The Planning Inspectorate

Appeal Decision

Site visit made on 21 November 2016

by Zoe Raygen Dip URP MRTPI

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

Decision date: 5 December 2016

Appeal Ref: APP/F2605/W/16/3158000
North View Cottage, Norwich Road, Besthorpe, Norfolk NR17 2LA

- 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 & Mrs D Stebbings against the decision of Breckland District Council.
- The application Ref 3PL/2016/0357/F, dated 21 March 2016, was refused by notice dated 17 May 2016.
- The development proposed is development of 4 detached dwellings (house to front) (bungalows to rear).

Decision

1. The appeal is dismissed.

Procedural matter

2. The Council's third reason for refusal related to the absence of a planning obligation to secure a financial contribution towards affordable housing. A Court of Appeal judgement on 11 May 2016 upheld the Secretary of State's appeal on all grounds relating to the High Court judgement in *R (on the application of West Berkshire District Council and Reading Borough Council) v SSCLG* [2015] EWHC 2222 (Admin) on 31 July 2015. As a consequence, a Written Ministerial Statement published on 28 November 2014 and Planning Practice Guidance (PPG) are material considerations that set out Government policy defining the specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought for small scale development. The definition includes the proposal before me. The Council have therefore withdrawn this reason for refusal.

Main Issues

3. The main issues are:

   i) The effect of the proposal on highway safety

   ii) The effect of the proposal on the character and appearance of the area with particular regard to trees

   iii) Whether the proposal provides acceptable living conditions for the future occupiers of plot 4 with particular regard to garden space.

Reasons

Highway safety

4. The proposed development is for four dwellings to be served off an existing access from Norwich Road into the appeal site. Norwich Road is designated as a Local Access Route within the Norfolk Route Hierarchy. The function of these roads is to act as feeders carrying local traffic from main centres and the distributor routes to all significant communities. As a result they are likely to be busy main roads.

5. Within the vicinity of the proposed access the speed limit is 30 miles per hour. However, this limit terminates about 115m to the south-west of the site access where it changes to the national speed limit of 60mph. However, the Local Highway Authority (LHA) advise that the results of a traffic survey undertaken in May 2014 13m to the north-east of the appeal site reveal the 85th percentile speeds are well above the 30mph limit at 37.8mph eastbound and 43.2mph westbound. It is likely therefore that traffic passing the appeal site would be travelling at around that speed. For the proven 85th percentile traffic speeds at the site access, the LHA advises that visibility splays of 120m x 2.4m x 120m are required in accordance with guidance in the Design Manual for Roads and Bridges. From my observations I see no reason to dispute this requirement.

6. At the time of my site visit I saw that visibility towards the south west was good and the LHA confirm that the requirement of a visibility splay for 120 metres in that direction can currently be achieved. I am aware from their statement that has not always been the case. However, I am mindful that the hedge alongside the grass verge that has the potential to obstruct the visibility splay is in the ownership of the appellant. Therefore a planning condition could be imposed to ensure that the visibility display be appropriately maintained.

7. I observed that, although the access is wide, visibility towards the north east is still severely restricted through a combination of the alignment of Norwich Road and the presence of a telegraph pole and hedge. These are not in the ownership of the appellant. The LHA has stated that visibility is restricted to 19 metres, representing only 16% of the required visibility splay. This is not disputed by the appellant. As a result emerging vehicles are likely to be reliant on encroaching onto the carriageway to gain sufficient visibility along Norwich Road. Consequently there would be an increase in the potential for vehicle and pedestrian/cyclist conflict.

8. The LHA advise that extrapolation of statistical data from TRICS (Trip Rate Information Computer System) shows that a residential dwelling is likely to generate some 6 vehicular movements per weekday. As the proposal is for 4 dwellings, it is likely it would generate 24 vehicle movements per weekday. The appellant considers this to be high but offers no substantive evidence to show that it would be lower. Moreover, I note that the Council consider that the lack of local services and amenities means the future occupiers of the houses would be likely to be dependent on the car. I saw nothing on my site visit to dispute that view.

9. The appellant refers to a proposal for one dwelling that has been granted planning permission on the site of plot 1 of the current proposals utilising the same access (3PL/2015/1233/F) to which he states the LHA raised no objection. However, the LHA confirm that when they originally considered the

proposal the access was to the south west of the new house to which they raised no objections. The access was later changed to its existing position without their knowledge.

10. I noted on my site visit that there was a static caravan located in the vicinity of proposed plot 1. I understand from the Council that this received consent in 2012 for a holiday let. According to the LHA this would generate about 3 vehicle movements per day. The caravan would be removed as part of the proposals. Furthermore, the site also has a licence for five touring caravans. However there were none present at the time of my site visit. While I appreciate this was only a snap shot time I consider such users of the site are more likely to be intermittent and seasonal compared to the regular everyday use of the access by future occupiers of the dwellings. The appellants also state that they have used the access daily for a truck and trailer with no problems.

11. Nevertheless, based on the submitted evidence, I consider that the proposed four houses would generate a significant increase in the number of vehicles using the access on a regular daily basis over and above those associated with one dwelling, a holiday let, touring caravans and a truck and trailer. Therefore given the likely increase in traffic and the insufficient visibility in the north east direction the scheme would result in danger and inconvenience to highway users, resulting in conditions detrimental to highway safety and increase the propensity for future personal injury accidents.

