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Rose Bank Burton End Haverhill

Appeal against non-determination of DC/23/1157/FUL

3no. detached 1 bed bungalows fronting onto the park

LPA: West Suffolk Council

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Full Statement of Case v5

A summary of the planning applications discussed to this point.

- 1. The site was first proposed as a pair of 3 storey semis fronting Yord Road; after a PreApp this changed to a pair of 2 storey semis fronting York Road [with greater gaps at the sides] which addressed the officers concerns at the time. That application was refused [DC/21/1436/FUL] and it also lost at Appeal [APP/F3545/W/22/3291869] At no point was the FIT/LEAP guide 2015 noted as a potential reason for refusal. The LPA however returned the PreApp fee to the applicant as they felt their advice didn't meet the standard required.**
- 2. The applicant and architect subsequently attended a Preapp with the case officer at the LPA offices to discuss options [13 June 2023]. The option under discussion was for 3 bungalows fronting onto the park [the single storey bungalow proposal was chosen rather than a 2 storey solution as the central issues of the failure of the appeal [APP/F3545/W/22/3291869] in item 1 above was the closeness of the proposed development to the next door apartment block, massing, loss of amenity to the neighbour and overlooking]. At no point was the FIT/LEAP 2015 guide discussed [this Guide as it affects this application is that the guide recommends no new residential boundary within 20m of the play equipment]- however the park has the boundaries of several existing dwellings within 20m of the existing play equipment. It is noted that the FIT/LEAP guide 2015 is a Guide and not an Adopted Policy, and as such is not binding on the LPA.**

3. The bungalow option was developed and the configuration that was submitted for planning [DC/23/1157/FUL] it being 3 x1 bed detached bungalows fronting onto the park. At a late point in the application process the closeness of the play equipment is noted for the first site in the history of the development proposals of the site- we are now some 3 years into the proposals [the Parks Officers comments were made on the 14 December 2023 when the application was validated on the 20 September 2024- some 85 days earlier, the consultation period having ended 64 days earlier- see appendice 4 Savannah Cobbold to Dave Beighton dated 14 December 2024 the Parks Officer is quoted as saying "*I have to confess to having overlooked this aspect at the time of my original comments....*"]
4. See the comparative drawing of the 4 schemes discussed [A-D] see drg. 1311-04
5. It is common ground between the LPA and the Appellants that the FIT/LEAP 2015 guide is a non-binding guide -it being a guide not a policy.
6. The consultation from the Parks Dept regarding the FIT/LEAP 2015 guide from the Parks officer is not published on the Portal- there is in fact no record on the portal of the FIT/LEAP 2015 guide discussions and only discovered by the Applicants in the FoI documents [appendice 4 & 6]
7. An issue discovered by a FoI request [appendices 4 & 6] is that the Parks Dept officers and the Planning case officers discussed that merits of various development options [appendice 4]; but they don't arrive at a conclusion of what to support however they don't believe they [the LPA] could win an Appeal for a single dwelling [bungalow] fronting onto York Road. This consultation with the Parks Dept does not appear on the Portal. However to believe that scheme D [single dwelling] is the best scheme from a noise point of view is, in our opinion, not to understand how best to mitigate intrusive noise in a development [see point 12 below]- an issue which we explore in the points below [see particularly points 11, 18 & 19 below].
8. The Appellant made a complaint to the Ombudsman asking for 2 outcomes [a] that the case officer acting throughout the process from the beginning and who failed to mention the FIT/LEAP 2015 guide as a possible reason for refusal be replaced with another case officer and [b] that the planning application fees for the 2 applications be returned. The Ombudsman [ref 23 019 560] has rejected the complaints [appendice 5].
9. The applicant at this point submits this Appeal, asking for the Award of Costs

Turning to the pros and cons of each of the 4 schemes discussed [see drawing 1311-07 for comparison of schemes A-D inclusive]

