
Appeal Decision

Site visit made on 2 January 2017

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 23rd January 2017

Appeal Ref: APP/N2739/W/16/3157872

Pear Tree House, Hull Road, Cliffe, Selby, YO8 6NH

- 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 and Mrs C & J Topping against the decision of Selby District Council.
 - The application Ref 2015/0351/FUL, dated 3 April 2015, was refused by notice dated 20 July 2016.
 - The development proposed is a single storey dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey dwelling at Pear Tree House, Hull Road, Cliffe, Selby, YO8 6NH in accordance with the terms of the application, Ref 2015/0351/FUL, dated 3 April 2015, subject to the conditions in Annex A.

Application for Costs

1. An application for costs was made by Mr and Mrs C & J Topping against Selby District Council. This application is the subject of a separate Decision.

Procedural Matter

2. Since refusing the planning application subject of this appeal, the Council advises that it is now unable to demonstrate a five year supply of deliverable housing land. On this basis the Council indicates that it would have granted permission for the appeal scheme (had it not already refused the planning application) and accordingly does not wish to contest the appeal.

Main Issue

3. The main issue in this case is whether or not the proposal is a sustainable form of development.

Reasons

4. The appeal site is part of the rear garden of Pear Tree House which fronts Hull Road. It is within the defined development limits of Cliffe which is identified as a secondary village in the Selby Core Strategy Local Plan (Core Strategy). Core Strategy Policy SP2 sets out the overall spatial development strategy and advises that limited amounts of residential development may be absorbed inside the development limits of secondary villages where it will enhance or maintain the vitality of rural communities and subject to conformity with the provisions of Core Strategy Policy SP4.
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5. Core Strategy Policy SP4 deals with the management of residential development in settlements. It restricts development in secondary villages such as Cliffe to conversions, replacement dwellings, re-development of previously developed land, the filling of small gaps in otherwise built up frontages, and conversion/redevelopment of farmsteads.
6. I have considered the appellants' argument that the site is previously developed land and so would accord with one of the exceptions to Core Strategy Policy SP4. Annex 2 of the National Planning Policy Framework (the Framework) excludes land in built-up areas such as private residential gardens from the definition of previously developed land. Whilst I note the appellants' view to the contrary, since the appeal site is within the defined development limits for Cliffe and is surrounded by existing built development on three sides, I regard it to be within a built-up area. As such, and since it is part of the garden of Pear Tree House, I consider the site to be greenfield and do not regard the proposal to concern the re-development of previously developed land. Accordingly, it would not meet the exceptions set out in Core Strategy Policy SP4.
7. That said, the Council accepts that it is unable to demonstrate a five year supply of deliverable housing sites. In such circumstances, paragraph 49 of the Framework indicates that relevant housing supply policies should be considered out-of-date. In so far as it restricts housing in villages such as Cliffe, Core Strategy Policy SP4 is a housing supply policy and should be considered out-of-date.
8. As such, in itself, the appeal site's location in Cliffe does not necessarily preclude its development for housing in policy terms. The presumption in favour of sustainable development at paragraph 14 of the Framework indicates that where relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. Paragraph 7 of the Framework establishes the three dimensions to sustainable development; economic, social and environmental.
9. In terms of the economic dimension of sustainable development, the proposal would result in construction jobs and increased expenditure at local shops and services as a result of the additional occupants.
10. Cliffe is a secondary village where the Council advises there are limited services and facilities. I have been provided with no details as to what services and facilities there are in Cliffe or information as to how far away they are from the appeal site. However, given its location within the settlement, and from my own observations on site, I am content that the appeal site would be generally accessible to some local facilities and services on foot. Additionally, Hull Road is a bus route and opportunities for cycling also exist. It has not been put to me that the future occupiers of the proposed house would be unduly reliant on the use of the private car, and based on the information before me, I see no reason to doubt that they would have some alternatives to the use of a private vehicle to meet their day to day needs.
11. This being so, with regard to the social dimension of sustainable development, the proposal would contribute to housing land supply and would be accessible to local services. The Council confirms that the proposal is acceptable without a contribution for affordable housing, and I see no reason to come to a

different view. Thus the proposal would help to support strong, vibrant and healthy communities and would meet the social role of sustainable development. Since it would be limited in amount to only one dwelling and would enhance or maintain the vitality of rural communities, it would also accord with Core Strategy Policy SP2 in these regards.

