



Appeal Decision

Site Visit made on 25 May 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 June 2021

Appeal Ref: APP/K2420/W/21/3269712

Land East of Peckleton Lane, Desford LE9 9JU

- 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 Owl Homes against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref 20/00937/FUL, dated 4 September 2020, was refused by notice dated 4 February 2021.
 - The development proposed is erection of 5 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 5 dwellings at Land East of Peckleton Lane, Desford LE9 9JU in accordance with the terms of the application, Ref 20/00937/FUL, dated 4 September 2020, subject to the conditions in the Schedule at the end of this decision.

Applications for costs

2. An application for costs has been made by Owl Homes against Hinckley and Bosworth Borough Council. This is the subject of a separate Decision.

Preliminary Matters

3. The Council's decision was based on amended plans submitted by the appellant during the application process. These plans form the basis of my assessment. The appellant has asked for the original landscape drawing to be considered in the first instance as part of this appeal. However, this drawing was not considered by the Council in its determination and so my decision is based on the amended landscape plan numbered c-1758-05 revision A.
4. The appeal site forms part of a larger area that benefits from planning permission for the erection of 80 dwellings (the approved scheme). On my visit I saw construction works taking place on the site and noted that the access that forms part of the appeal proposal has been constructed. However, it is likely the works I saw relate to the approved scheme and so my determination is made on the basis that the appeal development has not commenced.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

6. The appeal site is close to the southern boundary of the approved scheme. A public right of way runs from Peckleton Lane and along the appeal site

- boundary with a hedgerow between it and fields to the south. Notwithstanding the construction works, the area has an edge of settlement, semi-rural feel due to roadside hedgerows and trees as well as the adjacent fields.
7. In effect, the proposal would replace one of the units on the approved scheme with 5 dwellings. A line of 3 houses (plots 80, 81 and 82) would be near to the new estate road while the other 2 units (plots 83 and 84) would be further away from the site's access point. The scheme would be visible from the estate road, the public right of way and parts of Peckleton Lane.
 8. The development would encroach onto open space that forms part of the approved scheme and is near to the southern boundary. As a result, the dwellings would be more noticeable than the approved scheme from the adjacent field and from parts of Peckleton Lane to the south. To a degree, the visual intrusion would be mitigated by the retention of the hedgerow on the site boundary as well as the screening effect of roadside hedgerow. Furthermore, the development would have only a limited additional visual effect on the wider area compared to the approved scheme. Even so, the loss of openness and sight of the proposal would diminish the semi-rural character of the locality.
 9. The houses on the approved scheme are to be set away from the public footpath so that it would run through a landscaped area of open space. In contrast, the proposed house on plot 84 would be near to the right of way. By reason of its proximity and 2 storey height, this dwelling would be conspicuous and dominant and lead to a sense of enclosure. Proposed planting would partially mitigate the visual impact but there would be insufficient space to provide substantial landscaping, particularly in the area directly in front of the house. As such, the development would be clearly seen from the right of way. Only a short part of the footpath would be affected with no harm caused to its more attractive stretches through adjacent fields. Nevertheless, the proposal would adversely affect the path's setting.
 10. Compared to the approved scheme, the houses on plots 80, 81 and 82 and their associated parking would reduce the amount of public open space at the entrance of the development site. However, sufficient space would remain to allow orchard tree planting that would provide screening and attractive natural features. Also, this space would prevent the development appearing cramped. As such, at its main entrance the proposal would reflect the scheme's edge of settlement location and semi-rural setting. Nonetheless, acceptability in these respects fails to address the detrimental effects identified above.
 11. For the above reasons, I conclude the proposal would harm the character and appearance of the area. In these regards, it would be contrary to policy DM10 of the Council's Site Allocations and Development Management Policies DPD 2016 (DPD). Amongst other things, this seeks a high standard of landscaping and development that complements the character of the area.

Other considerations and planning balance

12. There is no evidence to substantiate concerns that the proposal would lead to additional traffic which would cause highway safety or capacity problems. Also, there is no information that clearly demonstrates that the local drainage system and other services would be unable to accommodate the effects of the proposal. The Council has raised no ecological concerns and there is no justification for me to arrive at a different view on the matter. The public

footpath is unlikely to be the source of noise which would lead to unacceptable living conditions for future residents. In the absence of any sound reason to dismiss the appeal on any of the above grounds, the concerns raised do not affect my overall assessment.