- 10. Scheme A & B are very similar. It was suggested by the case officer that the 3 detached units should become a short terrace [scheme A]- we believe he saw it as a better town planning option. The applicant team isn't in favour of a short terrace but we tabled the option to explore the potential. We saw no real advantage to a short terrace option and from a market point of view a terrace unit is not as valuable as a detached unit, so in a balance of equals we chose the detached option.**
- 11. Scheme B. This is the scheme submitted for planning [DC/23/1157/FUL] it is for 3 no. detached 1 bed bungalows fronting onto the park. It has 1.2m high metal railings to its frontage so all 3 units can see the park and the play equipment from their kitchen windows [see drawing 1311-04]. The Government report "Planning System and Crime Prevention" [appendix 7] in particular p24 Surveillance [Definition: places where all public spaces are overlooked]- it being a staple of all good modern design for the reduction of crime and bad behaviour that public and play spaces are overlooked. The LPA see the location of our new dwellings as too near the play equipment due to the possibility of intrusive noise into new dwellings [the guide recommends a distance of 20m], yet the bungalows we have designed have non-habitable rooms nearest the noise source/play equipment -see drawing 1311-03, those non-habitable spaces being bathrooms, hallways and kitchen- which are all designated as non-habitable spaces [all habitable spaces being bedrooms and living spaces which are all on the acoustically protected garden/amenity space side of the development]. The advantage to this proposal is that the 3 kitchen windows will overlook the play equipment so achieving 'surveillance'. All windows on the play equipment facing side can be of a noise reduction type to meet a suitably worded planning condition. The second benefit of scheme B configuration being the acoustically shielded garden/amenity space. A design device for mitigating noise levels is distance [noise being an energy source which dissipates over distance], by making the noise travel a further distance i.e. in this case making sound travel the longer distance over the roof of the bungalow rather than a straight direct distance the garden amenity space is effectively further away from the noise source [see 1311-08 which shows comparative noise distances]. So the proposal which has [a] the most effective surveillance of a public area/play equipment and [b] reduces intrusive noise into the habitable parts of the dwelling by making the nearest spaces in the dwelling to the play equipment non-habitable spaces and [c] best protects garden/amenity space from intrusive noise.... is scheme B.**

- 12. Scheme C and D. Both these schemes expose the garden amenity space to more intrusive noise than scheme B. On an average scheme B makes noise travel further from play equipment source to garden/amenity area than schemes C & D; in fact it makes intrusive noise travel 20% further than a straight line and schemes C & D makes intrusive noise travel only 10% further [see drg 1311-08 to see the comparison] and from this it can be interpolated that scheme B has less intrusive noise in the amenity garden area than schemes C & D and so the sound in scheme B garden has travelled 20m or more from play equipment source thus meeting the aim of the Guide distance.**
- 13. We believe there are benefits to our scheme B over the other schemes, we believe our design improves surveillance of a public space, manages acoustic impact to the new dwellings to an acceptable level, shields the amenity space/garden from intrusive noise, better than any other option.**
- 14. We believe the LPA has exaggerated the noise implications of the proposal [scheme B] and on inquiry it has been confirmed by the EHO dept of the LPA that there have in fact been no noise complaints in the play equipment area and no ASBOs have been imposed [see appendice 8].**
- 15. The LPA have suggested that a 2m high timber acoustic fence [see appendice 4] between the dwellings and the play equipment might be imposed as a condition; this is an option for the Inspector to consider but a 2m high acoustic timber fence means that there would be no surveillance from the new dwellings over the public space/play equipment.**
- 16. The play equipment has been upgraded and increased in number of units over the years and the LPA Parks department have never upgraded the surrounding garden fences of dwellings surrounding the play equipment to 2m timber acoustic fences [from existing 1.8m timber close boarded], thus pointing to that this aspect of noise intrusion into nearby existing residential amenity space from children using the play equipment into surrounding residential gardens is not a significant or material noise factor for the LPA in this location.**

In summary

- 17. Scheme B addresses the reasons for failure of the failed previous application [DC/21/1436/FUL] and dismissed Appeal [APP/F3545/W/22/3291869] by proposing bungalows, not 2 storey units [creating no overlooking, no loss of neighbouring amenity, no massing issue]**
- 18. Scheme B addresses the objection based on intrusive noise into new dwellings near play equipment [habitable rooms shielded from intrusive noise by a buffer of non-habitable rooms and all windows facing the play equipment side to meet agreed acoustic performance]**
- 19. Scheme B shields its garden amenity space from intrusive noise better than any other option.**
- 20. Scheme B has met the required standards and layouts for highways, parking, bins and cycles.**
- 21. Scheme B has a public benefit of linking existing public footpaths across the frontage of its York Road boundary.**
- 22. Scheme B with its open 1.2m high open metal railings on the play equipment frontage the proposed 3 units have better comprehensive passive surveillance over the play equipment than any other option.**
- 23. It is for all these reasons that we ask for the Appeal to be Granted.**