



Appeal Decision

Site visit made on 9 December 2019

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 January 2020

Appeal Ref: APP/U2805/W/19/3237471

Land to the north of Stamford Road, Weldon, Northamptonshire

- 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 Mr A Stevenson against the decision of Corby Borough Council.
 - The application Ref 19/00080/DPA, dated 15 February 2019, was refused by notice dated 7 June 2019.
 - The development proposed is the erection of 4 dwellinghouses including associated infrastructure and landscaping.
-

Decision

1. The appeal is allowed, and planning permission granted for the erection of 4 dwellinghouses including associated infrastructure and landscaping at Land to the north of Stamford Road, Weldon, Northamptonshire in accordance with the terms of application Ref 19/00080/DPA dated 15 February 2019, and subject to the conditions within the attached schedule.

Costs application

2. An application for costs has been made by Mr A Stevenson against Corby Borough Council. This application is the subject of a separate Decision.

Procedural matter

3. The site address and description of development was incomplete on the application form. As such, I have taken the details from the Council's decision notice and note this has been agreed by the appellant within the appeal form.
4. The appeal is supported with a Transport Note, tracking plans, annotated parking spaces, a further letter and investigation results in regard to contamination and two emails from the Council's Environmental Health Officer¹. The appeal is also supported by a daylight/sunlight drawing² that shows the relationship of the proposal to the neighbour. I am satisfied that I can take these details into account without prejudice to any party as they add information to the proposal, rather than seek to change its parameters.
5. The appellant has updated the block plan, ref:PL-102 Rev L, with a minor change to the frontage landscaping. I will take this revised version into account in my decision. I do not consider any party would be prejudiced by my doing so.

¹ Council's Environmental Health Officer emails 19 June 2019 and 26 June 2019

² Drawing PL-301 Daylight/Sunlight detail

6. An email is also in evidence, forwarded by the appellant from the Council³. This concedes that the first reason for refusal is in part erroneous. The officer identifies that the site is in fact within the village limits and the reason for refusal should have focussed on the proposal not being considered as infill development. I will return to this matter later.

Main Issues

7. The main issues are:

- whether the appeal site is an appropriate location for housing in regard to the Council's settlement policies and the National Planning Policy Framework (The Framework),
- the effect of the proposed dwellings on highway safety,
- whether the proposal would be a risk to human health of future occupiers due to the identified contamination levels of the site, and
- the effect of the proposal on the living conditions of 39 Stamford Road with particular regard to access to daylight and sunlight.

Reasons

Locational matters

8. The Development Plan for the district includes the North Northamptonshire Joint Core Strategy 2016 (JCS) and the Saved Corby Borough Local Plan 1997 (SLP) and. The settlement boundary of Weldon is defined by the SLP. The Emerging Part 2 Local Plan for Corby 2018 (ELP) is at an early stage. Furthermore, parties do not rely on any policies in the ELP and for these reasons I have afforded it limited weight in this appeal.
9. Policy 11 of the JCS establishes the Council's strategic housing policy. This seeks to strengthen the network of settlements and avoid coalescence. Table 1 seeks to direct the majority of growth towards the district's growth towns with a reduced scale of development in its market towns and only small-scale infill in its villages. In the open countryside development would be carefully managed to safeguard its intrinsic character and beauty. Criterion 2a, of policy 11, limits development in rural areas to that required to support a prosperous rural economy or meet local need that cannot be met in settlements in more accessible locations. Whereas criterion 2b allows for small-scale development within villages where this would not materially harm the character of the settlement and residential amenity.
10. The Officer Report includes commentary from the Local Plans Officer (LPO). The LPO refers to a previous withdrawn application from 2018⁴ for 4 dwellings on the same site. In regard to the previous proposal the LPO stated that the site was not an infill site and did not appear to be within the built-up area of Weldon. Paragraph 5.17 of the JCS explains that 'infill development' relates to vacant and underused land, within main built up areas, on land bound by existing built curtilages on at least two sides.