13. The Council states that relevant development plan policies are out of date as they focus on delivery of lower levels of housing than that required using standard methodology. Also, it is unable to demonstrate a minimum 5 year supply of land for housing. A recent appeal decision¹ found that approximately 4.6 years supply can be shown. In such circumstances, the National Planning Policy Framework (the Framework) requires an assessment to be made of the benefits and adverse impacts of the proposal.
14. The location of the development would allow future residents convenient access to facilities in Desford and so it is likely they would support local businesses. Also, the proposal would lead to short term construction employment. Furthermore, it would add to the housing stock and so help address the shortfall against housing requirements. The development would make a more efficient use of land by replacing a single approved unit with 5 houses and so it would help ensure the optimal use of the site. While the proposal would result in only 4 additional units compared to the approved scheme, I attach moderate weight to the overall benefits.
15. The identified harm in terms of character and appearance would go against the Framework's policies that seek to ensure developments add to the overall quality of the area. However, the extent of visual intrusion would be limited, although it would be lasting. Also, the style of the proposal would be in keeping with the approved scheme and so in this regard it would represent appropriate design. Therefore, I attach only modest weight to the detrimental effects.
16. Overall, the adverse impacts of the development would not significantly and demonstrably outweigh its benefits when considered against the Framework. Consequently, the presumption in favour of sustainable development as set out at paragraph 11 of the Framework applies. In such circumstances, the Framework states planning permission should be granted.

Conditions

17. I have considered the list of conditions suggested by the Council, having regard to the tests set out in the Framework. Where appropriate, I have amended the wording for reasons of precision and to avoid unnecessary pre-commencement conditions.
18. I have imposed a condition listing the approved drawings for reasons of clarity and to ensure the development is carried out in accordance with the plans. This negates the need for a separate condition that relates to external materials.
19. To avoid pollution to the environment, I attach conditions that require a scheme to mitigate ground contamination if any is found before or during construction. I impose conditions that require the proposed parking areas and access drives to ensure the scheme includes appropriate facilities and in the interests of highway safety. To ensure the satisfactory appearance of the development and to mitigate its visual effects, I attach a condition that relates to the delivery of the landscape scheme and its maintenance. For the same

¹ Appeal reference number APP/K2420/W/20/3262295.

reasons, I impose a condition that requires information on finished floor levels of the houses, although this can be worded so as to allow works to commence before details are approved. The submitted plan showing such details is marked as indicative only and so the condition is necessary to secure firm levels information.

20. The Council suggest a condition that requires broadband connections to be provided. While paragraph 112 of the Framework supports the expansion of full fibre broadband connections, it does not specifically require these to be incorporated as part of housing schemes. As such, I am unconvinced the condition is needed and so it is not imposed.

Conclusion

21. The proposal would conflict with the DPD policy DM10 and it would not accord with the development plan when read as a whole. However, the factors in favour of the scheme are of sufficient weight to indicate planning permission should be granted other than in accordance with the development plan. For these reasons, I conclude that the appeal should be allowed.

Jonathan Edwards

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: 1026-AD-201A, 1026-AD-202C, 1026-AD-204C, 1026-AD-205B, 1026-AD-302C, c-1758-05 revision A, PD-001-1A, PD-001-2, PD-002-1 and PD-002-2.
- 3) The development hereby approved shall not commence until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the local planning authority. The scheme shall include details of how any contamination is to be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the first dwelling hereby approved being occupied.
- 4) If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of any potential land contamination is submitted to and approved in writing by the local planning authority. The addendum shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the first dwelling hereby approved being occupied.
- 5) No construction works on the development hereby permitted other than the excavation of foundation and service trenches shall commence until details of the finished floor levels for each of the approved dwellings has

been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details.

- 6) Prior to the occupation of 20% of the dwellings hereby approved, the landscaping scheme as shown on approved drawing numbered c-1758-05 revision A shall be implemented in full. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted.
- 7) Each dwelling hereby permitted shall not be occupied until such time as the parking and turning facilities for that dwelling have been implemented in accordance with the details as shown on the approved plans. Thereafter the parking and turning facilities shall be maintained in perpetuity.
- 8) Any of the dwellings hereby permitted that are served by private access drives (and any turning spaces) shall not be occupied until such time as the private access drive that serves those dwellings has been provided in accordance with Figure DG20 of the Leicestershire Highway Design Guide. The private access drives shall be surfaced with tarmacadam or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary. Once provided, the private access drives and turning spaces shall be maintained in perpetuity.