The Planning Inspectorate

Appeal Decision

Site visit made on 27 April 2020

by Zoe Raygen Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th June 2020

Appeal Ref: APP/E2530/W/20/3246709
Land north of Nos 11 & 14 Old Station Yard, Morton PE10 0NL

- 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 S Green (Nelson Green (Morton) Ltd) against the decision of South Kesteven District Council.
- The application Ref S18/1869, dated 8 October 2018, was refused by notice dated 5 November 2019.
- The development proposed is residential development.

Decision

1. The appeal is allowed and outline planning permission is granted for residential development at land north of Nos 11 & 14 Old Station Yard, Morton PE10 0NL in accordance with the terms of the application, Ref S18/1869, dated 8 October 2018, subject to the conditions set out in the schedule to this decision notice.

Preliminary matters

2. The application the subject of this appeal was submitted in outline form with all matters reserved for future consideration except for access. I shall determine the appeal on that basis and treat the submitted layout plan as indicative only.

3. The initial indicative plan submitted with the planning application, and considered by the Council, showed five houses. During the course of the planning application a revised plan was submitted showing three houses and the Council determined the application on that basis. I have therefore considered the appeal proposal as three dwellings.

4. In 2003 and 2004 two appeals against the refusal of the Council to grant planning permission for residential development on the appeal site were dismissed[1]. Both were dismissed on grounds relating to highway safety and the effect on residents' living conditions and are material considerations in this appeal.

5. Following the Council's determination of the planning application, it adopted the South Kesteven Local Plan to 2036 in January 2020 (the Local Plan). I have therefore assessed the proposal with reference to policies in the Local Plan.

6. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated

[1] APP/E2530/A/03/1114717 & APP/E2530/A/04/1148880 (the previous appeal decisions)

that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

7. The main issues are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on highway safety, and
- the effect of the proposal on the living conditions of surrounding residents with particular regard to noise and disturbance

Reasons

Character and appearance

8. Morton has a strong linear plan form emphasised by its countryside setting. Boundary walls, grass verges and landscaping all give a mainly rural character to the housing in the village. The appeal site though lies to the north and east of suburban housing located on the edge of Morton. It forms a narrow strip of land which is currently mainly laid to grass and has a partial hedge. To the north and west is open countryside. It therefore contributes to the rural setting of the village.

9. The proposal to erect houses would change the character of the open undeveloped landscape adjacent to the open countryside. However, the built form would project no further eastwards than the current development on Old Station Yard, or to the north than the existing housing on Moorgate Close. Consequently, it would not materially change the plan form of the village.

10. Small detached houses on Moorgate Close with limited space between them and narrow rear gardens form a relatively hard existing edge to the open countryside. Although no visual assessment has been submitted, views of the housing from the surrounding open countryside would be seen against this backdrop. Given the small number of houses proposed in the indicative layout, the generous gaps between the proposed houses would be similar to those on Old Station Yard and allow landscaping to be accommodated to soften the appearance of the built form. Consequently, the built edge to the open countryside would be improved.

11. The proposed housing would be backland development. However, this would be an extension of an existing situation formed by No 14 served by a private drive between No 11 and No 12. Each proposed house would also be capable of having its own street frontage. Therefore, I am satisfied that there would not be material harm in this respect.

12. As all matters are reserved for future consideration, except for access, the details of landscaping including boundary walls and fences would be for the Council to consider in the first instance. Although the layout plan is indicative only, I am satisfied, given the number of houses proposed, that there would be sufficient room to accommodate such details. Therefore, the houses could be located in a manner that would satisfactorily integrate the housing to the

existing estate together with the provision of landscaping details which would maintain the character of the area.

13. For the reasons above, I conclude that the proposal would not be harmful to the character and appearance of the area. Therefore, there would be no conflict with Policy DE1 of the Local Plan or the National Planning Policy Framework (the Framework). These require that development is of high quality design that makes a positive contribution to the local distinctiveness, vernacular and character of the area. Proposals should reinforce local identity and not have an adverse impact on the streetscene, settlement pattern or the landscape/townscape character of the surrounding area.