³ Email from Corby Borough Council - 11 June 2019

⁴ Planning Application Reference: 2018/00419/DPA

11. The site is within the village of Weldon as identified on the Insert Plan within the SLP. The site is adjacent to existing built form and opposite further dwellings and a recreation park. The site therefore has built form on two sides. It is on a gradient and falls away from the highway. As a consequence, the proposal would not be prominent from the highway and would follow the existing pattern of development. As such, the proposed development would not materially harm the character of the village. The proposal would complement the local pattern of built form. The site would therefore be a suitable infill plot within the village limits.
12. Consequently, the proposal would accord with policy 11 of the JCS which seeks to support limited infill development within Villages. However, policy 13 of the JCS, relates to rural exceptions in the open countryside and is therefore not germane in this case. Furthermore, the site is not isolated and therefore paragraph 79 of the Framework is also not relevant in this case.

Highway safety

13. Policy 8 of the JCS seeks to make safe and pleasant streets and resist development that would prejudice highway safety. However, the Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.
14. The proposed access would connect to the A427 and would be a short distance from a roundabout. The highway has a footway on the side opposite the site. It also has street lights and a 30mph speed limit. Visibility when leaving the site would be hampered, to some extent, by the slight gradient of the driveway. Also, when looking left the sight line would be partially obstructed by a large road sign and would be slightly reduced by the curve of the highway.
15. The appellant's Transport Note was produced in support of the appeal. Amongst other things, it has considered the access and proximity to the roundabout. This partly concluded that trips created by the development would be small, background traffic numbers are comparatively small for a principle road and the use of the access would not result in a significant adverse impact on the highway network. The access provides visibility splays in line with the recorded 85th percentile speeds. This requires a vehicle visibility splay of 2.4m by 47m. Such a splay can be achieved provided that vegetation on the highway verge is cut back and the sign be moved around 7 metres further from the proposed access.
16. There are number of driveways adjacent to the proposed access that would have a similar effect on the highway. Stamford Road, whilst a classified road, has the character of being part of the local road network. Traffic speeds are relatively low. Visibility from the access would be acceptable and a visibility splay can be achieved which would be adequate based on the analysis and conclusions of the Transport Note. The appellant has also offered a condition that would prevent the commencement of development until the Local Planning Authority has granted a traffic regulation order. The effect of which would be to relocate the existing road sign. This is a necessary requirement to create a suitable visibility splay.
17. Furthermore, the provided vehicle tracking plans would be satisfactory, although I recognise that manoeuvres associated with plot 4 would be

relatively awkward. Also, the annotated parking spaces show that parking space sizes would be satisfactory. Furthermore, the proposed tandem parking and location of cycle parking would be acceptable. These arrangements are not uncommon in modern housing development.

18. As such, the proposal would comply with policy 8(b)(i) of the JCS, which seeks to resist development that would prejudice highway safety. Furthermore, the proposal would satisfy the Framework, as it would not have an unacceptable impact on highway safety.

Contamination

19. The original Site Investigation Report⁵ located a historic landfill site 160m to the north of the site. The site investigation found some petroleum hydrocarbon/polycyclic aromatic hydrocarbons (PAHs) in parts of the site, with benzo(a)pyrene (BaP) concentrations in particular above human health screening values. Elevated levels of PAH's were found in a borehole along the eastern boundary of the site. The Report recommended that the existing topsoil be replaced. It was further recommended that the development be subject to a formal remediation strategy and further assessment undertaken for groundwater quality. Further testing was advised by the Environmental Health Officer (EHO) as the recommended solution was considered to be non-sustainable.
20. Further analysis undertaken after the application was refused has been forwarded to the Council and is subject to further comments from the EHO. The further analysis⁶, within the additional topsoil assessment, found two sample boreholes were impacted by PAHs, but general analysis did not confirm high concentrations. This therefore concluded that the topsoil could be reused without harm to human health. It recommends that the topsoil is stripped and stockpiled with careful watch to prevent unexpected contaminated soil is not reused. Emails from the EHO have confirmed that he is now satisfied with the extent of investigation and has withdrawn his objection.
21. Accordingly, the proposal would comply with policy 6 of the JCS which seeks development to only be approved on contaminated land if it can be established that the site can be safely and viably developed with no significant impact on either future users or ground and surface waters. Furthermore, the proposal would accord with the Framework which seeks a site to be suitable for a proposed use taking ground conditions into account any risks associated with contamination.

Living conditions

22. The site is adjacent to 39 Stamford Road. This dwelling has several side windows at ground floor and one at first floor that overlook the site. The side windows include those that serve a kitchen and bedroom. These rooms also have primary windows on the rear elevation of the property. The appellant's additional plan shows how daylight and sunlight to these windows would be affected by the proposal. Appendix 10 of the appellant's Statement of Case show the property's internal configuration. The appellant's additional plan also shows the relationship of the property to the proposal in terms of land levels

⁵ Southern Testing, Phase II Geo-Environmental Site Investigation Report – February 2019

⁶ Letter and accompanying analysis 13 June 2019

and distance. These details appear accurate to the configuration I observed from the appeal site.

