
Appeal Decision

Site visit made on 19 January 2021

by Paul Singleton BSc MA MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 27 January 2021

Appeal Ref: APP/E2001/W/20/3259415

Avalon, Butt Lane, Tickton, Beverley HU17 9SF

- 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 G Marshall against the decision of East Riding of Yorkshire Council.
 - The application Ref 19/03930/OUT, dated 12 November 2019, was refused by notice dated 12 August 2020.
 - The development proposed is two detached dwellings with access from Butt Lane.
-

Decision

1. The appeal is allowed and outline planning permission is granted for two detached dwellings with access from Butt Lane at Avalon, Butt Lane, Tickton, Beverley HU17 9SF in accordance with the terms of the application, Ref 19/03930/OUT, dated 12 November 2019, and the site location and red line plans submitted with it, subject to the conditions set out in the schedule attached to this decision.

Application for costs

2. An application for costs was made by Mr G Marshall against East Riding of Yorkshire Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect on the character and appearance of Butt Lane and its immediate surroundings.

Reasons

4. The application is in outline with all detailed matters reserved. Plans and elevation drawings were submitted to illustrate how two dwellings might be accommodated on the site. These are not for determination as part of my decision.
5. The appeal site comprises part of the extensive garden to the rear of the bungalow (Avalon). The proposal would subdivide the garden with the new dwellings within the southern half, served by a new access road from Butt Lane, running along the site's western boundary. The remainder of the northern half would be retained as the private garden to Avalon. The site location and block plans and the aerial view included in the appeal statement show that the existing garden is significantly wider and larger than those to

most of the neighbouring dwellings, both along Butt Lane and those served by Green Lane to the south and east.

6. The existing dwellings within the vicinity of the site occupy plots in a range of sizes. The plot sizes indicated on the illustrative plans would be within the upper middle segment of that range. The indicative plans show that each plot could accommodate a dwelling with a similar footprint to many of the neighbouring properties, together with a more than adequate area of private garden. The indicative plot sizes, building footprints and plot ratios would all be in keeping with the existing pattern of development within the area forming the site's immediate surroundings. The plans provide sufficient information to confirm that two detached dwellings could, in principle, be accommodated without resulting either in a cramped form of development or the overdevelopment of the site.
7. Butt Lane is an unmade, private road with well-established hedges to property boundaries and a number of mature trees along its length. These provide an attractive setting to the properties fronting onto the lane but I do not consider that it has the 'semi-rural' character suggested by the Council. In the glimpsed views available through the vegetation, the open land to the north of the lane is readily perceived to be a school playing fields rather than agricultural land, and other houses within the village can be seen beyond that land. With this exception, the lane is fronted by residential properties.
8. Where views are available through gaps in the built frontage to the south side of the lane, the viewer is aware of the outbuildings in rear gardens and the upper floors and roofs of houses within the Green Lane estate. This is particularly the case in the view through the wide gap to the side of Avalon, in which the disproportionate size of the rear garden can be appreciated.
9. Anyone walking along the lane would get a glimpsed view of the dwelling to the rear of No. 14 which, although not a recent development, comprises a back-land form of housing adjoining the appeal site. They would have a clear view of how far back from the lane the site of the four new houses to the west of the appeal site extends. Overall there is a visual appreciation when walking along the lane of a depth of development that would not be found in, for example, ribbon development on the edge of a settlement. These factors combine to give Butt Lane the character of being within the village rather than of a semi-rural area on its fringe. In that context, the proposed development would not be out of keeping with the general character and appearance of Butt Lane and its surroundings.
10. The Council's tree officer has raised concerns about the loss of Tree No. 3 on the tree survey plan and the possible longer term threat to trees on the rear boundary. As discussed in the officer report, it would be possible to design a layout which does not require the removal of T3, although a smaller footprint than that shown in the indicative plans might be needed to achieve this outcome. I am satisfied that the depth of rear garden likely to be available to the occupiers of the proposed dwellings should not result in pressure for the removal or severe cutting back of the trees to the rear boundary.
11. The Highway Authority suggests the need for a passing place on the proposed access road but that is a matter for the detailed design stage. The Authority

has not objected to the location or general form of the proposed access from Butt Lane. I saw nothing on my site inspection to suggest that a satisfactory access could not be formed in this location.

12. The appeal statement refers to the proposed development as comprising two bungalows. This is not specified in the description of development and the illustrative drawings show buildings of 1.5 storeys. The existing nearby dwellings include a mix of bungalows and 2-storey houses and I see no requirement for the outline permission to be restricted to allow only for single storey development.
13. In light of the considerations set out above, I find that the proposal would neither represent an inappropriate use nor overdevelopment of the site and would not cause harm to the character and appearance of Butt Lane and its surroundings. The outline proposal does not conflict with Policy ENV1 of the East Riding Local Plan Strategy Document (LPSD) which requires that development should contribute to safeguarding and respecting the diverse character of the area. Subject to its detailed design and layout, I see no reason why the proposal should not also achieve a high quality design that optimises the use of the site whilst respecting the characteristics of its wider context.
14. In the absence of a conflict with Policy ENV1, the outline proposal complies with Policy S3 of the LPSD which states that new residential development within a Primary Village will be supported, commensurate with the scale, role and character of that village. It is also supported by the presumption in favour of sustainable development set out in Policy S1. The proposal therefore accords with the development plan.

