
Appeal Decision

Site visit made on 4 October 2016

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

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

Decision date: 17th October 2016

Appeal Ref: APP/B2002/W/16/3152489

Fenby House, Post Office Lane, Ashby cum Fenby, North East Lincolnshire, DN37 0QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr A.N. Kirkham against the decision of North East Lincolnshire Council.
 - The application Ref DM/0214/16/OUT, dated 2 March 2016, was refused by notice dated 27 May 2016.
 - The development proposed is the outline erection of a detached dwelling and residential annexe.
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Decision

1. The appeal is allowed and planning permission is granted for outline erection of a detached dwelling and residential annexe at Fenby House, Post Office Lane, Ashby cum Fenby, North East Lincolnshire, DN37 0QS in accordance with the terms of the application, DM/0214/16/OUT, dated 2 March 2016, subject to the attached schedule of conditions.

Procedural Matter

2. The application is in outline with all matters reserved. An indicative block plan (reference 25002.04) was submitted with the application and then later superseded by block plan (reference 25002.04A) to show the erection of a dwelling and attached annexe. Drawings in respect of the access have also been submitted. I have had regard to the indicative plans (as amended) in determining the appeal.

Main Issue

3. The main issue is whether the appeal proposal could be considered to be sustainable development having regard to the location of development beyond the defined settlement boundary and its effect upon the character and appearance of the area.

Reasons

4. The appeal site comprises of a large and rectangular area of land located to the side of Fenby House. It forms part of a large formal private garden area serving the dwelling. The rest of the site is surrounded by open fields and paddocks and is bounded to the north and south by established trees and hedgerows. To its western boundary the site is open, with views out across the
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- countryside. Drainage channels also run along the eastern and southern boundaries.
5. The site is located outside of the defined village boundary as set out in the LP and considered to be in the open countryside. In this regard the proposal would be contrary to the aims of saved Policy GEN2 of the North East Lincolnshire Local Plan 2003 (LP).
 6. However, the development limits were defined a great number of years ago and due to a lack of 5 year housing supply, in accordance with paragraph 49 of the National Planning Policy Framework (the Framework) policies within the LP with specific regard to housing, including development limits, are considered to be out of date.
 7. Accordingly paragraph 14 of the Framework applies. This requires permission to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole. One of the core planning principles of the Framework, a set out in Paragraph 17, relates to the recognition of the intrinsic character and beauty of the countryside. Paragraph 58 seeks to ensure that development responds to local character.
 8. In a very literal sense the proposal would detract from the rural character of the area, simply by the introduction of more built development on the edge of the village. However, the appeal site is lawned and maintained, with decorative planting and a pond. In that sense, it has the appearance of a domesticated area, in contrast to its rural, agricultural surroundings, and as such the impact of the proposed development would be limited.
 9. In respect of concerns regarding the design, layout, orientation, siting and landscaping, these would be assessed at reserved matters stage and as such could be secured at that time so as to ensure that the proposed development can be integrated into the rural landscape.
 10. Furthermore, due to the location of the public footpaths running near to the site, views of the development from these would largely be screened by vegetation along the northern and southern boundaries of the site. In any case, public footpath links from which the site is currently approached are essentially local and partially characterised by proximity to existing and other approved development. Therefore, taking into account increased visibility during the winter months, I find that the overall visual impact would not be significant.
 11. My attention has been drawn to the recently adopted Ashby cum Fenby Community Led Plan 2016 (CLP). While I have not been provided with a copy of this, I understand that this document seeks to reaffirm the defined settlement boundary for the village and restrict development outside of this. I acknowledge this report and the views of the local community. However, this is not a formal Neighbourhood Plan made under the Planning and Compulsory Purchase Act 2004, and as such it does not form part of the adopted Development Plan for the area. The weight I can attach to this document, as a material planning consideration, is therefore limited.
 12. The Parish Council have also made reference to the New Local Plan. I understand that the development would also fall outside of the proposed new

village development boundary and that development is only supported in such instances where there is a specific local need for affordable housing. However, this plan is unexamined and unadopted which, again, limits the weight I can apply to this document. I am also mindful that the Council did not rely on policies within this document in their reasons for refusal.

13. On careful analysis, while I acknowledge the conflict with the adopted development plan in relation to defined development limits as well as support for these limits in the CLP, I am therefore satisfied that the visual impact of the proposed development would be localised and contained, and would not be so harmful as to be unacceptable. I therefore consider that the development of the site would be sustainable and in accordance with paragraphs 17 and 58 of the Framework.

Other Matters

14. Comments have been raised by the Parish Council in respect of the current use of the appeal site as garden land and whether change of use is required. However, the planning application was registered and assessed by the Council in respect of the land forming part of the garden. As a s78 appeal I am required to determine the appeal on the basis of the information before me and I have done so accordingly.
15. The proposed development is in outline for a single dwelling with an annexe, and as indicated on the submitted amended block plan, this would be attached. The detailed design and use of the annexe would be assessed at reserved matters stage to ensure that it functions as an annexe, and could be conditioned accordingly. Similarly, based on the submitted tree survey, there is no evidence to suggest that protected trees would be adversely affected. I am also mindful that this survey would be able to be used to inform the future design.
16. In the absence of any evidence, I am not persuaded that resisting the development on grounds of capacity of local infrastructure, including highways is justified. I also note that no objections were raised by relevant bodies such as the Highways Agency.
17. Concern has been raised by neighbouring residents in respect of impact of construction and construction traffic upon Freshney Cottage. A Construction Management Plan (CMP) was submitted with the original application as well as accompanying drawings in respect of heavy goods vehicles entering and existing the site, and I am satisfied that the implementation of this would provide protection of this property, and could be reasonably secured by condition.

Conditions

18. I have had regard to the conditions put forward by the Council in their appeal statement and within the Committee Report. I have attached conditions limiting the life for the planning permission and setting out the requirements for the reserved matters, in accordance with the Act.
19. I have also specified approved plans for certainty, this include the HGV drawings, however I have omitted plans which are indicative of the form, scale and layout as this would be contrary to the flexibility provided by the outline

nature of the application, with design, scale, and appearance as reserved matters.

20. I have also omitted the requirements for bin storage, as again such a design detail should be dealt with as a reserved matter.
21. In respect of biodiversity, I note the willingness of the appellant to provide a wildlife haven on the adjacent site, outside of the red line site plan. However, no specific details are given and this matter was not considered by the Council in determining the application. There is no evidence to suggest that biodiversity is harmed by the development or that such a condition is reasonable or necessary at this stage to make the development acceptable. I have therefore omitted this condition suggested by the Council.
22. In respect of conditions as suggested by consultees, drainage falls outside the scope of the five reserved matters and as such cannot be controlled later at the time of a reserved matters application. For that reason, it is therefore necessary to impose a condition relating to this. Access, is however, a reserved matter and it is therefore not necessary for me to impose this as part of the outline approval.
23. The controls recommended by Environmental Health have been addressed via the CMP and, as per the recommended conditions in the Committee Report, I have conditioned this accordingly, in order to protect living conditions of neighbouring residents.

Conclusion

24. For the reasons I have given above, and taking into account all other matters raised, the proposed development would be sustainable and the appeal should succeed.

C Searson
INSPECTOR

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 25002.01, 25002.02, 25002.03, 25002.100, 25002.101
- 5) The development shall be carried out in accordance with the submitted Construction Management Plan (dated April 2016) unless otherwise agreed in writing by the Local Planning Authority.
- 6) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.