



Appeal Decision

Site visit made on 25 June 2019

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 30 August 2019

Appeal Ref: APP/E2001/W/19/3226022

Land south Oakwood Park, Pollington DN14 0DB

- 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 Northvale Homes Ltd against the decision of East Riding of Yorkshire Council.
 - The application Ref DC/18/02356/PLF/WESTWW, dated 19 July 2018, was refused by notice dated 19 December 2018.
 - The development proposed is proposed residential development (15 units).
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Decision

1. The appeal is allowed and planning permission is granted for proposed residential development (15 units) at land south of Oakwood Park, Pollington DN14 0DB in accordance with the terms of the application, Ref DC/18/02356/PLF/WESTWW, dated 19 July 2018, subject to the conditions set out in the attached Schedule of Conditions.

Background and Procedural Matters

2. Planning permission was granted¹ for the development of 5 dwellings on land to the south of Oakwood Park in 2015 (outline) and 2018 (reserved matters) and, more recently for 9 dwellings² in 2019 (the 2019 scheme), on the same site, that site forming the majority of the current appeal site. The current site however is larger, encompassing areas of land to the east and west of the previous site boundaries.
3. Although a smaller site than the one that is currently under consideration, the layout and siting of the 9 dwellings within it broadly corresponds to the siting and layout of plots 1 to 9 of the appeal scheme. The appeal scheme proposes a total of 15 dwellings, with the additional six dwellings³ located to the west of plots 6 to 9, with revised garage block locations for those plots and revised rear garden plot boundaries for plots 1 to 5. At the time of my visit to the site construction works were well underway in respect of the 2019 scheme and it is not a point of dispute that the 2019 permission has been implemented and is extant.
4. The appellant has submitted a signed, dated and completed unilateral undertaking made under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended) (the Act). The UU would secure the provision of three affordable dwellings within the development or, if those three units could not be delivered, an affordable housing financial contribution, and

¹ LPA Ref Nos: 13/03057/OUT approved in 2015 and 18/00299/REM approved in 2018

² LPA Ref No: 18/02248/PLF approved in 2019

³ Over and above those approved by virtue of application ref no 18/02248/PLF

additionally contributions towards open space, recreation and play facilities contribution would also be secured. I shall return to this matter latter.

Main Issues

5. The main issues are:

- Whether the site is a suitable one for residential development, having regard to the development plan and national planning policy and the effects of the proposed development on the character and appearance of the surrounding area;
- Flood risk; and
- Whether the proposed development would provide an appropriate mix of housing.

Reasons

Location

6. Policy S3 of the East Riding Local Plan Strategy Document (ERLP) sets out a settlement hierarchy to focus new development within the defined settlement network. ERLP policy S4 goes on to set out the Council's approach to development beyond the settlements listed in ERLP policy S3. As Pollington is not a named ERLP policy S3 settlement, it falls to be considered against ERLP policy S4.
7. Thus, within the development limits of settlements such as Pollington new housing will be supported, albeit usually only for single dwelling proposals⁴. Proposals for affordable housing for local people will also be supported⁵. Although directly adjacent to existing residential development on Oakwood Park and housing on the western side of Bridge Lane, the appeal site lies beyond Pollington's development limits and is, for development plan purposes, in the open countryside.
8. ERLP policy S4(C) sets out the Council's approach to development within the countryside beyond development limits. It has not been argued that the proposal would fall within any of the forms of development set out at ERLP policy S4(C)(1) – (11) and I have not been presented with any further evidence that seeks to persuade me otherwise. The proposal would be in conflict with ERLP policy S4 as a consequence.
9. However, from my observations of the site and its surroundings, I saw that the site is well-related to Pollington. The proposed development would take access directly from the stub-end of the existing residential cul-de-sac of Oakwood Park. Houses on Oakwood Park back on to the site's northern boundary, whilst to the east, directly adjoining the site's eastern boundary, are the residential garden plots of houses fronting on to Bridge Lane. These houses extend southwards some distance beyond the southern-most extent of the appeal site.
10. Planning permission has recently been approved for the development of 9 dwellings on a smaller site lying within the current appeal site boundaries. This followed an earlier approval for 5 dwellings. The Council do not however

⁴ ERLP policy S4(B)(1)

⁵ ERLP policy S4(B)(2)

consider the 15-unit scheme to be comparable to the 9-unit 2019 scheme, as the current scheme has a wider red-line boundary and occupies a greater site area. However, the 2019 scheme provides a significant position of fall-back for the appellant in terms of the principle of the proposal. The principle of residential development on a significant proportion of the current appeal site is therefore well established.

