



Appeal Decision

Site visit made on 18 June 2019

by Mike Worden BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 15 August 2019

Appeal Ref: APP/M4320/W/19/3221861

Orchard Farm, 25 Holgate, Thornton, L23 1TL

- 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 Mark Wright of Forth Homes against the decision of Sefton Metropolitan Borough Council.
 - The application Ref DC/2018/01568, dated 17 August 2018, was refused by notice dated 14 December 2018.
 - The development proposed is residential development of 14 units including associated car parking and landscaping, retention of former farmhouse and demolition of outbuildings.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of 14 units including associated car parking and landscaping, retention of former farmhouse and demolition of outbuildings at Orchard Farm, 25 Holgate, Thornton, L23 1TL in accordance with the terms of the application, Ref DC/2018/01568, dated 17 August 2018, subject to the conditions on the attached schedule.

Main Issues

2. The main issues are:
 - Whether the proposed development is appropriate having regard to the expected site density.
 - Whether the proposed development would cause harm to highway safety on Holgate.

Reasons

Proposed densities

3. The proposed development is a scheme of 14 dwellings within a wider area of land allocated within the *A Local Plan for Sefton 2017* (the Local Plan). It is part of the allocation MN2.25 which is set out within Policy MN2 of the Local Plan which identifies all of the allocated housing sites. The wider site has a capacity for some 221 dwellings on an area of around 8.4 hectares. The appeal site comprises farmland and a group of farm buildings. Although part of the wider site, it is separated from it by the farm buildings and a tree belt. That tree belt around the farm buildings is well defined and substantial. The appeal site is not

a regular shaped area of land. Its boundaries are defined by the farm buildings, tree belt, the new Broom's Cross Road, and a wooded area alongside Holgate. At its north western edge the appeal site narrows to a point. It is more of a triangular shape. The developable area is further constrained by an irregular boundary alongside Broom's Cross Road, the farmhouse being outside of the site and the provision of a foul and surface water pumping station on the site.

4. Policy HC3 of the Local Plan sets out some principles for new residential development and amongst other things, indicates that a minimum residential density of 30 dwellings per hectare must be achieved, unless a lower density can be justified, or site constraints would make this impractical. The proposed development would have a density of around 15 dwellings per hectare, and this is not disputed.
5. The Council's Committee Report makes reference to the peculiar shape of the appeal site which it states would justify a lower density than the requirement in Policy HC3 of the Local Plan. Indeed the policy recognises that particular site constraints might mean that the 30 units per hectare density figure cannot be obtained on all sites. I have no evidence that higher densities than proposed on this part could not be obtained on the wider allocation, or that this part of the site would frustrate such densities occurring. The wider site is more of one large flat parcel and I would expect that its nature and characteristics would provide for higher densities.
6. For the reasons set out above, I consider that whilst the proposal would not meet the 30 dwellings per hectare required by Policy HC3 of the Local Plan, the second exemption criterion of the policy, which enables site constraints to be taken into account, would apply. Furthermore, I have no evidence that the densities across the allocation as a whole could not achieve or not be close to that required by Policy HC3. I therefore consider that the proposed development would accord with Policy HC3 as a whole.

Highway Safety

7. Appendix 1 of the Local Plan provides more detail on the way in which the Council envisage the various allocations to be delivered. Amongst other things, the Appendix requires that all vehicular access to this allocated site should be taken from a new signal controlled junction onto Park View, which would also serve another allocated site. The appeal proposal is that access to the appeal site part of the allocation would be taken from Holgate.
8. Holgate is a minor road which extends northwards towards the appeal site, from Green Lane. At the Thornton end of the road, there are a number of houses along it and served off it, including a recent small housing development. Beyond this the road has a more rural feel as it extends towards the appeal site where it is now blocked following the construction of Broom's Cross Road. Whilst rural in character, both sides of it are allocated for housing in the Local Plan, and its character will undoubtedly alter to some extent.
9. The Council's Committee Report of 12 December 2018 makes reference to the potential of the appeal site being accessed from Park View, once the remainder of the allocation comes forward and the necessary road infrastructure is in place. The report also indicates that it would be unreasonable, and not viable, to expect the developer of the appeal site to construct an access road or haul road from Park View.

