
Appeal Decision

Site visit made on 18 December 2019

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th January 2020

Appeal Ref: APP/Y2003/W/19/3238251

The Willows, 9 Nethergate, Westwoodside DN9 2DR

- 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 Julia Smith against the decision of North Lincolnshire Council.
 - The application Ref: PA/2018/2403, dated 5 December 2018, was refused by notice dated 7 June 2019.
 - The development proposed is described as an "outline planning permission to erect two dwellings."
-

Decision

1. The appeal is allowed and outline planning permission is granted for two dwellings at The Willows, 9 Nethergate, Westwoodside DN9 2DR in accordance with the terms of the application, Ref PA/2018/2403, dated 5 December 2018, subject to the conditions in the attached schedule.

Procedural Matters

2. The application is in outline form with all matters reserved for future consideration apart from access. I have dealt with the appeal on this basis and I have treated any details not to be considered at this stage as being illustrative only.
3. The description of development in the banner heading above is taken from the submitted planning application form. I have amended the description in my decision paragraph so as to exclude the superfluous elements which do not relate to the act of development itself.

Main Issues

4. The main issues are the effect of the proposal on (i) the character and appearance of the area; and (ii) the Isle of Axholme Area of Special Historic Landscape Interest.

Reasons

Character and Appearance

5. The appeal site comprises land that is located well to the rear of a bungalow property. It contains various structures and enclosures that are typical for a dog kennels operation. The proposed access to the side of the bungalow and towards Nethergate also contains structures, at least some of which also appear to be related to animal husbandry. A wall and gate arrangement fully

encloses the site frontage. To the sides, the site abuts land to the rear of a neighbouring residential property, which is also in use for animal related purposes, and an area to the rear of the village hall. Beyond the trees and vegetation that are close to the rear boundary of the site, there is a field which contains a Public Right of Way (PROW).

6. The development limit for the settlement, as defined by the Council's Housing and Employment Land Allocations Development Plan Document (2016), runs through the site. The existing bungalow lies within the limit and the 2 proposed dwellings would be just outside of it. In strict terms, the proposal would not accord with development that is permitted outside of such a limit under 'Saved' Policy RD2 of the North Lincolnshire Local Plan (2003) (LP).
7. The existing pattern of development along this part of Nethergate is fairly varied in its form. Whilst there are dwellings positioned towards their site frontage, there are also some that are set back. This includes a dwelling that is to the rear of a nearby chapel, as well as a modern cul-de sac-development. The main building of the school which is close to the site is also set back from the road.
8. A feature of the appeal site is the not insignificant level of development that has taken place well to the rear of the existing bungalow. Nor is this part of Nethergate a location where frontage development forms a strong or defining quality of the local character. Accordingly, that the proposal would be in a 'backland' position would not result in it representing an uncharacteristic form of development.
9. Where the proposal would be visible from public vantage points would be likely to be restricted to the PROW. As the structures and enclosures on the site are in a somewhat dilapidated state and noticeable from the PROW, despite the trees and vegetation close to the rear boundary, the proposal has the potential to visually improve the site as it would be viewed from the surroundings. I see no substantive reason why the subsequent consideration of the reserved matters could not result in such an improvement, following the grant of an outline approval as the planning permission, even if the proposed dwellings would be on a larger scale than what is existing on the site.
10. Hence, whilst I acknowledge the conflict with 'Saved' Policy RD2 due to the location of the site beyond the development limit, I conclude that the proposal would not have an unacceptable effect on the character and appearance of the area. As such, it would comply with 'Saved' Policies H5, H7 and H8 of the LP and with Policy CS5 of the Council's Core Strategy (2011) (CS) which state that development is to be in keeping with the scale and character of the settlement, permit backland or tandem development provided that it would not affect the general quality and character of the area in which it is located, and concern housing design and design quality, amongst other considerations.

Isle of Axholme Area of Special Historic Landscape Interest

11. The site lies in the Isle of Axholme Area of Special Historic Landscape Interest. This area is designated for its pattern of ancient open strip fields and enclosures surrounding the villages. Parts of the strip fields were subsequently enclosed into small irregular fields, known as Early Enclosed Land (EEL). The site forms part of such an area, hence its inclusion within this historic landscape. It constitutes a non-designated heritage asset.