11. Furthermore, as the current proposal would be retained within the existing substantial tree and hedge belt that marks the western site boundary, and is bounded by existing residential development to the northern and eastern boundaries, it would provide a more logical and better formed boundary to Pollington than either of the previous two extant schemes would have achieved.
12. I accept that the current proposal is not directly comparable to the 9- or 5-unit schemes; it is, as set out above and agreed, a larger development site with a greater quantum of development. However, whilst the proposal is described as a 15-unit scheme, it is the effect of the net increase of 6 units and the changes from the 9-unit scheme to facilitate that upon which the principle of the proposal turns. The Council clearly previously found the 9-unit scheme to provide economic and social benefits which weighed in support of the proposal. The appeal proposal would deliver those same benefits with regard to 9 of the 15 units proposed in the current instance, whilst the additional 6 units would provide a further boost to those social and economic benefits previously identified. In addition, and as set out in more detail below, the proposal would provide a broader mix of house size and deliver an element of affordable housing which is absent in the extant scheme
13. Whilst the proposal would fail to accord with ERLP policies S3 and S4, it has not been satisfactorily or compellingly demonstrated why the benefits that the Council considered to exist in relation to the 9-unit scheme would not apply equally or greater to the scheme now before me. In reaching this conclusion, I give great weight to the fallback position provided by the extant scheme of 9 dwellings currently under construction. Furthermore, for the reasons also set out above, I am satisfied that the proposal would not, by virtue of its design, construction, layout and use, cause harm to the character or appearance of the surrounding area. There would, as a consequence, be no conflict with ERLP policies ENV1 or ENV 2.

Flood risk

14. The majority of the appeal site lies within Flood Zone (FZ) 2. However, a small part of the site at the north-western corner lies beyond the extent of FZ2 within FZ1. It is noted that both main parties are in broad agreement that there are sequentially preferable sites at a lower risk of flooding than the appeal site within the Goole housing market sub-area.
15. However, the majority of the appeal site area is subject to the extant permission for 9 dwellings that are currently under construction. Of the additional quantum of development that the appeal proposal seeks, three dwellings would be within FZ1, three within FZ2. Those dwellings within FZ2 would not therefore be at any greater risk of flooding than the 9 dwellings that are currently under construction.

16. I accept that the proposal would represent an increase in the quantum of development in percentage and absolute terms. However, that would not, in my judgement, be particularly harmful nor as great as the Council suggest in their statement of case⁶. The six additional dwellings would result in an increase in the number of dwellings within FZ2 but it would not be significant. Whilst the proposal would fail the sequential test there are however material considerations, not least of which is the extant and on-going development of 9 dwellings within the current appeal site area that are almost entirely within FZ2.
17. Additionally, the proposal would provide an enhanced housing mix with a greater variety of house types and sizes than provided by the extant scheme. The additional quantum of development would lift the proposal above the lower threshold limit for provision of affordable housing and would thus provide such housing where the 9-unit scheme would not. The Council's position with regard 5-year housing land supply is not disputed, but a 5-year supply is not an upper limit. The Framework seeks to significantly boost the supply of homes and the proposal would achieve that as a logical form of development in relation to the extant permission and the form and layout of the adjacent residential areas and field boundaries.
18. I accept that the proposal would provide six 4+ bedroomed dwellings. However, nine of the dwellings proposed would be either two⁷ and three⁸ bedroomed dwellings for which there is a recognised undersupply within the housing sub-area and the East Riding as whole. The proposal would therefore contribute towards delivering a mix of housing that responds to identified deficiencies in the supply of housing within the East Riding.
19. Thus, whilst the proposal would fail the sequential test with regard to its position within FZs 1 and 2 and the provisions of the Framework, the material considerations that I have set out above can be given significant weight. These lead me to conclude that the proposal it has been demonstrated that the proposal would manage the risk of flooding and would not materially increase the flood risk to people or property within the appeal site or elsewhere. A decision otherwise than in accordance with ERLP policy ENV6 and ERLP policy A4 is justified in this instance for these reasons.

Housing mix

20. The supply of 2- and 4-bedroomed dwellings within the Goole housing market sub-area is not disputed. I have not been advised of the position regarding the supply of three bedroomed dwellings.
21. The appeal proposal would provide a broader mix of house sizes than the extant scheme of 9 dwellings, including two 2-bedroomed and seven 3-bedroomed units. As it is not disputed that there is an under-supply of two and three bedroomed dwellings within the Goole housing market sub-area, the proposal's proportion⁹ of such properties would contribute towards addressing an imbalance in the housing mix. More locally, the provision of smaller houses would also go some way to addressing a particular shortfall of such properties.