23. The footprint of the proposal would be set back from the front building line of the neighbouring property. Around half of this property would remain visible in front of the proposed front building line, with the main side windows just behind this line. Early morning sunlight to these windows would already be affected by trees on the eastern boundary of the site. However, once the sun was higher the property would be less affected by obstruction, including from the proposal. As a consequence, the side windows would still gain access to a reasonable level of sunlight. In terms of daylight, the cross section on the additional plan shows that the first-floor window would receive acceptable daylight levels. Although, the kitchen window would be more affected, the impact would not be materially significant. As such, neighbouring occupiers would not suffer a substantial loss of daylight or sunlight.
24. Consequently, the proposal would satisfy the Framework in this regard which seeks development to provide a high standard of amenity for existing and future users. Policy 6 of the JCS is referred to in reason for refusal 4, however this relates to contamination and is not therefore relevant to the effect of development on living conditions. The proposal would however accord with Policy 8(e)(i) and (ii) of the JCS, which amongst other things, require development to not result in an unacceptable impact on the amenities of neighbouring properties by reason of loss of light.

Other matters

25. The site is within the Weldon Village Conservation Area (CA). The statutory requirements⁷ entail that special attention is also paid to the desirability of preserving or enhancing the character and appearance of a conservation area. The character appraisal identifies its significance being that its present road system preserves the original medieval lay-out of the village. It also identifies a cluster of listed and non-listed heritage assets around the High Street, some distance from the appeal site. The site is within but on the edge of the CA boundary and makes a limited contribution to the CA. Due to its location, the gradient of the site and intervening buildings, the proposal would have a neutral impact on the CA. As such, the effect on the significance of the CA would be negligible.
26. The site is also adjacent to the scheduled ancient monument of Little Weldon Roman Villa. Historic England has identified that the site could include archaeologic remains. It notes that the desk-based assessment and trial excavations found that no roman activity was identified. Taking this into account and the negligible effect that the proposal would have on the remains of the villa, I concur with Historic England that a precautionary approach should be taken to permitting development. Subsequently, I have applied a condition for a programme of works, supervision and recording in accordance with a written scheme of investigation. This would also be in accordance with the advice of the County archaeologist.
27. Representations from a neighbouring resident has raised concerns in regard to loss of a view and effect on outlook. However, a right to a view is not a material planning consideration and is therefore of limited weight in the

⁷ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

planning balance. The proposal would be set away from the neighbour's side boundary and set back. As such, the effect on their outlook would be limited.

Conditions

28. I have considered the use of conditions in line with the Government's Planning Practice Guidance (The Guidance). I have adapted the wording where necessary to comply with the Framework and for clarity.
29. The Council has provided a list of suggested conditions. I have included many but found some to be superfluous. Due to ongoing discussions with the EHO I have altered the 4 suggested contamination related conditions to two; one requiring a remediation scheme to be submitted and agreed and one relating to unexpected contamination. In terms of plans I have not included plan '186-E01A-Highway Works' as this relates to raising the road sign rather than moving it as recommended in the appellant's Transportation Note.
30. A further condition suggested by the Council relates to driveway drainage to prevent runoff onto the highway, due to the gradient of the site such a condition would not be necessary. Also, the Council's arborist requested a tree protection condition which I find would be necessary. I have applied the Council's second 'materials' related condition as this requires details to be agreed by the Local Planning Authority which I consider to be reasonable.
31. Conditions 3, 6-8 and 10 require details prior to commencement on site. The appellant has agreed to these, following formal notification under Regulation 2(4) Notice of The Town and Country Planning (Pre-commencement Conditions) Regulations 2018.
32. Furthermore, the appellant has offered a condition that would comply with the recommendations of his Transport consultant. This requires the road sign to be moved around 7 metres closer to the roundabout. The Guidance is clear that a Grampian condition should not be used where there are no prospects of the action in question being performed. However, in this case, I am satisfied that a good prospect exists for the Council to agree to relocate the road sign. The condition is therefore reasonable and necessary for highway safety reasons.
33. Consequently, I have applied the conditions that are necessary and reasonable. Conditions have therefore been applied in the interests of certainty (1 and 2), to safeguard the character and appearance of the area (5, 7, 11 and 13), to satisfy archaeological requirements of the site (6), in the interests of highway safety (9, 10 and 12), to comply with the contamination and remediation requirements of the site (3 and 4) and to protect living conditions of existing residents (8).