10. At the appeal site end of Holgate, there is no footpath and the road is not lit. The only traffic which would need to travel to the end of Holgate would be to access the farmhouse and the appeal site itself if allowed. Beyond the appeal site it is stopped up and becomes a footpath and cyclepath. On my site visit, I saw Holgate being used for walkers and for cyclists and the pedestrian crossing where it meets Broom's Cross Road makes this an attractive route. However, I do not have any convincing evidence before me which would indicate that the traffic generated from the 14 houses on the appeal site would cause material harm to highway safety of pedestrians or cyclists on Holgate.
11. In its statement the Council indicates that it is the Council's intention to stop up Holgate after number 23 through a traffic regulation order, once the wider allocation has come forward. I would envisage that an option would be that the appeal site could then be served through that wider allocation to the Park View junction at an appropriate time, as referred to in the Committee Report. That indeed might be the most appropriate solution. However, I consider that the intention to stop up Holgate would not be a sufficient reason to prevent the appeal site coming forward either on a temporary or permanent basis, as the evidence does not indicate that there would be material harm to highway safety. I have taken into account the concerns of the residents about amenity, but consider that the additional traffic resulting from 14 dwellings would not cause undue harm to their living conditions or create harm to highway safety.
12. For the reasons set out above, I consider that the proposal would not cause harm to highway safety on Holgate and would accord with Policy EQ3 of the Local Plan which seeks to improve accessibility and sets down requirements for new development in Sefton.
13. I also consider that the proposal, with appropriate conditions, would not conflict with Criteria 2(a) and 2(c) of Policy EQ2 of the Local Plan, which sets out design requirements in relation to site access and layout, nor with Criteria 2(c) of Policy EQ4 of the Local Plan which seeks to minimise risks relating to noise/vibration, dust, odour or artificial light pollution.

Other considerations

14. The proposal would provide 14 new dwellings and enable a start to be made on the land allocated for housing in the Local Plan. The National Planning Policy Framework (the Framework) indicates that the Government has an objective of significantly boosting the supply of homes. I attach significant weight to the early delivery of this, albeit small, part of a wider housing allocation.
15. The proposal would provide two affordable homes, and financial contributions to education provision and towards the implementation of the A565 Route Management Strategy, as required by the provisions of the Local Plan. I attach moderate weight to these considerations.

Planning Obligations

16. A signed Unilateral Undertaking has been submitted, which seeks to secure affordable housing, and the provision of financial contributions for off site education infrastructure, and highways management strategy implementation. The agreement has been the subject of discussion between the parties who are content with it. The obligations accord with the related requirements and are necessary to mitigate impacts. As such they are justified to make the scheme

acceptable in planning terms. They are also directly related to the development and fairly and reasonably related in scale and kind to it. Accordingly the deed meets the tests set out in paragraph 56 of the Framework and in regulation 122 of the CIL regulations 2010. I have taken it into account in my decision.

Conditions

17. I have considered the conditions suggested by the Council in relation to the Framework and Planning Practice Guidance. I have made some minor changes in the interests of clarity and conciseness.
18. In addition to the standard condition relating to the time period for implementation, there is a need for a condition specifying the plans to which the permission relates, in the interests of certainty. There is a need for a condition relating to external materials, in the interests of the character and appearance of the area. There is also a need for a construction management plan and a construction environmental management plan, in the interests of residential amenity and environmental protection respectively.
19. There is a need for conditions relating to contaminated land in the interests of environmental protection. In the interests of ecology, there is a need for a condition relating to the placing of bird boxes on the site, and in the interests of visual amenity, a condition is necessary requiring a scheme of works to the trees along the northern boundary. A condition is necessary to secure the implementation of the agreed landscaping plan, within appropriate timescales.
20. Conditions are required to secure the appropriate detail of vehicular access to Holgate and electric car charging points, in the interests of highway safety and sustainable transport respectively. Also in the interests of sustainable transport, a condition is required to agree the details and secure the implementation of a travel plan. A condition is required to secure a 20mph speed limit on the access road in the interests of highway safety. A condition is necessary to secure details and implementation of a sustainable drainage scheme in the interests of environmental protection. Given the location of the site next to the by-pass, conditions to require details and implementation measures of acoustic fencing and other measures are necessary.
21. I do not consider that there is a need for a condition to control Japanese Knotweed as this can be controlled through other legislation.

Conclusion

22. I have found that the proposal would be an appropriate development, having regard to the site density policy within the Local Plan, and would not cause harm to highway safety. The proposal would enable early delivery of housing on an allocated site and contribute to the housing supply and the provision of affordable housing. It would also provide financial contributions for which I have attached moderate weight.
23. For the reasons set out above, I consider that the appeal should be allowed.

Mike Worden

INSPECTOR

Schedule of Conditions

1) The development hereby permitted must be commenced before the expiration of three years from the date of this permission.

2) The development hereby permitted shall be carried out in accordance with the following approved plans:

- Location Plan (Drawing FH-OH-01)
- Site Layout Plan (FH-OH-01-PL-01 Revision F)
- Properties Drainage Layout (E20877/05)
- Street Scene (FH-OH-01-PL-02)
- The Milton 2018 Edition (4H1790PL, 4H1790EXT1 and H1790EXT2)
- The Chatterton 2018 Edition (4H2238PL, 4H2238EXT2 and 4H2238EXT1)
- The Blake 2018 Edition (4H467PL, 4H467EXT1 and 4H467EXT2)
- Planting Plan – South Area (D130.001 Rev B)
- Planting Plan – North Area (D130.002 Rev B)
- Arboricultural Method Statement

