
Appeal Decision

Site visit made on 4 May 2021

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 June 2021

Appeal Ref: APP/E2001/W/20/3264872

Land Adjacent to 29 Jewison Lane, Sewerby, Bridlington, East Riding of Yorkshire YO15 1DX

- 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 Mrs Sandra Vyas against the decision of East Riding of Yorkshire Council.
 - The application Ref 20/01023/PLF, dated 19 March 2020, was refused by notice dated 22 July 2020
 - The development proposed is construction of a detached dwelling and garage.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a detached dwelling and garage on land adjacent to 29 Jewison Lane, Sewerby, Bridlington, East Riding of Yorkshire YO15 1DX in accordance with the terms of application ref 20/01023/PLF, dated 19 March 2020 and subject to the conditions set out in the attached schedule.

Procedural Matters

2. I have taken the description of the development from the appeal form as the development proposed is more succinctly worded and determined the appeal accordingly. I have however taken the information in the description on the application form into account in reaching my decision.

Main Issues

3. The main issues are:
 - (i) the effect of the development on the character and appearance of the area; and
 - (ii) whether having regard to national and local policy the appeal site is a suitable location for the development.

Reasons

Character and appearance

4. The appeal site comprises an area of land which was formerly part of the garden of 29 Jewison Lane. The land has a frontage to Jewison Lane with an existing dwelling to the south east and a new care home under construction to the north west which has been constructed in place of No 29. Opposite the site,

set back from the road behind substantial landscaping, is an established industrial processing and manufacturing business.

5. For a short stretch of the road frontage to the west side of the level crossing along Jewison Lane and from the level crossing as far as the dwelling beyond the appeal site there is a mix of residential, tourism and commercial development. These uses occupy a variety of building sizes and styles with dwellings and buildings generally set back from the road frontage. Mature Landscaping borders Jewison Lane which provides an attractive setting for the buildings.
6. The appeal site has a frontage to Jewison Lane which is delineated by a new brick wall. Although the whole of the site is covered by a tree preservation order the trees are mostly limited to the site edges. The rear part of the land is at a considerably lower level and large trees define the site's rear boundary. The adjacent nursing home building is a substantial structure which is set back from the road frontage. Due to its height, deep plan and massing the nursing home building has a significant influence on the appearance of the lane and on the immediate environment of the appeal site. The detached bungalow to the south east is a relatively modest bungalow in a large plot with a number of outbuildings within the garden, including a detached garage that is sited close to the appeal site boundary.
7. The proposed dwelling is designed to accommodate the significant land level changes across the site and would be single storey to the road frontage and two storeys at the rear. It is located centrally within its plot forward of the adjacent nursing home building, but further back than the dwelling to the south east.
8. Policy A2 of the East Riding Local Plan Strategy Document (ERLP) seeks to prevent coalescence by protecting the character and individual identity of settlements by maintaining key open areas between Bridlington and Sewerby. Policy ENV2 promotes a high-quality landscape and Policy A2 seeks to maintain the physical separation of settlements. Policy ENV1 requires all development to contribute to safeguarding and respecting the diverse character and appearance of the area. These policies are largely consistent with the Framework where it seeks to ensure development is sympathetic to local character and history, including the surrounding built environment and landscape setting and where it recognises the intrinsic character and beauty of the countryside.
9. The Council accepts that the development would not result in coalescence but considers that the area has a clear sense of space and a rural character. I agree with the Council that fields, hedge rows and trees increase in prominence travelling north-west along Jewison Lane. Even so, the large mass of the nursing home building is imposing and has contributed towards a change in the appeal site's immediate context. The appeal site is contained by development either side and large trees to the rear boundary and there is continuous development along the road frontage from the dwelling to the south east of the appeal site as far as the level crossing.
10. Whilst I understand the Council's concern that a development on the appeal site could result in a consolidation of the existing adjacent development, the appeal site is part of a group of buildings and would be contained to the former

garden land of 29 Jewison Lane. It would not cause harm by encroaching into the surrounding, undeveloped countryside.

11. The Council does not raise any specific concerns about the design of the proposed dwelling, and I see no reason to disagree.
12. Overall, the proposed dwelling would not have a harmful effect on the character and appearance of the area and would accord with Policies ENV1, ENV2 and A2 of the ERLP. It would also accord with the Framework.