Highway safety

14. Both Inspectors on the previous appeals were concerned about the safety of the residents of No 14 in particular, with the lack of intervisibility between vehicles exiting the appeal site and vehicles or pedestrians leaving No 14, which those Inspectors considered to be unacceptably poor, with visibility constrained by the corner of the house itself. The Inspector on the 2003 also found that visibility from the front of no 11 was limited by the slight dogleg in the line of the drive and the actual location of the house in relation to the drive and turning head.

15. At my site visit, I saw that while visibility when leaving no 14 is poor, the car parked on the driveway of No 14 could be clearly seen from the appeal site and when approaching No 14 on exiting the appeal site. Similarly, when leaving the appeal site, the driveway of No 11 is visible, although if reversing from the driveway of No 11 visibility is again poor.

16. Nevertheless, the appellant has referred to Manual for Streets 2007 (MfS) which advocates that people not vehicles should be at the centre of the design process, with a holistic, multi-disciplinary approach to design process. In particular, it advocates more closely integrated arrangements of buildings, roads and spaces on lower order roads. MfS is a material consideration and was published after the earlier appeal decisions. Highway safety guidance has therefore evolved since the previous appeal decisions.

17. Old Station Yard is a cul-de-sac and the proposed access off the private drive is at the far northern end of that cul-de-sac. Therefore, the amount of traffic using it would be low and restricted to the movements from four dwellings, three more than currently use the access. I have been provided with no figures regarding the likely traffic generation from the proposal. I note that the Inspector on the 2003 appeal considered that two houses would be likely to generate about sixteen movements. Extrapolating this to three dwellings would mean 24 traffic movements or about an additional two per hour over a twelve hour period. Even allowing for a general increase in car ownership and home deliveries since 2003 this would be only a small increase in the level of traffic considered at that time.

18. MfS notes that reduced carriageway width, pedestrian activity and the close proximity of buildings to the road, amongst other things, will all influence the speed at which people choose to drive. Moreover, the drivers using this access would, in the main, be familiar with the road layout and would drive at speeds accordingly. In my view, while acknowledging the road layout, traffic accessing and egressing the appeal site would be travelling at reduced speed and would

be able to satisfactorily view traffic and pedestrians from No 11 and 14 accessing the drive and give way to them whether in the day or at night.

19. Bringing these matters together, the lightly trafficked road, together with the limited increase in additional traffic and the specific characteristics of the road in this location leads me to conclude that the proposal for three dwellings would not be severely or unacceptably harmful to highway safety.

20. I note that the appellant proposes the installation of a speed hump, the provision of which would need to be secured by a condition. However, given my findings and having regard to the Council's comments on this issue I do not consider such provision to be necessary in this instance.

21. For the reasons above, I conclude that the proposal would not be unacceptably or severely harmful to highway safety. There would therefore be no conflict with Policy ID2 of the Local Plan which requires that development does not severely impact on the safety and movement of traffic on the highway network and paragraph 109 of the National Planning Policy Framework (the Framework) which states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Living conditions

22. The proposed access to the appeal site would be from an existing private drive which is located close to Nos 11, 12 and 14 Old Station Yard.

23. The residents of both No 11 and No 12 are already subject to traffic accessing No 14 passing by their windows. However, the Council raises concerns regarding the potential for noise and disturbance from the increase in traffic relating to the proposed three dwellings.

24. No 11 and No 14 present a blank side elevation closest to the road. Both have bay windows on the front elevation which is angled away from the access to No 14. I am satisfied that the distance involved between the windows and the access means that the proposal would not cause material harm to the occupants.

25. No 12 has a clear glazed bay window on its front elevation facing the private drive. It is set back from the road behind a front garden and railings adjacent to the private drive. At the time of my site visit I noted that it was relatively quiet and tranquil. Although this was just a snapshot in time, I have no reason to believe it would be considerably different at any other time.

26. I note that MfS advocates a hierarchical approach to the layouts of roads, streets and buildings, with more closely integrated arrangements of buildings, roads and spaces on lower order roads. Consequently, the provision of access roads close to houses is not unusual. In this instance while the three houses would be a later addition, the relatively small increase in traffic from four houses as opposed to one, would not, in my view, cause a materially adverse or unacceptable level of harm from noise and disturbance, particularly given the distance of No 12 to the road. Given my findings I do not consider that a fence on the boundary of No 12, as suggested by the appellant, would be necessary.

