



Appeal Decision

Site visit made on 8 October 2019

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2019

Appeal Ref: APP/R2520/W/19/3234069

Land at Ewerby Road, Kirkby la Thorpe NG34 9NX

- 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 The Thorpe & Asgarby Estate Limited against the decision of North Kesteven District Council.
 - The application Ref 19/0492/OUT, dated 4 April 2019, was refused by notice dated 24 May 2019.
 - The development proposed is residential development of four dwellings
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Decision

1. The appeal is allowed and outline planning permission is granted for residential development of four dwellings, at Land at Ewerby Road, Kirkby la Thorpe NG34 9NX, in accordance with the terms of the application Ref 19/0492/OUT, dated 4 April 2019, and subject to the conditions in the attached schedule.

Procedural Matter

2. The application was made in outline with all matters reserved. Accordingly, whilst I have had regard to the submitted layout plans, I acknowledge that they are for illustrative purposes only.

Main Issue

3. The main issue is whether the proposal would represent a suitable location for housing, having regard to local and national policy and the effect of the proposal on the character and appearance of the area.

Reasons

4. The site is adjacent to Ewerby Road in the village of Kirkby la Thorpe. It covers some 0.4 hectares in area and forms part of a much larger and open agricultural field. A tall, established hedgerow runs along the length of the front boundary of the site. The site is located beyond the last house in the village on the adjacent side of the road, but dwellings continue along Ewerby Road on the opposite side to a point beyond the outermost edge of the site, after which open countryside spreads out expansively on both sides.
5. The development plan for the district is the Central Lincolnshire Local Plan (April 2017) (the CLLP). Policy LP1 sets out the desire to deliver sustainable growth that brings benefits for all sectors of the community. Policy LP2 sets out the spatial strategy and settlement hierarchy for the district. Kirkby la Thorpe is listed under Category 6 – Small Villages, which are to accommodate small scale development of a limited nature in ‘appropriate locations.’ The policy

states that proposals will be considered on their merits, but would be limited to around 4 dwellings. The Council accepts that the proposal would accord with this requirement of Policy LP2. Consideration turns therefore to whether the site would be in an appropriate location.

6. An 'appropriate location' is defined to mean a location which does not conflict, when taken as a whole, with national policy or policies in the CLLP, and where the development would retain the core shape and form of the settlement; not significantly harm the settlement's character and appearance; and not significantly harm the character and appearance of the surrounding countryside or the rural setting of the settlement.
7. The Council points to the strong linear form of development which characterises the village. I saw this at my visit. Though the submitted layout plans of the development are indicative, they show a linear layout would be possible which continues the characteristic form of the village. Whilst the dwellings would be set further back from the road than the adjacent dwellings on Ewerby Road due to the retention of the roadside hedgerow, the indicative plans show the building lines would not be dramatically different, and the overall site would be shallower in depth than those adjacent on Ewerby Road.
8. Though the dwellings would not have an open frontage to Ewerby Road, the linear form of the settlement would still be apparent in views from the entrance to the site. Moreover, the dwellings would not be noticeably separate from the end dwelling on the adjacent side. Rather, they would create a continuous extension of the built form to this side which would reinforce the linear pattern of development.
9. Detached dwellings are indicatively shown on the submitted plans, the detailed scale and form of which would be addressed at reserved matters stage. Although the nearest dwellings are semi-detached, I saw a number of detached dwellings on large plots in the village. Therefore, detached dwellings would not be out of character with the prevailing built form of the village.
10. I saw on site that the end of the hedgerow further along Ewerby Road, level with the last house on the opposite side, forms a very clear end point to the village. The dwellings would not extend up to or beyond this point. From the public footpath which crosses to the south of the site, the dwellings would be seen as a continuation of the existing built form and within the extent of the hedgerow and the physical limits of the village.
11. Similarly, I viewed the site on approach into the village on Ewerby Road. From here, the dwellings to the northern side of the road are in plain view, and I saw the proposed dwellings would be seen against a backdrop of the trees in the rear gardens of adjacent properties on Ewerby Road. The dwellings would not appear exposed or conspicuous in the landscape, but contained by existing physical features.
12. Moreover, whilst the site would be hewn from the existing field and a new rear boundary would have to be created, this would be similar in principle to the boundaries of the adjacent properties which, although softened over time by planting, are marked by fencing and are open in parts to the fields beyond. I see no reason why suitable boundary landscaping could not be secured at reserved matters stage to similarly embed the dwellings into the landscape.