3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- methods of construction traffic management
- the parking of vehicles of site operatives and visitors;
- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- a scheme for recycling/disposing of waste resulting from demolition and construction works;
- delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

4) Prior to the commencement of development a Construction Environmental Management Plan shall be submitted to and approved in writing by the Local Planning Authority including the following:-

- Full details of mitigation to prevent adverse impacts on protected European sites and species consistent with the Construction Method Statement (Appendix 1) and paragraph 4.9 of the Extended Phase 1 Habitat Survey & Daytime Bat Survey
- Details of how breeding birds will be protected should it be necessary to undertake works to trees during the period 1 March to 31 August inclusive
- Details of measures to be achieved efficient use of resources, including designing out waste and minimisation of off-site disposal throughout the demolition and construction phases

The provisions of the approved Construction Environment Management Plan shall be implemented in full during the course of development.

- 5) Prior to commencement of development, the scope of works for further investigation and assessment of contamination set out under the 'Conclusions and Recommendations' of the Phase II Geo-Environmental Site Assessment must be undertaken and a written report of the findings submitted to the Local Planning Authority for approval, including an appraisal of remedial options and identification of the most appropriate remediation option(s) for each relevant pollutant linkage.
- 6) Prior to commencement of development a detailed remediation strategy to bring the site to a condition suitable for the intended use by removing unacceptable risks and the relevant pollutant linkages identified in the approved investigation and risk assessment must be prepared and is subject to the approval in writing of the Local Planning Authority. The strategy must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and roles and responsibilities and a scaled plan in the event that a ground cover system is to be provided.
- 7) The remediation strategy and details approved under condition 7 must be carried out in accordance with the agreed terms prior to the commencement of development other than that required to carry out remediation. Following completion of the remedial works, a verification report that demonstrates compliance with the agreed remediation objectives and criteria must be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development.
- 8) In the event that previously unidentified contamination is found at any time when carrying out the approved development immediate contact must be made with the Local Planning Authority and works must cease in that area. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. Following completion of the remedial works identified in the approved remediation strategy, verification of the works must be included in the verification report required by condition 8.
- 9) Prior to the commencement of development, a scaled plan detailing the number, type and location of Swallow nesting boxes to be erected on site must be submitted to and approved in writing by the Local Planning Authority. The boxes shall be erected in accordance with a timetable to be agreed with the Local Planning Authority and be retained thereafter as such.
- 10) Prior to commencement of development a scheme of selective thinning of trees to the northern site boundary (as identified on Drawing FH-OH-01-PL-01 Revision F) must be submitted to and agreed in writing with the Local Planning Authority. Any clearance of vegetation on the site must be carried out in accordance with the approved scheme.
- 11) No development shall commence above slab level until full details of a scheme of sustainable drainage which accords with the submitted Drainage Strategy and Flood Risk Assessment and Properties Drainage Layout (E20877/05) has been submitted to and approved in writing by the Local Planning Authority. This must include details of implementation, maintenance and management for the lifetime of the development. The sustainable drainage system shall be fully constructed prior to occupation and be managed and maintained thereafter in accordance with the approved details.

12) Before any construction commences samples of the external facing materials to be used in the construction of this development must be submitted to and approved in writing by the Local Planning Authority. The approved materials shall then be used in the construction of the development.

13) No part of the development shall be occupied until a Traffic Regulation Order for a 20mph speed limit on the access road within the development site has been implemented in full.

14) No dwelling shall be occupied unless and until an electric vehicle charging point for that dwelling has been installed and is operational in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The approved infrastructure shall be permanently retained thereafter.

15) A scheme of works for the proposed vehicular access on to Holgate must be submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until this means of access has been constructed in accordance with the approved scheme.

16) A scheme of works for the following off-site improvements and alterations must be submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied until these works have been carried out in accordance with the approved scheme(s):-

- Closing of the existing redundant accesses and reinstatement of the highway across the site frontage along Holgate
- Provision of flush kerbs and tactile paving either side of the new access road and the junction of Holgate.

17) No part of the development shall be brought into use until areas for vehicle parking, turning and manoeuvring have been laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and these areas shall be retained thereafter for that specific dwelling.

18) The development shall not be occupied until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The provisions of the approved Travel Plan shall be implemented and operated in accordance with the timetable contained therein.

19) The acoustic fencing as shown on the Site Layout Plan (FH-OH-01-PL-01 Revision F) must be erected prior to the occupation of any dwelling. The outward facing elevations of the fencing shall be painted a shade of dark green and be retained thereafter as such.

20) Acoustic ventilation and glazing as specified within the Noise impact Assessment must be installed prior to occupation of each respective dwelling.

21) The hard and soft landscaping scheme hereby approved (D130.001 Rev B and D130.002 Rev B) must be carried out in accordance with a timetable to be agreed in writing with the Local Planning Authority. Any trees or plants that within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective shall be replaced with others of

a species, size and number as originally approved in the first available planting season.

End of Conditions