



Appeal Decision

Site visit made on 6 November 2019

by W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/Y2003/W/19/3235900

Land north of Sandtoft Road, Westgate, Belton DN9 1PH

- 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 David Brinkley of H.E. Brinkley Ltd against the decision of North Lincolnshire Council.
 - The application Ref PA/2019/319, dated 15 February 2019, was refused by notice dated 5 August 2019.
 - The development proposed is described as: 'The planning application seeks to obtain outline planning permission for a residential housing scheme; 9no. 4-bedroom detached dwellings with double garages'.
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Decision

1. The appeal is allowed, and outline planning permission is granted to erect 9 dwellings with all matters reserved at land north of Sandtoft Road, Westgate, Belton DN9 1PH in accordance with application Ref: PA/2019/319, dated 15 February 2019 and the plans submitted with it and subject to conditions in the attached schedule.

Procedural Matters

2. Outline planning permission is sought, with all detailed matters reserved for future consideration. Plans showing possible layout and access have been submitted. However, given that layout, scale, appearance, landscaping and access are reserved matters, I have treated the plans solely as an indication of how the site might be developed. I have determined the appeal on this basis.
3. For clarity, the description of the development in the banner heading above is taken from the application form. However, in my decision, I have taken the description of the development from the appeal form and the Council's decision notice since this more succinctly describes the proposal. I have also taken the name of the appellant from the appeal form as it is more precise.

Main Issue

4. There is agreement between the appeal parties that the development does not harm the Area of Special Historic Landscape Interest of the Isle of Axholme or given that that the appeal site is located within Flood Zone 2/3a, would create any adverse risks of flooding to future / existing residents or land. The main area of disagreement from the reason for refusal is:
 - whether the proposed development would conflict with local and national planning policies, which seek to achieve a sustainable pattern of residential development.

Reasons

5. The appeal site comprises 2no. parcels of agricultural land separated centrally by 2no. dwellings. Along this section of Sandtoft Road the residential development is mainly in the form of ribbon development, especially from the River Torne and the junction of Turbary Road / Westgate Road. In this section of Sandtoft Road the undeveloped nature of the site is the exception in the otherwise built up frontages facing the road.
6. Policy CS1 of the North Lincolnshire Local Development Framework Core Strategy 2011 (CS) sets out the spatial strategy. CS Policies CS2, CS3 and CS8 and Policy RD2 of the North Lincolnshire Local Plan 2003 (LP) seek to limit developments outside settlement boundaries to those essential for the functioning of the countryside such as agriculture, forestry or tourism. Policies CS2 and CS8 also seek to ensure that developments provide adequate access to services and amenities for future occupiers, including by supporting the retention and enhancement of local services to meet local needs in rural settlements. These Policies also seek to limit development to locations where they would minimise the need for travel and promote walking, cycling and public transport for journeys that remain necessary. Additionally, Policy CS8 seeks to ensure that small-scale proposals are concentrated on previously developed or in infill sites in built-up areas.
7. At the time of the decision of the application the Council contended that it could not demonstrate a 5-year Housing Land Supply (HLS) and therefore the appellant considered that the provisions of Paragraph 11 of the National Planning Policy Framework (the Framework) was applicable in the determination of this appeal. Although, the appellant acknowledges in their submission that this position is likely to change in the near future.
8. In the Council's appeal submission, it now states that the Council's 5-year HLS position has changed. The Council now considers that a 5-year HLS can be demonstrated and that there is no longer a shortfall, although no figures have been provided to corroborate this statement. Whilst there is a degree of ambiguity on this issue, it has nonetheless not been disputed by the appellant. However, the proposed development is up to 9no. dwellings and although I find this to represent a relatively modest number of units contributing to the Council's housing supply, I am mindful that the 5-year HLS figure is not a maximum figure, and that the Framework seeks to significantly boost the supply of housing.
9. The appellant has drawn to my attention a judgment¹. I consider this to be relevant in the determination of this appeal, and form a material consideration, which I give significant weight. The judgment found, amongst other things, that the Inspector was required to consider whether, as a matter of fact on the ground, the site appeared to be in the village. Furthermore, it advised the physical circumstances of a site and its relationship to a settlement are more relevant than a designated village boundary in determining whether a site can be considered to be infill development.
10. Although, the site is classified as being in the open countryside, I find that the site is sustainably located with various shops and services located within walking or cycling distance. Although, some of these facilities are

¹ Wood v Secretary of State for Communities and Local Government [2015] EWCA Civ 195 (09 February 2015)

approximately 2km away, the routes to it are relatively direct on good footway infrastructure with lighting. The journey from the site to Belton, would neither be unduly lengthy nor strenuous, and I consider that some residents are likely to walk or cycle into Belton as a matter of choice, which are genuine alternatives to a private car.

