
Appeal Decision

Site visit made on 6 November 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 16th November 2017

Appeal Ref: APP/E2001/W/17/3180630
38 Welton Road, Brough HU15 1DL

- 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 Tony Arnett against the decision of East Riding of Yorkshire Council.
 - The application Ref DC/17/00662/PLF/WESTES, dated 23 February 2017, was refused by notice dated 23 June 2017.
 - The development proposed is 4 residential dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for 4 residential dwellings at 38 Welton Road, Brough HU15 1DL in accordance with the terms of the application, Ref DC/17/00662/PLF/WESTES, dated 23 February 2017, and the plans submitted with it, subject to the conditions set out in the schedule attached to this Decision.

Procedural Matters

2. The proposal was amended from five to four residential dwellings during the course of the application and this is the basis upon which I have considered the appeal. The description of the proposal has been altered in the banner heading and in paragraph 1 above accordingly.

Main Issues

3. The main issues in this case are:
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on the living conditions of existing occupiers at Nos 1-7 Wrygarth Avenue, No 40 Welton Road and Cavendish Place with specific reference to outlook, privacy, light and noise and disturbance; and
 - The effect of the proposal on highway safety with specific reference to the free flow of traffic.

Reasons

Character and appearance

4. The appeal site comprises of the large rear garden of No 38 Welton Road, a substantial detached dwelling house. Welton Road is characterised by predominately semi-detached and detached dwellings of a variety of

architectural styles set in small to medium sized plots behind modest front gardens and hedges. The large garden of the appeal site together with the area of open space to the rear provides a visual break from the relatively high density of the surrounding development.

5. The proposed development would comprise of 4 dwellings situated to the rear of the host property and access would be gained to the site from the east of the host dwelling. The dwellings would be situated in a row of two semi-detached blocks with central gable structures, with bay windows and porches on the front elevation.
6. The proposal would occupy a significant proportion of the rear garden of the appeal property and it would be visible from Welton Road when viewed from the access road and also in views from Cavendish Park. However, the proposed dwellings would be set back some distance from the frontage of the site which would allow the proposal to be viewed as subservient structures to the substantial host dwelling.
7. In addition, the existing Yew hedge on the rear boundary would be retained and cut to a height of 3m which would assist in screening the development in views from the open space to the rear. Trees would also be planted along the western boundary of the site and thus the proposal would only be seen in filtered views through the trees from properties on Wrygarth Avenue. The proposal would also retain existing landscape features including trees protected by the Tree Preservation Order and incorporate new planting.
8. Whilst I acknowledge that the appeal site provides a visual break from surrounding higher density development the site is situated in close proximity to the area of open space at Cavendish Park and thus a visual break from development would still exist.
9. The proposal would have a similar density and plot size to existing dwellings and would be set approximately 3-4m from the site boundaries and around 2m between the two blocks. The dwellings would also have modest gardens to the rear and circulation space to the front. Although the rear garden of the host property would be diminished it would, nevertheless, retain a modest front garden together with a rear garden of approximately 16m by 16m. A landscaping strip would also be retained along the eastern boundary of the site. Consequently, neither the host property nor the proposed dwellings would appear cramped or excessive in their plots.
10. Furthermore, the proposal would be seen in the context of the surrounding relatively high density development and the design of the dwellings would be similar to that of modern development in the area. Consequently, the proposal would reflect the character and appearance of the surrounding area.
11. For the reasons stated, I conclude that the proposal would not harm the character and appearance of the area. It would not, therefore, be contrary to criteria A.1, B.1, B.3 of Policy ENV1 of the East Riding Local Plan Strategy Document (ERLP) (2016) which seeks to ensure that development proposals contribute to safeguarding and respecting the diverse character and appearance of the area and have an appropriate scale, density, massing, height and material.

12. Neither would conflict arise with paragraphs 17 and 58 of the Framework which, amongst other things, seek to secure high quality design which adds to the quality of the area and establishes a strong sense of place.

