
Appeal Decision

Site visit made on 30 July 2019

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2019

Appeal Ref: APP/V2635/W/19/3228111

Gate House, Pentney Lane, Pentney PE32 1JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs D J Harrington against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 18/01742/O, dated 27 September 2018, was refused by notice dated 27 November 2018.
 - The development proposed is a detached bungalow.
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Decision

1. The appeal is allowed and outline planning permission is granted for a detached bungalow at Gate House, Pentney Lane, Pentney PE32 1JE in accordance with the terms of the application, Ref 18/01742/O, dated 27 September 2018, subject to the conditions in the attached schedule of conditions.

Procedural Matters

2. Outline planning permission is sought with all matters reserved. I have had regard to the site location plan but I have regarded the indicative site layout as being illustrative of potential development within the site.

Main Issue

3. Whether this is a suitable location for the proposed development, having regard to development plan policies.

Reasons

Location of the development

4. The appeal site is situated within an area of countryside to the east of the settlement of Pentney, within a reasonably sized grouping of dwellings either side of Pentney Lane. Not all of the dwellings are close to the street frontage, but residential development is uninterrupted to either side of the lane for a short distance. The dwellings are separated from those to the west in the village by fields and mature planting to the street frontage. The site forms a small gap between Gate House and the property to the west, known as Charnwood.
5. Policy DM3 of the Site Allocations & Development Management Policies Plan (Adopted September 2016) (SADMPP) permits sensitive infilling of small gaps within otherwise continuously built up frontages in Smaller Villages and Hamlets. This is subject to development being appropriate to the scale and

character of the group of buildings and its surroundings; and where it will not fill a gap which provides a positive contribution to the street scene. The main parties agree that Pentney is a settlement to which the policy would apply and I concur that it would be relevant to the appeal scheme before me.

6. The key qualifying element of the policy is whether the appeal site is within a continuous frontage. The Council acknowledges that the site is between existing dwellings but submit that the length of the frontage and its separation from the remainder of the village to the west suggests that the frontage would not be continuously built up.
7. However, it is inevitable in the countryside that the length of frontages and the extent to which they are continuously built up will vary. It is therefore a matter of fact and degree whether a frontage would be continuously built up. The appeal site is a small gap within a group of dwellings arranged in a continuous manner. The dwellings are not interrupted by fields or other spaces such as those to either end of the group.
8. Having regard to the above, I conclude that the site would qualify as a small gap suitable for infill development. Hence, the proposed development would accord with Policy DM3 of the SADMPP. Furthermore, Policies CS01 and CS06 of the Local Development Framework - Core Strategy (Adopted July 2011) also refer to development in rural areas and it is intended that Policy DM3 of the SADMPP is read in conjunction with these policies in order to achieve a sustainable pattern of development. As such, the proposal would also not conflict with these policies.

Other Matters

9. The Council has not raised any concerns regarding the form and character of the proposed development. Given that the development is with all matters reserved, I agree with the Council that it would be possible for the design to be managed in a way to limit the impact of the proposed development on the street scene, as well as the living conditions of neighbouring properties.
10. The Parish Council has raised concerns regarding the highway safety of the development. I note that neither the Council nor the local highway authority (LHA) have any concerns in relation to the access into the site. However, the Council and LHA consider that off-site works should be carried out to widen the southern bend of the carriageway of Pentney Lane, due to vehicles overrunning onto the highway verge. From what I saw on my site visit I have no reason to doubt that this takes place as Pentney Lane is a single carriageway. However, given that the indications are that the appellants wish to build a 4-bedroom bungalow, the traffic associated with the proposed development would not significantly increase the likelihood of vehicles overrunning the carriageway. In light of this, the request by the Council and LHA for the carriageway widening of the southern bend of the lane would be disproportionate to the scale and extent of the development proposed and it would therefore not be necessary to be secured by way of a planning condition.
11. Comments by third parties refer to several matters. The details of any drainage systems to serve the development are not before me so I am unable to afford them any weight in my consideration of the appeal. However, the Council has not suggested that foul or surface water drainage would need to be agreed through this appeal or that these would be matters that would affect the

principle of the development. I am also satisfied that these are matters that do not need to be agreed through this appeal, as the layout and scale of the development are reserved matters. The effect of noise from any proposed on-site foul drainage system can therefore be considered by the Council at the appropriate time. Furthermore, I have not been provided with any substantive evidence to demonstrate that the development would have a direct effect on protected species or that the trees within the site would be a risk to neighbours. As such, I afforded these matters limited weight in the determination of this appeal.

12. The Council has referred to several decisions to refuse developments locally, particularly in respect of the sustainability of the proposed development. The circumstances behind these decisions are not before me so I am not able to afford them any weight. In any event, I have determined this appeal on its own individual merits and not found there to be conflict in respect of the location of the proposed development.

Conditions

13. I have imposed standard conditions relating to the submission and timing of reserved matter applications and the commencement of development. Given the evidence before me in relation to the previous use of the site for the storage of metal waste and waste material, the risks to human health would necessitate that planning conditions are required to address the risks associated with any contamination within the site. For the reasons identified above, the planning conditions sought by the Council and LHA in respect of the widening the southern bend of Pentney Lane are not included.

Conclusion

14. For the reasons given above I conclude that the appeal should be allowed.

Paul Thompson

INSPECTOR

Schedule of Conditions

- 1) 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.
- 2) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 4) Prior to the commencement of groundworks, an investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess

the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

- 5) Prior to the commencement of groundworks, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of land after remediation.
- 6) The approved remediation scheme, referred to in Condition No 6, must be carried out in accordance with its terms prior to the commencement of groundworks, other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.
- 7) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition number 5, and where remediation is

necessary a remediation scheme must be prepared in accordance with the requirements of condition number 6, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition number 7.