11. Accessibility is a contributory element of sustainable development. In this respect, I note that the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. In this case the site has relatively good accessibility to services and facilities, and the proposal would not necessarily result in an excessive increase in the number of traffic movements to and from the site.
12. On balance, the above factors lead me to conclude that the proposed development would be in a suitable location. The development of the appeal site would represent an accessible location and maintain the vitality of the rural community, and based on this particular circumstance, would weigh in favour of the site being an appropriate location for residential development.
13. Having regard to all of the above, I conclude that the development would not harm the objectives relating to the location and supply of housing. In reaching that conclusion, I have taken into account that I found conflict with CS Policy CS3 and LP Policy RD2, and limited conflict with CS Policies CS1, CS2 and CS8. However, I take into account the impetus in the Framework to significantly boost the supply of housing, which makes clear that the 5-year figure is a minimum requirement. Accordingly, I attribute moderate weight to the contribution the proposal would make to housing provision.

Other Matter

14. Both main parties have referred to a historic planning permission for 11no. dwellings on the site. However, as this permission has lapsed and could not be implemented it has little bearing on the determination of this appeal. In any event all applications and appeals are judged on their own individual merits. Accordingly, that is how I have assessed this appeal scheme.

Conditions

15. The Council has suggested conditions which I have considered, making amendments and minor corrections, where necessary, to ensure clarity and compliance with the tests contained within Paragraph 55 of the Framework and the Planning Practice Guidance. Conditions regarding reserved matters and time limits are required by statute. However, an additional condition relating to 'Plans and particulars' in suggested condition No.2 is not necessary.
16. In addition to conditions relating to the time limit for implementation, for reasons of certainty a condition requiring the development to be undertaken in accordance with approved plans is necessary. Conditions are necessary for the access, footway, surfacing materials, parking, turning arrangements and drainage in the interest of highway safety.
17. A condition is necessary in relation to contamination in the interests of future occupiers. Additionally, a condition is necessary to restrict the construction and site clearance operations to protect the living conditions of existing neighbouring occupiers.

Planning Balance and Conclusion

18. The provision of what is likely to be family homes would generate additional social benefits. In addition, there would be economic benefits for the locality, both during construction and occupation of the dwellings. I do not consider that the 9 no. dwellings as proposed by the scheme would harm the rural nature of the settlement or the strategic aims of the development plan.
19. Although the proposal would conflict with CS Policy CS3 and LP Policy RD2, and would have limited conflict with CS Policies CS1, CS2 and CS8, it would nonetheless be in an accessible location and would not conflict with guidance in the Framework. It would also make a small contribution to the Council's housing stock.
20. Overall, I consider that there would be no adverse effects resulting from the proposed development that would significantly or demonstrably outweigh the benefits associated with the development. Therefore, in this instance there are material considerations which indicate that the proposal should be determined otherwise than in accordance with the development plan and outline planning permission should be granted.
21. For the above reasons, the appeal should succeed.

W Johnson

INSPECTOR

Schedule of Conditions

- 1) 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.
- 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 be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later. 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.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: BRINK-03-2019 and BRINK-10-2018-01.
- 5) No dwelling on the site shall be occupied until the vehicular access to it and the vehicle parking and turning facilities serving it have been completed in accordance with details to be submitted to and approved in writing beforehand with the local planning authority and, once provided, the vehicle parking and turning facilities shall be retained.
- 6) No loose material shall be placed on any driveway or parking area within 10 metres of the adopted highway unless measures are taken in accordance with details to be submitted to and approved in writing by the local planning

authority to prevent the material from spilling onto the highway. Once agreed and implemented these measures shall be retained and maintained for the life of the development.

7) No plot on site shall be occupied until a footway has been provided to at least base course level across the whole of the site frontage. This footway shall connect into the existing facilities to the east and west in accordance with details to be submitted and approved in writing by the local planning authority. The footway shall be completed prior to the occupation of the final plot on site. Once provided, all of these pedestrian facilities shall be retained.

8) No development shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development.

9) No development shall take place until details showing an effective method of preventing surface water run-off from the highway onto the developed site have been submitted to and approved in writing by the local planning authority.

10) Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts 1 to 4 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until part 4 has been complied with in relation to that contamination.

Part 1: Site Characteristics

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 a 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'.

Part 2: Submission of Remediation Scheme

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, a 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 the land after remediation.

Part 3: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development 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 (referred to in PPS23 as a validation 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.

Part 4: Reporting of Unexpected Contamination

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 Part 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part 2, 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 Part 3.

11) Construction and site clearance operations, including HGV movements and installation of equipment shall be limited to the following days and hours:

- 7am to 7pm Monday to Friday
- 7am to 1pm on Saturdays.
- No construction or site clearance operations shall take place on Sundays or public/bank holidays.

End of Schedule