Living conditions

13. The proposal would be situated on the boundary of the appeal site with numbers 1-7 Wrygarth Avenue to the west and number 40 Welton Road (No 40) to the east. The eastern boundary of the site is bound by a high brick wall, landscaping and a row of trees which would be retained alongside the proposed access road. The proposed dwellings would be situated beyond the boundary of the rear garden of No 40. Due to the orientation of the property and the presence of the high brick boundary wall, there would be no direct overlooking to the rear elevation of No 40. Furthermore, the rear elevation of No 40 would be separated by approximately 22m from the front elevations of the proposed development. The proposal would not, therefore, result in overlooking or a sense of enclosure.
14. Although the access road would run past No 40 it would be separated from the property by a tall brick wall and landscaping which would help mitigate any potential noise or disturbance arising from vehicular movements. Furthermore, additional vehicular movements arising from the development would be low. Moreover, No 40 is already situated in close proximity to a busy road and thus I do not consider that there would be a material increase in noise and disturbance arising from the proposal compared to the existing situation.
15. The gable end of the proposed dwelling on Plot 1 would be situated approximately 3-4m from the common boundary with properties on Wrygarth Avenue whose rear gardens back onto the appeal site. These properties are single storey with long rear gardens of around 20m. The proposed dwellings would be situated beyond the rear garden of No 1 Wrygarth Avenue and furthermore the gardens of the proposed dwellings would adjoin the boundary of No 7 Wrygarth. Consequently, the proposal would not reduce the outlook of the occupiers of these dwellings or result in a sense of enclosure.
16. The proposed dwellings would be situated perpendicular to the rear gardens of Nos 3 and 5 Wrygarth Avenue. The gable elevation of the proposed dwelling on Plot 1 would not contain any windows and, therefore, no overlooking would arise. Due to the set back of Unit 1 from the boundary and the substantial rear gardens of Nos 3 and 5, sufficient separation distance between the proposal and Nos 3 and 5 would remain. It is proposed to erect a new 2m high fence and additional planting and thus only filtered views of the upper floors of the proposal would be visible above the boundary fence. Occupiers would retain views of their long rear gardens. Furthermore, the proposed development would be at a sufficient distance from the rear elevations of Nos 3 and 5 and would not, result in an undue sense of enclosure. Moreover, due to the distance of the development from Nos 3 and 5 the proposal would not result in a loss of light to windows on the rear elevation or to the garden areas. Consequently, the proposal would not have a harmful effect on the living conditions of Nos 3 and 5.
17. The proposed dwellings would be situated at a significant distance from properties on Cavendish Place. The existing Yew hedge is proposed to be retained; however, even if this were to be removed, the proposed development would be separated from properties on Cavendish Place by the rear gardens of

the dwellings and also the intervening open space. Due to the significant distance between the elevations of the proposed development and properties on Cavendish Place, I do not consider that there would be a loss of privacy or outlook arising from the development.

18. For the reasons stated, I conclude that the proposal would not have a harmful effect on the living conditions of existing occupiers with reference to outlook, privacy, light or noise and disturbance. The proposal would not, therefore, be contrary to criterion B.4 of Policy EV1 of the ERLP which seeks to ensure that development proposals have regard to the amenity of existing or proposed properties. Neither would conflict arise with paragraph 17 of the Framework which seeks to ensure a good standard of amenity for all existing and future occupiers of land and buildings.

Highways

19. The appeal proposal would involve the construction of a new vehicular access onto Welton Road, a main road which runs through the village. The Council has not raised concerns with regards to the geometry of the access itself which the Council's highway management officer considers to be of an adequate width and layout with adequate visibility within the footway. Furthermore, the highway management officer considers that the proposed internal layout is acceptable with sufficient room within the site for emergency vehicles and parking. From everything which I have seen in submissions and on my site visit, I have no reason to disagree.
20. The Council and local residents are concerned that the additional vehicular traffic, together with the proximity of the site access to the traffic lights at the junction of Welton Road with Elloughton Road and Skillings Lane would have an adverse impact on the free flow of traffic on Welton Road.
21. At the time of my site visit (1630) traffic flows along Welton Road were relatively high due to the evening rush hour. The northern side of Welton Road has parking restrictions, however, there are no restrictions along the southern side of the road, except near traffic junctions which enables vehicles to park outside of the appeal property. Indeed some vehicles were parked at the time of my site visit. Whilst there was some queueing at the junction of Welton Road with Elloughton Road and Skillings Lane the traffic lights at the junction appeared to function efficiently and did not allow a long build-up of traffic at the junction.
22. Although the access would be close to the junction of Welton Road with Cavendish Road, there are double yellow lines around the corner of this junction in order to ensure that it remains clear from parked vehicles. This would help to ensure that there is no vehicular or pedestrian conflict arising from the proposed access.
23. Concerns are raised regarding the potential for overspill parking in the adjacent streets. However, there is no substantive evidence before me that these streets experience parking stress at present or that any additional parking would result in parking stress. Furthermore, a garage would be provided for plots 1 and 4 and four additional parking spaces provided to the front of the dwellings. Given the proximity to the railway station and local bus services, I consider that sufficient parking spaces would be provided within the site to accommodate the needs of the development. Although there would be the loss

of a parking space due to the proposed access, there is no evidence that this would increase parking stress.

