The Planning Inspectorate

Appeal Decision

Site visit made on 12 July 2019

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2019

Appeal Ref: APP/P0240/W/19/3227349
The Limes, High Street, Henlow, SG16 6AB

- 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 Mrs J Wilkinson against Central Bedfordshire Council.
- The application Ref CB/18/02240/OUT dated 4 June 2018 was refused by notice dated 12 March 2019.
- The development proposed is outline planning for the erection of 3 dwelling houses and associated works, all matters reserved except access.

Decision

1. The appeal is allowed, and outline planning permission is granted for the erection of 3 dwelling houses and associated works, all matters reserved except access at The Limes, High Street, Henlow, SG16 6AB in accordance with the terms of the application ref: CB/18/02240/OUT, dated 4 June 2018, subject to the conditions in the schedule at the end of this decision.

Procedural Matters

2. The description of the proposal has changed since the original application form and proposal was submitted. I have utilised the Council's description as stated upon the decision notice.

Main Issues

3. The main issues to be considered are i) whether the proposal would result in over development of the site and ii) the impact of the proposal upon the amenity of the occupiers of the Limes Care Home.

Reasons

4. The appeal site is located within the existing grounds of The Limes Care Home (The Limes) to the West of the High Street and is located beyond, but adjacent to, the settlement envelope of Henlow which is a classified as a large village. Access to the site is proposed from the High Street. Access falls to be considered as part of this appeal and I note that the Highway Authority have no objection subject to conditions on any consent granted, nor does access fall within the reason for refusal.

Overdevelopment

5. Submission of layouts, whether labelled as indicative or not, are commonly utilised to demonstrate to the decision maker that the level of proposed

development can be likely be accommodated within the application site with final designs requiring submission at reserved matters stage. I acknowledge the National Planning Practice Guidance (NPPG) which states that where details have been submitted as part of an outline application, they must be treated by the local planning authority as forming part of the development for which the application is being made. The exception being where the applicant has made it clear that the details have been submitted for illustration purposes only.

6. Despite this it is clear, from the evidence before me, that the Council have consistently, throughout the application process, treated the plans as indicative. There has never been any suggestion to the contrary, by either parties, with the case officer confirming[1] an amendment to the application which clearly stated it was agreed that the application is for outline planning permission with all matters reserved accept access. The delegated report makes several references the indicative nature of the plans and states that detail of layout, landscaping, scale and appearance have been reserved and are not subject to the outline planning application. The issue of whether the submitted plans are indicative, or not, is not raised by the Council until within their statement of case. The proposed plan submitted, in so far as layout[2] is concerned, I find is clearly considered to be indicative.

7. The proposal is for up to three dwellings which I consider to be a small-scale development which is of low density. I find this would be appropriate for an edge of settlement development. There is sufficient space within this size of site to retain an acceptable standard of amenity, as well as an acceptable standard of privacy to neighbouring properties and immediate private amenity areas. The Highway Authority also confirm that matters, such as parking, are likely to be workable within a final design and layout submission.

8. On the evidence before me I am satisfied that the appeal site could suitably accommodate up to three dwellings and that they could be designed, and constructed with appropriate levels of landscaping, in manner which would provide an acceptable standard of amenity for future occupiers and represent an efficient use of land.

Amenity for occupiers of The Limes Care Home

9. At the time of my site visit I accessed the site via a side gate adjacent to The Limes. I walked down to a raised decking area, adjacent to the pond, and noted that the main amenity area utilised by The Limes, and in use at the time of my visit, would be physically unaffected by the proposals. The main amenity area for The Limes primarily consists of a patio area, and space to the West, with the majority of the area where the proposed dwellings would likely be located being fenced off with gated access only. The gates were, at the time of my visit, locked and the area not in use which supports the appellant's submission that the site is not accessible to anyone but the site owners for the safety of residents.