27. Residents refer specifically to the noise from vehicles crossing the pavement to the drive. However, given the limited number of additional traffic movements I

am not persuaded that this would cause a materially adverse or unacceptable level of harm, over and above the existing situation.

28. Although they are not determinative and each case is decided on its own merits, my view is reinforced by the examples provided by the appellant of similar relationships between dwellings and roads within the district[2]. Whatever time they were built, the relationship of windows to roads is similar to that proposed here.

29. I realise that this, and my conclusions on highway safety, are different to that reached by the Inspectors on the previous appeal decisions. However, I have had regard to guidance in MfS which was published after those decisions. Furthermore, the policy background, both locally and nationally has changed since the two previous appeal decisions. I am satisfied therefore, that circumstances have changed since those decisions sufficient for me to reach a different conclusion.

30. For the reasons above, I conclude that the proposal would not be materially harmful to residents' living conditions with regard to noise and disturbance. There would therefore be no conflict with Policies DE1 and SP3 of the Local Plan or the Framework which amongst other things, requires that there is no adverse or unacceptable impact on the amenity of neighbouring users in terms of noise and disturbance.

Other matters

31. I have been advised that there is a restrictive covenant on the appeal site and that the access drive is private and owned by someone other than the appellant. I am satisfied that the appropriate ownership certificate has been served. However, these are matters outside of the planning process.

32. The current outlook of occupiers of residential properties on Moorgate Close and 14 Old Station Yard is towards open countryside. This would change. However, the layout and design of the dwellings would be for the Council to determine in the first instance. Nevertheless, I am satisfied that the indicative layout shows the provision of three houses could be achieved at a sufficient distance from the existing houses to ensure that there would not be material harm to residents' outlook.

33. Although cars and potentially pedestrians would pass close to Nos 11, 12 and 14. The separation distance that would be between existing windows and the driveway would ensure that there would be no material loss of privacy. Furthermore, this is an existing situation for Nos 11 and 12.

34. I have imposed a condition requiring the details of a satisfactory position for refuse bins to be collected from.

35. While I note the comments of the Council regarding the need for an appropriate assessment prior to the determination of the appeal, this site is not protected or designated in any way. Furthermore, although I note resident's concerns, there is no substantiated evidence before me that there are any appropriately protected species on the site. The appeal site forms unremarkable previously developed land which, at the time of my site visit had little variety, forming a maintained, rough grassed area. A landscaping scheme

[2] Annex 1 of appellants Statement of Case

would be required to be submitted as a reserved matter which the Council would be able to accept or reject. This could include the retention of the existing hedge and may provide significant planting over and above that already on the appeal site thereby enhancing ecology and delivering net biodiversity gains as required by Policy EN2 of the Local Plan.

36. The Council has referred me to recent design guidance in the documents A Housing Design Audit for England 2020 and Living with Beauty 2020. However, it has not referred me to any specific part of the documents in support of its concerns and therefore they have not been determinative regarding the design and safety of the proposal.

Conclusion

37. In light of the above, and having considered all other matters, the appeal is allowed.

Conditions

38. I have had regard to the conditions suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Policy Guidance. I have made such amendments as necessary to comply with those documents.

39. I will impose conditions relating to the time limit for the implementation of outline permissions and the submission of reserved matters. I will also impose a condition limiting the number of houses to three to give certainty and ensure satisfactory highway safety. I note both parties' comments regarding a condition restricting the number of dwellings. Nevertheless, given my stance on the description of the development, and that the layout plan is indicative only, I am of the view that the condition is necessary and justified.

40. Given the previous use of the appeal site conditions regarding contaminated land are necessary to ensure that it is safe for the future occupiers. Details of a Construction Environmental Management Plan and a condition restricting the hours of construction activity are necessary and justified to protect the living conditions of existing residents

41. A condition requiring the submission of sustainability measures is necessary to ensure compliance with Policy SB1 of the Local Plan. Details of materials are required to protect the character and appearance of the area. A condition regarding the submission of foul and surface water drainage are required to ensure satisfactory drainage of the site.

42. The details required by pre-commencement conditions should be submitted prior to development taking place on site so that satisfactory information is submitted in each respect to ensure the safe and proper development of the site.