13. Therefore, I find that the proposal would relate well to its surroundings by maintaining the linear form of the village and not extending beyond the existing extremities of development. It would retain the core shape and function of the settlement and would not harm the character and appearance of the village or the surrounding countryside. Therefore, in this respect, I find the proposal would represent an 'appropriate location' for development under Policy LP2.
14. I note local concern with respect to the lack of infrastructure in the village, though there is a church, primary school and restaurant. Despite the limited facilities, Policy LP4 sets out that Kirkby la Thorpe will be permitted to grow by 15% over the plan period to 2036. It is common ground between the main parties that, taking account of permissions already granted, there is remaining growth of 13 dwellings available in the village. The Council argues the growth allowances are not targets to be met at all costs irrespective of non-compliance with other policy conditions. In this respect, two appeal decisions¹ have been referred to me. However, the circumstances of these appeal decisions differ from that before me in that the Inspectors in each case found the proposal did not meet the 'appropriate location' test. As such, they are not directly comparable to the appeal before me, though I accept the points that 15% growth is not a requirement to be met at any cost, and that there is significant time left in the plan period to achieve growth in the village. Nevertheless, the delivery of four dwellings in an appropriate location would accord with the growth aspirations of the policy. Moreover, the Council has indicated various constraints which exist at other sites and accepts that there are no sequentially preferable brownfield sites in or at the edge of the village, such that the proposal, despite being greenfield land, would accord with the sequential approach of Policy LP4.
15. For the above reasons, therefore, I conclude that the proposal would be an appropriate location for housing and would not harm the character or appearance of the area. It would comply with Policies LP1, LP2, LP4, LP17 and LP26, which together seek to deliver sustainable development through directing housing to the most appropriate locations whilst securing high quality design which respects its surroundings and preserves the character and appearance of the landscape and townscape. The proposal would also accord with the design related aims of Paragraphs 127 and 130 of the National Planning Policy Framework (2019) (the Framework).

Other Matters

16. The matters of access, layout, landscaping, appearance and scale are reserved for future consideration. As such, they are not relevant to my considerations, beyond that I am satisfied there would be sufficient space and separation distances to existing development to create satisfactory living conditions for existing and prospective occupants.
17. No objection was raised by the Council in respect of highway safety. I note that interested parties have nevertheless raised issues in respect of the condition of the road, increased traffic and parking problems at school pick-up and drop-off times. However, whilst I saw for myself the extent of parking near the school during my visit, these are existing issues which the proposal would not demonstrably worsen given its small scale, its separation from the areas of

¹ APP/R2520/W/18/3198926 and APP/R2520/W/18/3219280

parking stress, but also its location within walking distance of the school which would reduce the likelihood of future occupants driving children to school.

18. I also note local concerns with respect to drainage and wildlife. However, the Council has not raised objection in these respects and on the evidence before me, I do not reach different conclusions on these matters.

Conditions

19. Standard conditions relating to the submission and timing of reserved matters applications, and the commencement of development, are necessary to provide certainty. As all matters are reserved, a condition specifying the approved plans is not necessary.
20. A condition is sought by the Council requiring a written specification of a programme of work to mitigate the impact of construction on known archaeological remains. Given the undertaking of works would inherently jeopardise any surviving archaeological remains, such a condition is required to be necessary in the interests of preserving archaeological or historic interest.
21. A condition requiring the details of an uncontrolled pedestrian crossing point with tactile paving on Ewerby Road is necessary in the interests of pedestrian safety. Conditions are necessary to ensure retained trees are protected, and safe working practices are undertaken during construction, to safeguard the visual amenity of the area and the environment.
22. Finally, a condition is necessary to specify ecological enhancement and protection measures to be included in the development, in the interests of conserving and enhancing biodiversity.