10. It is submitted by the appellant that The Limes is required, by the Design Guide 2014, to retain an amenity area equating to 135 sq./m based upon 27 habitable rooms each requiring 5 sq./m. Whilst I do not have a copy of the Design Guide before me, this is not disputed by the Council and it is a relatively

[1] Email from Benjamin Tracy – 27 November 2018 09:16
[2] Drawing No. 200 Rev C

small area in the context of the overall site area. I am satisfied that this area could be successfully secured within the site and that the proposal would not cause harm to the amenity of the occupiers of The Limes and that it could, ultimately, provide a high standard of amenity for existing and future occupiers. A condition requiring an adequate level of private amenity space can be applied to any consent granted to ensure this is brought forward within the detailed design stage for the benefit of residents of The Limes.

11. The proposal would be consistent with Central Bedfordshire Core Strategy and Development Management Policies 2009 (CS) Policy DM3 which seeks to secure high quality development ensuring proposals are appropriate in scale, respect the amenity of surrounding properties and use land efficiently. The proposal would also be consistent with paragraph 127 f) which seeks to create places with a high standard of amenity for existing and future occupiers.

Conditions

12. The proposal seeks outline consent with all matters reserved apart from access. A condition relating to the submission of the reserved matters is therefore necessary. Time conditions are required to comply with Section 92 of the Town and Country Planning Act 1990 and Section 51 of the Planning and Compulsory Purchase Act 2004. A condition restricting the number of dwellings to no more than three is required to define the outline consent granted. A landscaping condition plan is required to mitigate landscape visual effects, protect/trees hedgerows during construction and ensure a high-quality scheme.

13. A condition relating to ground and slab levels is required to ensure a satisfactory relationship with the site and adjoining properties and a plan relating to surface water drainage, foul drainage and a maintenance and management plan is required to ensure satisfactory drainage for the scheme and long-term operation of the system. A condition requiring submission of parking, turning and cycle storage is required in the interests of highway safety and to encourage sustainable modes of transport. A condition requiring retention of appropriate amenity space for The Limes Care Home is to protect the amenity of residents for as long as the care home is trading. A plans condition, for the access and location of the site considered within this appeal, is included to define the consent granted. An ecological enhancement strategy condition is required to secure biodiversity enhancements as required by the Framework.

Other Matters

14. It is noted that there are a number of objections to the proposal within the original application process. Matters relating to design of the access, increased traffic and vehicular movements do not form a reason for refusal and the Highway Authority have not raised such issues. I have no evidence before me to conclude differently. The Council's ecologist has confirmed that the submitted Preliminary Ecological Appraisal supports that the proposal is not anticipated to have a detrimental impact on protected species, such as bats. In relation to air quality and noise Environmental Protection have raised no concerns in relation to such matters. In relation to flood risk, and drainage, the Environment Agency and Lead Flood Authority have no objection and confirm that the surface water system can be agreed at detailed design stage. The Council's arboriculturalist has confirmed that the loss of early mature trees

to the rear of the property can be compensated with a landscape scheme to include new tree planting.

15. The proposal is submitted in outline, with all matters reserved apart from access, details such as design and layout fall to be considered within the reserved matters stage at which stage impact upon character and appearance can be considered and a suitable scheme agreed. In any case, I find that the small-scale residential development would be well related to the existing settlement and that the scheme is low density and appropriate for a rural and edge of settlement location. I have no evidence to suggest the site suffers from land instability and the Council, nor their consultees, have raised such issues and loss of a view is not a material planning consideration.

16. The appeal site is some distance from No.7 Old Barn and the Council have not raised issue with loss of light, privacy or dominating impact and I have no evidence before me to conclude differently. Based on the information before me I do not find issues in the context of Human Rights, the site is of a sufficient size to accommodate the proposal without impacting upon peaceful enjoyment and the site is garden land within the curtilage of an existing property which I do not find would result in a failure to protect the countryside. In addition to this, the Framework does not seek to protect the countryside for its own sake. Unfortunately reference is also made to Planning Policy Statements (PPS). All PPS documents were replaced by a single document, the National Planning Policy Framework, in 2012. The Framework has since been revised in July 2018 and again in February 2019. The application of PPS documents carries no weight within this determination.

17. Whilst I have considered the points raised by third parties, they do not form part of the Council's reasons for refusal and I have no evidence before me to conclude differently.