43. The PPG[3] states that area-wide or blanket removal of freedoms to carry out small scale domestic and nondomestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. I have carefully considered the Council's

[3] Paragraph 017 Ref ID 21a-017-20190723

suggested condition in this respect but have seen no substantiated evidence to support the imposition of such a condition and therefore I will not impose one.

Zoe Raygen

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 begins and the development shall be carried out as approved.

2) An application for approval of reserved matters must be made no later than the expiration of 3 years from the date of this decision.

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) There shall be no more than three dwellings constructed on the appeal site.

5) No development shall take place until details of a scheme relating to the survey of the land for contamination have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
   i) A desk top study documenting all the previous and existing land uses of the site and adjacent land;
   ii) A site investigation report assessing the ground conditions of the site and incorporating chemical and gas analysis identified as appropriate by the desk top study;
   iii) A detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants and/or gases when the site is developed and proposals for future maintenance and monitoring, and.
   iv) The nomination of a competent person to oversee the implementation of the works.

6) Before any part of the development hereby permitted is occupied/brought into use, a verification report submitted by the nominated competent person referred to in condition 5, confirming that the detailed scheme for remedial works and measures approved under condition 5 have been completed shall have been submitted to and approved in writing by the Local Planning Authority. The verification report shall include:
   i) A complete record of remediation activities, and data collected as identified in the remediation scheme, to support compliance with agreed remediation objectives;
   ii) As built drawings of the implemented scheme;
   iii) Photographs of the remediation works in progress; and
   iv) Certificates demonstrating that imported and/or material left in situ is free from contamination.

7) Any application for the approval of landscaping as a Reserved Matter shall include full details of both hard and soft landscape works. These details shall include:
   i) planting plans;
   ii) written specifications (including cultivation and other operations associated with plant and grass establishment);
   iii) schedules of plants, noting species, plant sizes and proposed numbers/densities and details of the proposed planting implementation programme;
   iv) details of all hard-surfaced areas including pedestrian circulation areas paths and materials, and
   v) details of the siting, appearance and design of bird/bat brick/boxes/tubes to be incorporated into the development.

   The approved landscaping measures shall be completed in full, in accordance with the written agreed scheme, prior to the first occupation of the dwellings hereby permitted.

8) No development shall take place until detail of a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved CEMP. The CEMP shall include, though not necessarily be restricted to, the following details;
   i) Measures to minimise and control noise, vibration, dust and fumes during site preparation works;
   ii) Details of the site parking of all vehicles of site operatives and visitors;
   iii) The location, extent and duration of any temporary stockpiling areas;
   iv) Measures to prevent mud being deposited on the surrounding highway, and
   v) A programme of implementation for items (i) to (iv) above.

9) No construction activities shall take place outside the hours of 0800 to 1800 Mondays to Fridays or 0900 to 1400 on Saturdays and not at any time on Sundays or Bank/Public Holidays.

10) No development shall take place until details demonstrating how the proposed dwellings would comply with the requirements of Local Plan Policy SB1 have been submitted in writing and approved by the Local Planning Authority. The scheme shall include details of how carbon dioxide emissions would be minimised through the design and construction of the buildings; details of water efficiency and the provision of electric car charging points. The approved sustainable building measures shall be completed in full, in accordance with the written agreed scheme, prior to the first occupation of the dwellings hereby permitted.

11) No above ground construction works shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to the Local Planning Authority in writing for approval. Sample panels of the proposed surfacing

materials (Brickwork and tiles) at least a metre squared (showing where appropriate the proposed coursing, method of pointing and colour of mortar) shall be erected on site for consideration and subsequent approval. The panels shall be retained on site until the completion of the works. The development shall be implemented in accordance with the approved details.

12) No development shall take place until details of the disposal of foul water drainage and surface water drainage have been submitted to the Local Planning Authority in writing for approval. The development shall thereafter be implemented in accordance with the approved details.

13) No dwellings hereby permitted shall be occupied until their associated bin storage and bin access, together with the identification of an area to place bins on collection day, has been implemented in accordance with details to be submitted to and approved in writing by the local planning authority in respect of all of the dwellings. The store and access shall thereafter be kept available for refuse storage at all times.

**********END OF SCHEDULE**********