Location

13. Policy S3 of the ERLP seeks to focus development within a defined settlement network which consists of land within the development limits of those settlements where there are services, facilities, homes and jobs and where development can be served by the most sustainable modes of transport. The appeal site is outside of any defined development limits and in open countryside. Policy S4 supports development in the countryside where it is an appropriate scale to its location, taking into account the need to support sustainable patterns of development; encourages the reuse of previously developed land; does not include the loss of agricultural land; and, in accordance with Policy S4C, the proposal would respect the intrinsic character of their surroundings and is for one of a number of forms of development.
14. The policy approach is largely consistent with the Framework where it states that, in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Whilst the Council refers to Paragraph 79 of the Framework the parties agree that the appeal site is not isolated, and therefore it is not necessary to assess the proposal against the criteria of Paragraph 79.
15. I have already concluded that the dwelling would not result in any harmful encroachment into open countryside and I am satisfied that the development would be an appropriate scale. It would also respect the intrinsic character of its surroundings.
16. With regard to access to services and facilities, a bus service operates along Jewison Lane with a bus stop reasonably close to the appeal site. The Council says that the bus service offers a public transport route with links to Flamborough, Sewerby and Bridlington. Although I have not been provided with the frequency of the bus service, there would be opportunity to access services and facilities in these towns and villages by other means than the car. Also, a public house, tourist businesses and a processing and manufacturing plant are all close to the site, as well as the nursing home. Therefore, there is access to job opportunities within walking distance. I would not discount being able to cycle to the primary school, shops and other facilities on Marton Gate but there are no designated cycle routes alongside the road near the appeal site and neither party suggest that facilities are accessible by bike. Even so, overall, I consider that there are reasonable opportunities to access services and facilities by other means than the car.
17. The parties agree that the appeal site is part of the former garden area of No 29 Jewison Lane. The land to either side of the appeal site is built up so that despite its designation as a countryside location I agree with the Council that

the site is not previously developed land¹. The proposal is not in conflict with Policy S4 A3 as no loss of agricultural land is proposed.

18. I agree with the Council that a care home is not a rural business and therefore the appeal proposal gains no support from Policy S4C where it supports rural-based occupational dwellings in certain circumstances.
19. The appellant considers that the dwelling falls within Policy S4C where there is support for dwellings of exceptional quality or of truly outstanding innovative design. The appeal drawings indicate a dwelling laid out to work with the slope of the land and to provide accessible accommodation, however, I have not been directed to any specific design features that would indicate that the dwelling would be exceptional or innovative in design terms. None of the other forms of development in Policy S4 C are relevant to the appeal scheme.
20. Nevertheless, overall, even though the appeal site would be located outside of any development limit and does not fall within any category set out in Policy S4C, the reasonable accessibility of the site to services and facilities, lack of encroachment in to the countryside, its appropriate scale and respect for the intrinsic character of its surroundings means that the proposal would not significantly undermine the aims of the spatial strategy of the local plan set out across Policies S1, S3, A2 and S4 of the ERLP in terms of supporting sustainable patterns of development, locating development where it would reduce the need to travel and the protection of the countryside.

Other Matters

21. Evidence has been submitted in respect of the personal circumstances of the appellant's family. Section 149 of the Equality Act 2010 sets out that particular medical conditions are a protected characteristic for the purposes of the Act. In reaching my decision, it is necessary for me to have regard to the Public Sector Equality Duty contained in the Act. This includes having due regard to the need to advance equality of opportunity between persons sharing a relevant protected characteristic and persons who do not share it, including by taking steps to meet the needs of such persons that are different from the needs of persons who do not share the relevant protected characteristic.
22. I have been provided with a statement from the appellant which sets out the personal circumstances of the appellant and her husband. The new home would be purpose built for their needs and would allow the appellant as the owner of the care home to work alongside the care home manager. Without the dwelling the appellant would be reliant on others to attend work at the care home as she is a wheelchair user. I also acknowledge the final comments which indicate that the appellant's husband's condition has deteriorated, and he is now also a wheelchair user.
23. The appeal plans show that the appellant owns No 31 Jewison Lane and the nursing home. The existing bungalow is single storey and the care home is a building with a seemingly large amount of floor space. I have not been provided with evidence that these existing properties cannot meet the needs of the appellant.
24. While I sympathise with the appellant's situation, there is insufficient specific evidence for me to draw a clear conclusion that the provision of a detached

¹ As defined in annex 2 of the Framework

dwelling is the only reasonable option available to meet the requirements of the appellant's accommodation and business needs. As such, taking all relevant matters into account, I can only give limited weight to the personal circumstances identified by the appellant.