⁶ Paragraph 2.17 – 300% increase

⁷ 2no dwellings

⁸ 7no dwellings

⁹ 60%

Thus, I am satisfied that the proposal would contribute to the overall mix of housing in the locality in the manner envisaged by ERLP policy H1.

22. The existing residential development at Oakwood Park is comprised of a mix of bungalows and detached houses; there are no semi-detached dwellings within the development. The proposed development would comprise a mix of two storey semi-detached and detached dwellings; there are no bungalows proposed within the scheme. However, whilst bungalows would be absent, I am satisfied that the scale and form of the proposed dwellings would appropriately reflect the scale and form of the existing Oakwood Park dwellings that adjoin the appeal site. In this respect, I am satisfied that the proposal would deliver houses of a type and scale found within Oakwood Park, and elsewhere within Pollington, that would be reflective of the broad mix and distribution of house types across the village.
23. Finally, unlike the extant scheme, the proposal before me would, via the provisions of the UU which I consider in more detail below, provide an appropriate proportion and mix of affordable housing. For the reasons I have set out therefore, I am satisfied that the proposal would be in accordance with ERLP policies H1 and H2, and with the Framework's aim of seeking to meet the needs of groups with specific housing requirements.

Planning Obligation

24. The appellant has submitted a signed and dated unilateral undertaking (UU) made under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended) (the Act). This undertaking would secure the provision of three affordable dwellings¹⁰ within the development or, if those three units could not be delivered, an affordable housing financial contribution, and in addition to which contributions towards open space, recreation and play facilities contribution would also be secured. I have considered the UU and its provisions against the provisions of the Framework and Planning Practice Guidance (the Guidance).
25. The s106 would secure 20% of the total number of dwellings as affordable units, or a contribution in circumstances where it is not possible to deliver that provision on-site. I am satisfied that the provisions of the UU in this respect are clear and, as a consequence, the proposal would meet the requirements of ERLP policies H1 and H2 regarding the provision of an appropriate amount of affordable housing. In securing such provision, the proposal would align with the aims of the Framework in seeking to meet the needs of groups with specific housing requirements.
26. I note that the Council's Open Space Working Group consultation response set out support for financial contributions towards equipped recreation play facilities, open sports facilities and amenity green space and detailed the relevant amounts. The officer report subsequently confirmed that such an approach would be appropriate in accordance with ERLP policy C3(B).
27. I have noted the content of ERLP policies H1, H2 and C3(B) with regard to these matters and, in securing such provision, the proposal would align with the aims of the Framework in seeking to meet the needs of groups with specific housing requirements and in recognising the importance of access to high

¹⁰ 2x two-bedroomed and 1x three-bedroomed dwellings

quality open space and opportunities for sport and recreation. The provision of contributions towards play, sport and green space provision would offset the additional impact arising from the use of community infrastructure by the residents of the residential development. Thus, I am satisfied that the UU satisfies the statutory tests set out in the Community Infrastructure Regulations and paragraph 56 of the Framework, and in accordance with ERLP policies H1, H2 and C3(B). I have therefore taken its provisions into account in reaching my decision.

Other Matters

28. With regard to the comments and submissions of local residents regarding traffic generation and highways matters, trees and living conditions, I note that these did not form part of the Council's reasons for refusal. However, taking these in turn, I have carefully considered all comments raised regarding the highways impact of the proposal, noting that access to the on-going 9-unit development from Oakwood Park was considered to be acceptable. A further 6 dwellings was not considered by the Council to be harmful, and I have not been presented with any compelling evidence that should lead me to an alternative conclusion.
29. I have also considered very carefully the concerns of occupiers of adjoining properties on Oakwood Park, particularly with regard to Nos. 14 and 16. The rear elevations of those properties would face directly towards the rear elevations of plots 10, 11 and 12, with a single garage located within the rear garden area of plot 11. I am satisfied, as was the Council, that the relationship between existing and proposed would be sufficiently distant to avoid loss of privacy or adversely impact on daylight or sunlight whilst additional boundary landscaping would strengthen the resilience of the site's northern boundary. For these reasons, the information before me does not lead me to conclude that these matters, either individually or cumulatively, would be over-riding issues warranting the dismissal of the appeal.

