or more shall be left unsevered.
- 6) No development shall take place until full details of soft landscape works including hedging have been submitted to and approved in writing by the local planning authority. These details shall include planting plans; written specification; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; an implementation programme. The details 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.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 8) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied or in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.

- iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing;
- iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.