Conditions

15. I have had regard to the Council's schedule of suggested conditions and the appellant's comments on these. I have amended the suggested conditions to avoid duplication and to add clarity where I considered this to be appropriate.
16. As the permission is granted in outline a condition is required to confirm what matters are reserved at this stage. Conditions 5, 6 and 7 provide further clarification as to the details to be submitted in relation to the site layout and landscaping details. These are necessary so that the finished ground and floor levels provide for an appropriate relationship with the adjacent properties and minimise the risk of flooding; to secure the retention and protection of existing trees on and adjoining the site; and to ensure high quality boundary and landscape treatments.
17. A condition is needed to require the submission of a detailed surface and foul water drainage scheme, and the future maintenance of these works, to ensure the satisfactory drainage of the development and avoid an increased risk of flooding elsewhere. A condition has also been attached that requires the installation of a bat box and artificial nest as part of the development to reduce any adverse effect on the biodiversity of the site.
18. I have not included the Council's suggested condition 5 as this is incorporated within my condition 4. As the appeal is allowed in accordance with the terms

of the application and the site location and red line plans submitted with it, I do not consider that proposed condition 10 is required.

Other Matters

19. The Parish Council's contention that Tickton is not a Primary Village is not supported by its inclusion in the list of such villages under LPSD Policy S3. The village is, therefore, deemed to be an appropriate location, in terms of its size and accessibility to services, to accommodate additional residential development. Concerns that the development would give rise to an increased risk of flooding need to be taken seriously but can be addressed through a condition requiring the approval of a detailed drainage scheme including percolation testing on the site. Concerns about any proposal to raise the level of the site have also been reflected in a condition requiring the Council's approval of finished ground and floor levels.
20. Paragraph 70 of the National Planning Policy Framework indicates that local development plans should consider whether policies are needed to resist inappropriate development in residential gardens. The Council has not adopted any such policies. The acceptability of the proposal falls to be assessed on its merits in the context of the specific site. In this case, I see no grounds for the refusal of outline permission for the appeal proposal either in relation to its effect on character and appearance or, subject to the future approval of a detailed scheme, its potential effect on the living conditions of occupiers of the proposed dwellings or of neighbouring properties.

Conclusion

21. For the reasons set out above I conclude that the appeal should be allowed.

Paul Singleton

INSPECTOR

Schedule of Conditions for Planning Appeal Ref: APP/E2001/W/20/3259415

- 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. 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) No development shall take place until a scheme for the discharge of surface and foul water from the site has been submitted to and approved in writing by the local planning authority. The submitted scheme shall include: a sustainable drainage system; percolation tests on the site and the results of these; an associated management plan for the drainage system; and details for the disposal of foul drainage.

No part of the development shall be occupied until the surface water drainage and foul sewerage scheme has been constructed in accordance with the approved details. The approved scheme shall subsequently be managed and maintained in accordance with the approved plans/details.

- 5) The reserved matters to be submitted in accordance with condition 1 shall include details of the proposed finished site levels and floor levels of the buildings in relation to the existing and proposed site levels and the surrounding land. Those details shall include cross-section drawings through the site, illustrating the relationship of the levels with existing adjoining land levels and building profiles, and a site survey illustrating the relationship of existing and proposed levels on the site and adjoining land. The development shall be constructed in accordance with the approved levels.
- 6) The reserved matters to be submitted in accordance with condition 1 shall include full details of both hard and soft landscaping works, including additional planting and fencing proposed to the site boundaries, together with a programme for the implementation of those works.

The hard and soft landscaping shall be carried out in accordance with the approved details and programme and shall be completed prior to the first occupation of any part of the development.

Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.

- 7) The details to be submitted in accordance with condition 1, in respect of landscaping details shall include:
 - (a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter measured over the bark at a point 1.5 metres above ground level, exceeding 75mm, and identifying which trees are to be retained and the crown spread of each retained tree.

(b) details of the species, diameter (measured in accordance with paragraph (a) above) and the approximate height of each retained tree, together with a written assessment of the general state of health and stability of each retained tree within the site.

(c) details of the species, diameter (measured in accordance with paragraph (a) above) and the approximate height of each tree on land adjacent to the site and to which paragraphs (d) and (e) below apply.

(d) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site.

(e) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, (within the crown spread of any retained tree or of any tree on land adjacent to the site) (within a distance from any retained tree, or any tree on land adjacent to the site, equivalent to half the height of that tree).

(f) details of the specification and position of fencing (and of any other measures to be taken) for the protection of any retained tree from damage before or during the course of development.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above.

- 8) None of the dwellings hereby permitted shall be occupied unless and until one bat box (such as a Schwegler 2FE, 1FQ or 1WQ) and one artificial nest for small birds (such as a Schwegler 1B bird box, Bird Home 1MR or Schwegler sparrow terrace) (or equivalent products from an alternative supplier) have been installed on the site in accordance with details that have first been submitted to and approved in writing by the local planning authority.

The bat box and artificial nest shall, thereafter, be retained on site and maintained in accordance with the manufacturer's specifications for the duration of the development.

End of Schedule of Conditions