Conditions

30. I have considered the conditions suggested by the Council in light of the tests set out in the Framework and the advice and guidance set out in the Planning Practice Guidance (the Guidance) on such matters. Where necessary in the interests of precision and clarity I have made minor amendments to the suggested conditions. In so doing, I am satisfied that no party would be disadvantaged. References to condition numbers relate to those as set out in the Council's Statement of Case¹¹.
31. In addition to the time limit (1) and plans conditions (15), which I consider to be necessary in order to provide certainty, a condition relating to materials (2) is necessary in the interests of character and appearance. So too, conditions regarding implementation of the approved scheme in accordance with landscaping (3) and means of enclosure details (4). Development in accordance with the submitted Flooding and Drainage Assessment is secured by condition (10, 12 and 13) in the interests of minimising risk from flooding.
32. Conditions regarding the details of the service road (5 and 6) and provision of parking spaces (7) are necessary in the interests of highway safety and the

¹¹ As set out at Section 5. Suggested Conditions

appropriate layout of the approved scheme, and I have attached those as suggested by the Council. Although development in connection with the approved 9-unit development is underway, I have no details before me regarding measures relating to construction traffic (9), wheel washing facilities (8), hours of construction operation (11) or measures to accommodate any potential ground contamination (14). I have therefore attached the suggested conditions as set out by the Council.

Conclusion

33. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed.

Graeme Robbie

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) Notwithstanding any details shown on the submitted plans and forms, no development shall take place above damp-proof course until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 3) All soft landscaping comprised in the approved plans shall be carried out in the first planting and seeding season following the first occupation of the building(s) or the completion of the development whichever is the sooner; All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the local planning authority.
- 4) The screen walls and / or fences shown on the approved plans shall be erected prior to the first occupation of the dwellings hereby permitted and shall be retained and maintained for the lifetime of the development in accordance with the approved details.
- 5) Development shall not begin on the site until details of the layout, drainage, construction, services and lighting of the proposed service road(s), including the connection with the existing publicly maintainable highway have been submitted to and approved in writing by the local planning authority. This condition is imposed in order to secure an adequate and safe access to the proposed development area and to ensure that reasonable and adequate space is provided within residential curtilages to meet normal parking demands and avoid the need for vehicles to park on the highway where they could adversely affect the safety of other highway users.
- 6) Unless otherwise agreed in writing with the local planning authority, no dwelling on the site shall be occupied until that part of the service road which provides access to it has been constructed from the connection with the public highway in accordance with the approved plans.
- 7) No dwelling shall be occupied until the vehicular access has been provided and space has been laid out for motor cars to be parked in accordance with the details hereby approved.
- 8) No development shall commence on site until wheel cleaning facilities have been provided within the curtilage of the site in accord with details to be submitted to and be approved in writing by the local planning authority and this facility shall be retained for the duration of the works.

- 9) Prior to the commencement of the development details shall be submitted to and approved in writing by the local planning authority showing the provision of the temporary vehicle parking, loading, off-loading and manoeuvring facilities for the contractors carrying out building and construction works on the development and no other building or construction works shall be commenced until the temporary vehicle parking, loading, off-loading and manoeuvring facilities have been provided and used by contractors in accordance with the approved details. The approved vehicle parking, loading, off-loading and manoeuvring facilities shall be retained and used by contractors during the construction of the buildings on the development.
- 10) The development permitted by this planning permission shall be carried out in full accordance with the Flooding and Drainage Assessment by CoDa Structures, dated 14 August 2018 and received 15 October 2018. The mitigation measures detailed within the FRA shall be carried out in full prior to the occupation of that dwelling.
- 11) No construction works, deliveries or collections to or from the site shall take place outside the following times:

08:00 - 17:00 Monday to Friday,

08:00 - 13:00 Saturday,

At no time on Sundays and Bank/Public Holidays
- 12) A complete and operational drainage system shall be installed prior to any dwelling being occupied.
- 13) The development shall be carried out in accordance with the details shown on the submitted Flooding & Drainage Assessment (Report dated 14 August 2018) and drawing 7825/Fig 3 dated 14/08/2018 that have been prepared by CoDa Structures, unless otherwise agreed in writing with the Local Planning Authority.
- 14) In the event that contamination is found at any time when carrying out the approved development, it must be reported immediately to the local planning authority. An appropriate investigation and risk assessment must be undertaken, and where remediation is necessary, a remediation scheme must be prepared by competent persons and submitted to the local planning authority for approval. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the local planning authority.
- 15) The development hereby permitted shall be carried out in accordance with the following approved plans: 1530-002 – Location Plan; 1530-110 REV C – Proposed Site Plan; 1530-111 REV A – House Types A, B, C Proposed Elevations & Floor Layout; 1530-112 REV A – House Types A&B, D Proposed Elevations & Floor Layout; 1530-113 REV A – House Types Garage Elevations and Floor Layout; 1530-114 REV C – Streetscape and Sections A to E; 1530-115 – Handed House Type; and 1530-116 Cross Section

****End of schedule****