25. The Council's concerns about similar proposals coming forward for development outside development limits are understandable. However, the Council would retain the right to assess such applications on their individual merits having regard to the specific circumstances of the site and the details of any proposed scheme, as I have done in this case and has been done in relation to the other planning decisions that have been brought to my attention.

Planning Balance

26. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that the determination of applications should be made in accordance with the development plan unless material considerations indicate otherwise.
27. The Council confirms that it can demonstrate a 5-year housing land supply and this matter is not disputed by the appellant. I am satisfied, therefore, based on the evidence before me, that the spatial strategy for the area is providing the level of housing supply to meet the identified need within the Local Authority area and the ERLP is up to date.
28. Even so, there would be a small benefit associated with the contribution of the proposal to the supply of housing. There would also be some small economic and social benefits arising from a single dwelling, including the limited positive weight I attached to the appellant's personal circumstances.
29. Further, in the particular site circumstances, whilst the proposal would conflict with Policy S4, it would not significantly undermine the overall aims of the spatial strategy set across Policies S1, S3, A2 and S4 for the reasons I have set out. Further, I have concluded that the proposal would not detract from the character and appearance of the area and in this respect, it would accord with Policies ENV1, ENV2 and A2 of the ERLP. In addition, the Council do not find any conflict with the development plan with regard to the effect of the proposal on highway safety, residential amenity, trees and landscaping, drainage/Flood risk or archaeology. Taking all these matters together and considering policy S1 of the ERLP which states that the development plan should be read as a whole, I conclude that the proposal would comply with the development plan when read as a whole.
30. Overall, in my judgement, the proposal would comply with the development plan when read as a whole and there are no material considerations that indicate that the decision should be taken other than in accordance with it.

Conditions

31. The Council has provided a list of suggested conditions and the appellant has had the opportunity to comment on these, including those that are pre-commencement conditions.
32. In addition to the standard implementation condition it is necessary to refer to the approved drawings in the interests of certainty. Measures to protect existing trees within the site are necessary prior to commencement in the interests of maintaining the visual quality of the site. An archaeology condition

is required prior to commencement to provide a reasonable opportunity to record the history of the site in an area of archaeological interest.

33. I have imposed a condition relating to materials to ensure the character and appearance of the area is safeguarded. Vehicular access and parking spaces are required before the occupation of the dwelling, to ensure safe and suitable access for all users. A drainage condition is necessary to ensure implementation of an appropriate means of drainage to help meet the challenge of climate change.
34. Given my conclusions on the main issues a condition restricting occupancy of the development is not necessary.

Conclusion

35. For the reasons given above, the appeal is allowed.

Diane Cragg

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: V/13-PLN-200 Location Plan 05.05.2020; V/13-PKN-203C Proposed Roof Plan 06.07.2020; V/13-PLN-204C Elevations NE NW 06.07.2020; V/13-PLN-205C Elevations SE SW 06.07.2020; V/13-PLN-206C New Section 06.07.2020; V/13-PLN-207C Proposed Site Plan 06.07.2020; V/13-PLN-208C Proposed Garage 06.07.2020; V/13-PLN-209C Street Elevations NW 06.07.2020; V/13-PLN-202C Proposed Floor Plans 21.07.2020.
3. No development shall take place on site (including site clearance works and any other preparatory works) until the trees shown for retention on the approved plan V/13-PLN-207C have been protected by protective fencing. The protective fencing shall be maintained during the whole period of site excavation and construction. The area within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:
 - (i) There shall be no changes in ground levels;
 - (ii) no materials, vehicles or plant shall be stored;
 - (iii) no buildings or temporary buildings shall be erected or stationed;
 - (iv) no materials or waste shall be burnt or liquid disposed of; and
 - (v) no excavation of services, without the prior written consent of the Local Planning Authority.

4. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted to, and approved in writing, by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
5. Notwithstanding any details shown on the submitted plans and forms, no development shall take place above damp proof course until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
6. The dwelling shall not be occupied until the vehicular access has been provided and space has been laid out for the parking and turning of vehicles in accordance with details hereby approved. Provision shall thereafter be retained for the parking and turning of vehicles in accordance with the details approved.
7. The development shall not be first occupied until the approved foul and surface water drainage details have been fully implemented in accordance with the approved plans. The surface water drainage system shall be managed and maintained in accordance with the approved details.