Conclusion

34. For the above reasons, the appeal is allowed, and planning permission granted.

Ben Plenty

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan PL-150 Rev C, Block Plan PL-102 Rev L, Type 1 Elevations 202, Type 1 Layout 201 rev B , Type 2 Elevations 204 and Type 2 Layout 203 rev C.
- 3) Prior to the commencement of development, a scheme of contamination remediation shall be submitted to and approved by the local planning authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. The approved remediation scheme shall be fully undertaken prior to the first occupation of the approved dwellings. Furthermore, following completion of the approved remediation scheme and prior to occupation of the dwellings, a verification report that demonstrates the effectiveness of the remediation shall be submitted to and approved in writing by the Local Planning Authority.
- 4) In the event that unexpected contamination is found at any time when carrying out the development hereby approved, it must be reported immediately to the Local Planning Authority. Development works at the site shall cease and an investigation and risk assessment undertaken to assess the nature and extent of the unexpected contamination. A written report of the findings shall be submitted to and approved by the Local Planning Authority, together with a scheme to remediate, if required, prior to further development on site taking place. Only once written approval from the Local Planning Authority has been given shall development works recommence.
- 5) Prior to the occupation of the dwellings a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. This shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for protection, in the course of development. The approved scheme shall be implemented so that planting is carried out no later than the first planting season following the occupation of the dwellings or the completion of the development whichever is the sooner. All planted materials shall be maintained for five years and any trees or plants removed, dying, being damaged or becoming diseased within that period shall be replaced in the next planting season with others of similar size and species to those originally required to be planted unless the council gives written consent to any variation.
- 6) Prior to the commencement of development, a programme of archaeological works (in accordance with a written scheme of investigation) shall be submitted to and agreed in writing by the Local Planning Authority. The approved programme shall be implemented in accordance with the approved development.
- 7) Prior to the commencement of development, a tree protection plan shall be submitted and approved by the Local Planning Authority. The approved tree protection plan shall be implemented prior to the commencement of development and maintained for the duration of construction work.

- 8) Prior to the commencement of development, a construction management plan shall be submitted to and be approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the construction period. The statement shall provide for: Parking of vehicle of site operatives and visitors; Detailed work programme; Site HGV delivery/removal hours to be limited to between 09:30 - 16:30; routes for construction traffic; detailed plan showing the location of on-site stores and facilities including the site compound visitor parking and turning as well as un/loading point, turning and queuing for HGVs; hours of operation; method of prevention of mud being carried onto highway; pedestrian and cyclist protection; proposed temporary traffic restrictions; arrangements for turning vehicles; breakdown of number, type, size and weight of vehicles over demolition and construction period; Detail of debris management; and Public liaison position, name, contact details and details of public consultation/liaison.
- 9) Prior to first occupation of the approved dwellings, vehicular visibility splays and pedestrian visibility splays shall be permanently retained and kept free of all obstacles to visibility over 0.9m and 0.6m in height above carriageway level respectively.
- 10) No development shall take place on the site until the Traffic Regulation Order for the relocation of the existing road sign, as shown on drawing no 186-E01 rev B within the appellant's Transport Note (May 2019) - appendix B, on Stamford Road has been granted by the Local Planning Authority. The road sign shall be relocated prior to the first occupation of the dwellings.
- 11) Samples of the materials to be used in the construction of the dwellings, boundary walls/fences and hard surfaced areas shall be submitted to and be approved in writing by the Local Planning Authority before the relevant parts of the work are commenced. The development shall be completed in accordance with the approved samples.
- 12) Prior to the occupation of the approved dwellings, details of the proposed enclosed secure bicycle parking and bin storage for each dwelling, shall be submitted to and approved in writing by the local Planning Authority. The approved details shall be implemented prior to occupation and retained thereafter.
- 13) Prior to the occupation of the approved dwellings, a scheme showing the proposed boundary treatment of the plots, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall show the type and height of fences, hedges, walls or other means of enclosure, and these shall be provided in accordance with the approved scheme before the dwellings are first occupied.

End of Conditions