Conclusion

18. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be allowed subject to the conditions outlined in the schedule below.

Eleni Randle

INSPECTOR

-SCHEDULE OF CONDITIONS-

1) Details of the appearance, landscaping, layout and scale (herein after called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins 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 three years from the date of this permission;

3) The development hereby permitted shall begin no later than two years from the date of approval of the last of the reserved matters to be approved;

4) The number of dwellings approved shall not exceed three;

5) Any subsequent reserved matters application for the approval of landscaping shall include details of hard and soft landscaping (including any replacement tree and hedgerow planting), together with a timescale for its implementation and maintenance for a period of five years following implementation. Any subsequent reserved matters application made under condition 2 of this permission shall include detailed measures for the protection of retained tress/hedgerows within or neighbouring the site during the course of development. The approved measures shall be implemented in accordance with a timetable to be included as part of the landscaping scheme. The development shall be carried out as approved and in accordance with the approved timescale;

6) Any application for the approval of reserved shall include details of the existing and final ground and slab levels of the buildings. The detail shall include sections through both the site and the adjoining properties, and the proposal shall be developed in accordance with the approved details;

7) No development shall commence until a detailed surface water drainage scheme, to manage surface water runoff from the development for up to and including the 1 in 100-year event (+40%CC) for the scheme has been submitted to and approved in writing by the Local Planning Authority. The discharge rate from the development will be limited to the equivalent 1 in 1-year rate, or an appropriate rate as agreed by the Bedford Group of Internal Drainage Boards or sewerage undertaker, and shall be implemented as approved. Any variation to the connections and control indicated on the approved details which may be necessary at the time of construction would require the resubmission of those details to the Local Planning Authority for approval.

8) No dwelling shall be occupied until the developer has formally submitted in writing to the Local Planning Authority a finalised 'Maintenance and Management Plan' for the entire surface water drainage system inclusive of any adoption arrangements and/or private ownership or responsibilities, and that the approved surface water drainage scheme has been correctly and fully installed as per the final approved details.

9) No development shall take place until a foul drainage strategy has been submitted to and approved in writing by the Local Planning Authority. Unless otherwise agreed in writing the works shall be carried out in accordance with the approved details prior to occupation of any dwelling subsequently approved.

10) No dwelling hereby approved shall be brought into use until the junction of the approved vehicular access with the highway has been constructed in accordance with the approved details, including the provision of 2.4m x 43.0m visibility splays, clear of all obstruction, and the closure and reinstatement of the surplus lengths of the existing southern access.

11) Any subsequent reserved matters application shall include the following:

- Vehicle parking and garaging to serve the proposed dwellings in accordance with the Council's standards applicable at the time of submission;
- Vehicle parking to serve The Limes in accordance with the Council's standard applicable at the time of submission;
- Cycle parking and storage in accordance with the Council's standard applicable at the time of submission;
- A refuse collection point located at the site frontage outside of the public highway and any visibility splays;
- A vehicular turning area suitable for a service/delivery vehicle of 6.5m length; and
- A plan showing the area for construction worker parking provision, deliveries, materials storage, clear of the public highway;
- Details of appropriate, practical and useable private amenity space (no less than 135 sq./.m) to be retained and available for use by residents of the Limes Care Home for as long as it is functioning as a care home.

12) The development hereby permitted shall not be carried out except in accordance with the access point to the High Street demonstrated on drawing no. 200 Rev C and Location Plan.

13) No development shall take place until an ecological enhancement strategy (EES) for the creation of new wildlife features such as hibernacula, the erection of bird/bat and bee boxes in buildings/structures and tree, hedgerow, shrub ad wildflower planting/establishment has been submitted to and approved in writing by the Local Authority. The content of the method statement shall be informed by an up to date Ecological Appraisal of the site and include:

- The purpose and objectives for the proposed works;
- Detailed design(s) and/or working method(s) necessary to achieve the stated objectives (including, where relevant, type and source of materials to be used);
- The extent and location of proposed works shown on appropriate scale maps and plans;
- A timetable for implementation, demonstrating that works are aligned with the proposed phasing of construction.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

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