12. The appeal site is much changed from when it would have been historically enclosed. With the development that it already contains, it displays little of the open character landscape qualities and historical significance. It is also evident that there has already been considerable modification and sub-division of the EEL land along this part of Nethergate. As a consequence, the proposal would not harm the significance of the asset in this regard.
13. Where the proposed dwellings would be visible from the designation outside of the site, this would be largely from the adjoining land. From the PROW, they would either be seen against the backdrop of a row of large conifers that are on the boundary with the village hall or towards the existing development on Nethergate. This would not cause any particular harm to the character of the historic landscape. The proposal would also not unduly extend the built envelope of the settlement into this landscape because of what is already on the site.
14. From within the site, views outwards are already limited by the existing development and the screening afforded by the enclosed form of the site boundary treatment. The site does not currently allow the landscape to be appreciated to a notable degree and this would not unduly change under the proposal. As my conclusion on this issue is dependent on the particular site circumstances that I have set out, it would not prejudice the Council's position in dealing with further applications within the designation.
15. I conclude that the proposal would not have an unacceptable effect on the Isle of Axholme Area of Special Historic Landscape Interest. As such, it would comply with 'Saved' Policy LC14 of the LP which states that development will not be permitted which would destroy, damage or adversely affect the character, appearance or setting of the historic landscape, or any of its features. It would also comply with Policy CS6 of the CS which concerns safeguarding the nationally significant medieval landscapes of the Isle of Axholme.

Planning Balance

16. The Highway Authority raised no objection on highway safety grounds and I see no reason to disagree with the proposed access arrangements and the likely modest level of traffic generation that would result from 2 dwellings. In addition, the site has limited amenity value because of the development that has already taken place on it. Nor is it my role in dealing solely with an application for planning permission to conduct an exercise as to the existing lawful use or operation, notwithstanding that I have limited evidence on this matter apart from what I saw on the site.
17. The housing that would be provided has a bearing as far as that it would not accord with that which is permitted outside of the development limit. Where I have found harm, it concerns that the proposed dwellings would be just outside of the limit and, as a consequence, the proposal would not comply with 'Saved' Policy RD2. With the close proximity of the proposed dwellings to the limit and that they would be carefully located having regard to the existing settlement pattern, though, limits the weight to be attached to the conflict with this policy.
18. Set against this would be what I consider would be the likely visual improvements, compared to the current state of the site. This attracts significant weight in my decision as a benefit. In this case, it is a material

consideration that outweighs the conflict with the development plan as a whole and indicates that planning permission should be granted for development that is not in accordance with it. With my overall conclusion, housing land supply and the related policy matters that have been raised do not alter my views.

Conditions

19. I have imposed conditions necessary for reserved matters and timescales. An approved plans condition is also imposed in the interests of certainty and also highway safety, as access is not a reserved matter.
20. Also, in the interests of highway safety, a condition is imposed regarding such matters that need to be agreed with the local planning authority and implemented prior to occupation. For the sake of preciseness, these are contained within one condition. A condition preventing loose material on the highway is also imposed for the same reason.
21. A condition is imposed concerning land contamination matters in the interest of pollution control, given that the site is already developed and with the nature of the proposed use. I have also imposed a condition concerning drainage details in the interest of reducing the risk of flooding and pollution control, on similar lines to the condition suggested by Severn Trent Water to the planning application.
22. I have not imposed conditions related to details of external materials and boundary treatment as these fall within the reserved matters, namely appearance and landscaping. I have also not imposed conditions concerning a biodiversity management plan, as there is not substantive evidence before me which suggests this is warranted. Thus, they would not be reasonable and necessary. For similar reasons, I have not imposed a condition preventing surface water run off from the highway into the site and as this would seem to be a matter outside of the control of the appellant as regards the source of the run off.

Conclusion

23. For the reasons set out above, I conclude that the appeal should be allowed subject to the conditions.

Darren Hendley

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the 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 3 years from the date of this permission.
- 3) 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.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Ref No 1051 Dwg No 1 of 1 Location and Block Plans dated 26/11/18 Amended but only in respect of those matters not reserved for later approval.
- 5) The development hereby permitted shall not take place until details of the following have been submitted to and approved in writing by the local planning authority:
 - (i) the location and layout of the vehicular access;
 - (ii) the number, location and layout of vehicle parking and turning spaces within the curtilage of the site;
 - (iii) an effective method of preventing surface water run-off from hard paved areas within the site onto the highway;
 - (iv) the private driveway, including construction, drainage, lighting and where appropriate signage/street naming arrangements;
 - (v) the relocation of the street lighting column, an amendment to the boundary features as such that adequate visibility for both pedestrians and vehicles, and improvements to the footway fronting the site; and
 - (vi) the location of the refuse collection point(s) and the bin storage area(s).

No dwelling on the site shall be occupied until the development has been carried out in accordance with the approved details which shall thereafter 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. The development shall be carried out in accordance with the approved details and thereafter be retained.
- 7) The development hereby permitted 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; and
 - 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 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.

- 8) The development hereby permitted shall not commence until a drainage scheme for the disposal of surface water and foul sewerage has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before any dwelling is occupied and thereafter be retained.