12. Turning to the environmental dimension, the proposed house would be located in the long L shaped rear garden of Pear Tree House which wraps round to the rear of Yew Tree House. The modest single storey two bedroom dwelling would be finished in timber with a tiled roof. There are other dwellings in backland positions nearby along with a mix of housing styles and forms using a variety of materials. The proposal would not be prominent from the road and would be well screened from neighbouring properties. Although raising initial concerns, the Council accepts that the use of timber would be acceptable and has no objections as to the proposal's impact on the character and appearance of the area.
13. The proposed house would be positioned such that it would extend beyond the rear of neighbouring Southlands to the east which sits at depth in its plot. There would be two windows serving a bathroom and a utility room which would be obscured glazed on the proposed east elevation. This being so, and given the existing boundary planting no overlooking would arise. Existing and proposed screening and planting on the north and west boundaries of the site would ensure no loss of privacy to the occupiers of Pear Tree House or Yew Tree House. Subject to conditions relating to windows on the east flank wall of the proposed house and boundary planting, the Council raises no objections in terms of the impact of the proposal on the living conditions of neighbouring occupiers.
14. I see no reason to come to a different view to the Council on either of these points. Additionally, the house would be designed to have low energy requirements and reduced carbon emissions (by using heat pumps and photovoltaics to provide heating and electricity). As such, the proposal would contribute to protecting and enhancing the natural and built environment and support the move to a low carbon economy. It would thus meet the environmental role of sustainable development.
15. I therefore conclude that the proposal would be a sustainable form of development. Whilst it would conflict with the terms of Core Strategy Policy SP4, the proposal would nevertheless be sustainable development that accords with the Framework.

Conclusion and Conditions

16. For the reasons given, and having regard to all other matters raised, I conclude that the appeal should be allowed.
17. I have considered the Council's suggested conditions in the light of the advice in the Planning Practice Guidance. It is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning.
18. A condition requiring details of the access, parking and turning areas to be submitted is necessary in the interests of highway safety. Whilst the Council suggests an additional condition, I am content that in approving the details for

the access the Council can control their compliance with the Highway Authority's specification.

19. Given the former use of land for agricultural purposes and the historic existence of buildings on the site, the Council's Contaminated Land Consultant recommends conditions in relation to contaminated land. These are necessary in the interests of the living conditions of the future occupiers, construction workers and neighbouring occupiers as well as to prevent water pollution.
20. Details of the arrangements for the drainage of the site, including its potential to use sustainable drainage systems, are required in order to ensure the site is adequately drained and in the interests of reducing the risks of flooding.
21. A condition requiring a scheme of landscape works to the boundaries of the site is required in the interests of the character and appearance of the area and the living conditions of adjoining occupiers. The required management and maintenance scheme will enable the Council to control the future height of the existing and proposed boundary planting.
22. A condition to ensure the exterior walls and roof of the dwelling are constructed in the materials shown on the approved plan is needed in the interests of the character and appearance of the surrounding area.
23. Although not suggested by the Council, in line with the recommendation in the officer's report and as shown on the approved plan, a condition to ensure the windows on the dwelling's east flank elevation are obscure glass is required in the interests of the living conditions of neighbouring occupiers. A condition removing permitted development rights for the future insertion of further windows on this elevation is needed for the same reason.

Elaine Worthington

INSPECTOR

Annex A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing Number 0314A&CD03A Location Plan
Drawing Number 0314A&CD04A Site Plan
Drawing Number 0314A&CD01A A Proposed Dwelling
Drawing Number 0314A&CD01B A Sections
- 3) Development shall not take place until details of the access, parking, and vehicular turning arrangements shall have been submitted to and approved in writing by the local planning authority and the dwelling shall not be occupied until the access, parking and turning areas have been provided in accordance with the approved details. The access, parking and turning areas shall thereafter be retained as such.
- 4) No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 5) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.

- 6) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 7) The dwelling hereby permitted shall not 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.
- 8) No development shall commence until details of landscape works have been submitted to and approved in writing by the local planning authority. These shall include details of an existing and proposed landscape scheme on the north, west and south site boundaries. The landscaping works shall be carried out in accordance with the approved details before the dwelling is occupied in accordance with the agreed implementation programme. The completed scheme shall be managed and maintained in accordance with an approved scheme of management and maintenance.
- 9) The external surfaces of the development hereby permitted shall be constructed in the materials shown on Drawing Number 0314A&CD01A A Proposed Dwelling.

- 10) Before the occupation of the dwelling hereby permitted the windows in the east flank elevation shall be fitted with obscured glass and shall be permanently retained in that condition.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows other than those expressly authorised by this permission shall be constructed on the east flank elevation of the dwelling hereby permitted.