Conclusion

23. For the reasons set out, I conclude that the proposal would accord with the development plan taken as a whole and other material considerations do not indicate a decision should be taken at variance with this. Therefore, the appeal should be allowed.

K. Savage

INSPECTOR

Schedule of Conditions

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 2) The development hereby permitted shall take place not later than 2 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) No development or site clearance/preparation shall take place unless and until the applicant, or their agents or successors in title, has secured the implementation of an agreed written specification that sets out a programme of work to mitigate the impact of construction to known archaeological remains. The specification shall be submitted to and approved in writing by the local planning authority. The programme of work shall be carried out strictly in accordance with the approved specification.
- 5) The development hereby permitted shall not be occupied before an uncontrolled pedestrian crossing point with tactile paving has been provided on both sides of Ewerby Road in accordance with details that shall first have been submitted to, and approved in writing by, the local planning authority. The works shall also include appropriate arrangements for the management of surface water run-off from the highway.
- 6) No works or development shall take place until a scheme for protection of the retained trees/hedgerows (Section 5.5 BS5837 - 2012 - Tree Protection Plan) has been submitted and agreed in writing by the local planning authority. This scheme shall include:
 - (a) A plan showing details and positions of the ground protection areas;
 - (b) Details and position of protection barriers. Protection barriers should be erected prior to each construction phase commencing and shall remain in place, and undamaged for the duration of that phase - these to be retained and maintained until all equipment, machinery and surplus materials have been removed from the site;
 - (c) Details and position of underground service runs and working methods employed should these runs be within the designated root protection area of any retained tree/hedgerow on or adjacent to the application site;
 - (d) Details of special engineering required to accommodate the protection of retained tree/hedgerows e.g. in connection with foundations, bridging, water features and surfacing;
 - (e) Details of working methods to be employed for the installation of drives and paths within the root protection areas of any retained tree/hedgerow on or adjacent to the application site;
 - (f) Details of working methods to be employed with the demolition of buildings, structures and surfacing within or adjacent to the root protection areas of any retained tree/hedgerow on or adjacent to the application site;
 - (g) Details of any scaffolding erection with the root protection areas;
 - (h) Details of timing for the various phases of works or development in the context of the tree/hedgerow protection measures;

- (i) Details of any proposed changes of ground level within the root protection area as defined to the application site.
- 7) The development hereby approved shall be carried out strictly in accordance with the following measures:
 - (a) No fires shall be lit on site within 10 metres of the nearest point of the canopy of any retained tree on or adjacent to the proposal site;
 - (b) No equipment, signage, fencing etc shall be attached to or be supported by any retained tree on or adjacent to the application site;
 - (c) No temporary access shall be formed within designated Root Protection Areas without the prior written approval of the district planning authority;
 - (d) No mixing of cement, dispensing of fuels or chemicals shall take place within 10 metres of the tree stem of any retained tree on or adjacent to the application site;
 - (e) No soakaways shall be routed within the Root Protections Areas or any retained tree on or adjacent to the application site;
 - (f) No stripping of topsoils, excavations or changing of levels shall take place within the Root Protection Areas of any retained tree on or adjacent to the application site;
 - (g) No topsoil, building materials or other shall be stored within the Root Protections Areas of any retained tree on or adjacent to the application site;
 - (h) No alterations or variations of the approved works or tree protection schemes shall be carried out without the prior written approval of the local planning authority.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- 8) Details to be submitted in respect of the reserved matters shall include:
 - (a) Detailed soft landscaping proposals for the southern and eastern boundaries of the site, and the verge between the existing woodland and the access road to deliver ecological enhancements;
 - (b) Provision of a minimum of one integral bat roosting feature (orientated southwards) and one integral bird nesting feature (avoiding a southern orientation) per dwelling;
 - (c) External lighting design (supported by an isolux plan and appropriate interpretation) to demonstrate no adverse light spill or glare onto all existing and new habitats of potential value to roosting and foraging bats. The details should specifically demonstrate maintenance of a dark corridor along the woodland on the northern boundary of the site.