24. Reference is made to two recent crashes on Welton Road, however, no details have been provided of those crashes and I cannot, therefore, be certain as to their cause. This limits the weight which I can attach to this evidence in my Decision. Reference is also made to the use of side streets for visitors to local shops, churches and the railway station. However, the additional vehicular movement arising from four dwellings would be very low and sufficient parking has been provided within the site.
25. Whilst I do not underestimate the concerns of local residents, there is no substantive evidence before me that the proposal would result in harm to highway safety. Given the low level of traffic generated, I do not consider that the proposal would have a materially significant effect on traffic flows compared to the existing situation.
26. For the reasons stated, I do not consider that the proposal would have a harmful effect on highway safety. It would not, therefore, conflict with criterion A of Policy EC4 of the ERLP which states that in order to increase overall accessibility, minimise congestion and improve safety, new development will be supported where it is accessible and addresses its likely transport impact. There would also be no conflict with criterion B.9 of Policy ENV1 of the ERLP which seeks to promote equality of access, movement and use. Neither would conflict arise with paragraph 32 of the Framework which, amongst other things, states that decisions should take account of whether safe and suitable access to the site can be achieved for all people.

Other matters

27. Concerns have been raised by local residents regarding the potential effect of the development on local drainage. However, the appellant has confirmed that foul water would be discharged to a local sewer and surface water would drain to a soakaway. Furthermore, the site is not in an area which is identified as being at high risk of flooding. Consequently, I consider that the development would have satisfactory drainage.
28. Concerns have also been raised by residents regarding the responsibility of trees and other landscaping on the site. However, once established the landscaping would be the responsibility of future land owners.
29. Trees on the appeal site are protected by a group Tree Preservation Order. A tree survey has been carried out on site and it is proposed to retain the mature trees on the eastern boundary. A condition has been imposed requiring the submission of a tree protection plan to ensure that the trees are protected during construction and the access drive which would be constructed using a non-dig technique where appropriate. I am, therefore, satisfied that the trees subject to the tree preservation order would not be harmed by the proposed development.
30. Local residents question the need for low cost houses; however, there is no cogent evidence before me on housing need. Nonetheless, the proposal would make a contribution, albeit limited, to housing land supply in a sustainable location. It would also bring economic benefits during the construction phase and in the longer term as occupiers use local services. I have concluded that

the proposal would not harm the character and appearance of the area, or have a harmful effect on highway safety or the living conditions of existing occupiers and the proposal is in accordance with the development plan. The proposal, therefore, constitutes sustainable development.

Conditions

31. In addition to the standard time limit condition, I have imposed a condition specifying the relevant drawings as this provides certainty. I have imposed a condition requiring details of the external materials to be used in the development be submitted as these were not provided as part of the application and in the interests of character and appearance.
32. The appeal site lies close to the walled Roman town of Peturia and is surrounded by sites where previous archaeological work has encountered evidence of Romano-British activity and occupation and I have, therefore, attached a condition requiring a scheme of archaeological investigation.
33. Conditions are imposed to ensure that the hard and soft landscape works shown on the approved drawings are carried out prior to occupation and that any tree or shrubs planted are replaced by a tree or shrub of the same species in the event that it is removed, uprooted, destroyed or dies. These conditions are required in order to ensure a satisfactory standard of development and in the interests of character and appearance.
34. A condition requiring a tree protection scheme is attached in order to ensure that the trees which are protected by a tree preservation order are protected during the course of the development.

Conclusion

35. For the reasons stated and taking all other considerations into account the appeal should be allowed subject to the conditions set out in the schedule attached to this Decision.

Caroline Mulloy

Inspector

Schedule

Conditions

- 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: 2057/05 Location plan; 2057/03 Detailed site and landscaping plan; 2057/02A Proposed housing details; 2057/04 Proposed site sections; ED1018-001 Topographic survey.
- 3) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The Scheme shall provide for:
 - i. the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area;
 - ii. an assessment of the impact of the proposed development on the archaeological remains;
 - iii. proposals for the preservation in situ, or for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible;
 - iv. sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and (iii) above is completed prior to the commencement the approved development in the area of archaeological interest; and
 - v. notification in writing to the Curatorial Officer of the Humber Archaeology Partnership of the commencement of archaeological works and the opportunity to monitor such works.
- 5) The hard and soft landscape works as shown on the approved drawing no 2057/03 shall be carried out as approved prior to the occupation of any part of the development or as may be otherwise agreed in writing by the local planning authority.
- 6) 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.
- 7) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction -

Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.