12. The appellant considers that a Grampian condition could be imposed to require the visibility splays to be in place. However, I have seen no evidence to suggest that works to achieve the required visibility splays, on land outside of the control of the appellant, could be reasonably achieved within the timescale of a permission.

13. For the reasons above therefore I conclude that the proposal would be harmful to highway safety. It would therefore be contrary to paragraph 32 of the Framework which requires that safe and suitable access to the site can be achieved for all people.

Character and appearance with particular regard to trees

14. The appeal site sits on the edge of Besthorpe within open countryside with fields marked by hedges or dense lines of trees. North View Cottage forms one of a number of dwellings scattered within the countryside surrounded by trees. As a result it contributes positively to the rural character and appearance of the area.

15. The Council raises concern in particular to the lack of information regarding the likely impact of the development on trees within the site. The appellant disputes that the trees are within the site and states that a tree report was never requested. Nevertheless I observed that there were a significant number of trees along the eastern boundary of the site. Some of these were located on the boundary but the majority were inside the boundary fence of the site. An area of small trees and shrubs between the proposed houses and the access road would need to be removed. However, these do not have significant height and as a result, do not have a wider contribution to the surrounding area.

16. I would concur with the appellant that the dwellings would be located a sufficient distance from the trees on the eastern boundary of the site to ensure that they would not be harmed by the development. Nevertheless, the trees are of a variety of sizes, a number of which have large canopies that would extend over the proposed road. The height of these trees means that they can be widely viewed from the surrounding area.

17. Currently the area where the access would be located is grassed, although in some places it appeared there was some form of hard surface. The appellant has not submitted any construction details for the proposed access. This lack of detail together with the absence of a tree survey means that there is an unacceptable level of uncertainty about how the proposal may affect the trees directly adjacent to the access. I appreciate that the trees are not protected but this does not stop them making a positive contribution to the area.

18. I am aware that the Council reached the conclusion that the proposal would not cause harm to the character and appearance of the area. However reading the application report from which this statement is taken it would appear that that Council's view is made in relation to the built characteristics of the development rather than its impact on trees. The effect of the proposal on the trees is considered elsewhere in the report.

19. The appellant suggests that conditions could be attached to ensure that root protection areas are identified and that the access is constructed through a no dig method. However, the lack of submitted information means that I cannot be sure that the construction of the access could be achieved without harm to the trees. Any substantial loss of trees in association with the proposal would have an adverse effect on the rural character and appearance of the area.

20. Accordingly I conclude that the proposal would be harmful to the character and appearance of the area with particular regard to trees. It would therefore be contrary to Policy DC12 of the Core Strategy and Development Control Policies Development Plan Document 2001-2026 (2009) (the DPD). This requires amongst other things that development preferably retains trees in situ.

Living conditions

21. To the west of the appeal site are two dwellings under construction. The most southerly one is nearing completion and its rear elevation is located close to the boundary with proposed plot 4 which is formed by a high close boarded fence. There are some trees along the boundary. The newly constructed dwelling has two dormer windows serving a bedroom and a bathroom in the elevation facing the appeal site. The bathroom window is obscure glazed.

22. The proposed dwelling at plot 4 would be sited directly opposite the recently constructed dwelling. The intervening distance between the two properties would ensure that there would be no significant opportunity for overlooking between the rear windows of each house.

23. The only private garden space for the occupiers of Plot 4 would be sited to the rear of the bungalow. The close proximity of the recently constructed dwelling would give opportunity for views from the clear glazed dormer window serving the bedroom directly into the garden space of Plot 4.

24. The existing trees would provide some screening in the summer months. As they are deciduous trees such screening would be lost in the autumn and

winter months leaving clear views into the garden. Any new planting would take some time to establish. Therefore as the rear private space of plot 4 would be overlooked it would not provide a good quality garden area in association with the use of the building as a permanent dwelling.

25. For the reasons above I conclude that the proposal would not provide acceptable living conditions for the future occupiers of plot 4 with particular regard to garden space. It would therefore be contrary to Policy DC01 of the DPD which requires amongst other things that development does not have unacceptable effects on the amenity of future occupants of the development site.

Balancing and conclusion

26. In considering the potential benefits of the proposal, I note that the new dwellings, which I do not doubt would be deliverable, would contribute to the Council's five year housing land supply as required by the Framework. However, a net increase of three dwellings (one already has planning permission) would be a small contribution so I afford this benefit only moderate weight.

27. In addition, the construction of the dwelling would derive some economic benefits but this would be for a limited time. Furthermore, given the small scale of the development, the contribution to the local economy from the spending power of future occupants is unlikely to be significant.

28. The proposed development would be harmful to highway safety and would not provide acceptable living conditions. In addition I cannot be sure that the proposal would not be harmful to trees on the site. These impacts are contrary to both local and national planning policy to which I give considerable weight.

29. I have considered the benefits which would be derived from the appeal scheme but these carry moderate weight. I therefore conclude that the considerable harm I have found would significantly and demonstrably outweigh the moderate benefits I have identified when assessed against the policies in the Framework and the development plan as a whole. Consequently the proposal is not sustainable development for which the Framework carries a presumption in favour. For this reason, and having regard to all other matters raised I conclude the appeal should be dismissed.

Zoe Raygen

INSPECTOR