



Appeal Decision

Site Visit made on 2 August 2021

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2021

Appeal Ref: APP/Y2003/W/21/3267926

Land east of Hillside Road, Broughton DN20 0HQ

- 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 Partner Construction against the decision of North Lincolnshire Council.
 - The application Ref PA/2020/252, dated 13 February 2020, was refused by notice dated 19 October 2020.
 - The development proposed is development of 24 residential dwellings (Use Class C3), comprising 12 rent to homebuy, 6 shared ownership and 6 open market dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for 24 residential dwellings (Use Class C3), comprising 12 rent to homebuy, 6 shared ownership and 6 open market dwellings at land east of Hillside Road, Broughton DN20 0HQ in accordance with the terms of the application, Ref PA/2020/252, dated 13 February 2020, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Partner Construction against North Lincolnshire Council. This application is the subject of a separate Decision.

Preliminary Matter

3. Since the submission of the appellant's appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this I have sought the views of the main parties in writing and comments received have been taken into consideration.

Main Issues

4. The main issues are the effect of the proposal on (i) the character and appearance of the surrounding area and (ii) highway safety with regards to access.

Reasons

Character and appearance

5. The appeal site is predominantly an open parcel of land which sits on the edge of a settlement. The surrounding area is characterised, in the immediate locality of the site, by mainly residential properties with open fields and woodland located to the north and east of the built settlement.

6. The built development in the area is mixed with two and single storey properties with clear established boundaries separating the settlement from the appeal site and the rural fields to the east. This established boundary, made up mostly of the garden areas of the properties, extends to the north and south of the site and represents a clear distinction of where the built form of the settlement lies.
7. Due to the siting and location of the proposed development, it would encroach beyond the established settlement boundary and into the rural fields. Whilst the development would be flanked by the woodland to the north, the proposal would be a discordant development that would be out of keeping with the existing pattern of development in the locality.
8. The proposed properties would be constructed from materials that reflect local materials. I also note that the proposed two storey properties have been positioned internally within the site. Nevertheless, the development as a whole would not reflect the built form in this location and would be detrimental to the rural environment that abuts the settlement. The lack of substantial landscape treatment around the boundary of the site, particular to the south and east, would also add to the stark appearance that the development would bring, highlighting its inappropriateness in this location. The appellant has indicated that further landscaping can be sought through condition however, from the information before me I am not satisfied that there would be space to provide sufficient landscaping to offer a soft buffer between the development and the rural fields.
9. The proposal would have a harmful effect on the character and appearance of the surrounding area. The proposal would be contrary to Policy CS2 of the North Lincolnshire Local Development Framework Core Strategy 2011 (CS) and Policies RD2 and LC7 of the North Lincolnshire Local Plan 2003 (LP) which seek, amongst other things, development to be designed to a high standard, contribute to the creation of high quality streetscapes, reflect or enhance the character, appearance and setting of the immediate area and protect the scenic quality and distinctive local character of the landscape.
10. I have had regard to the appellants statement of case including matters relating to affordable housing need. These matters are discussed below however, they do not alter my position with respect of the effects of the proposal on the character and appearance of the area.

Highway safety

11. The proposed development would be accessed from Hillside Road. This road currently provides access for a significant number of properties on Hillside Road itself as well as properties on Eastwood Drive. The road is wide and allows ample space for vehicles to pass each other. Footpaths are located on either side of the road including grass verges in places which provides a safe environment for pedestrians.
12. The Council's Highway Department raised no objections to the scheme. Due to the scale of the proposed development, traffic movements along Hillside Road would increase. The increase in traffic movements would not be significant though, given the number of properties proposed, and the surrounding road network would be able to accommodate the additional traffic without compromising highway safety.

13. I have given careful consideration to concerns from Committee Members and local residents in relation to highway matters. However, from the evidence before me I am not convinced that the proposal would have a harmful effect on highway safety in the area.
14. Accordingly, the proposed development would not have a harmful effect on highway safety with regards to access. The proposal would be in accordance with Policies T2 and H5 of the LP which seeks development to provide a satisfactory access and not be to the detriment of the free and safe flow of vehicles using the public highway.

Other Matters

15. The appeal site is in an accessible location being in walking distance to public transport options as well as shops and facilities. The proposed development would incorporate 18 affordable dwellings that would contribute towards housing need in the area. The proposal would also provide social and economic benefits in terms of investment in construction and related employment as well as contributing to the local economy.
16. I have had regard to the Council's statement of case, minutes of the planning committee and concerns raised by local residents, the Town Council and the local Member of Parliament. Matters raised include properties for sale in the area, use of the site, drainage, ecology and wildlife, pressure on local services, planning history, health and wellbeing, living condition of neighbouring occupiers, loss of view, loss of recreational land, construction traffic, employment opportunities, settlement boundary and development layout. I have given careful consideration to these matters, some of which Council Officers have not raised objections on and some would be capable of being addressed by planning conditions in any event, but they do not lead me to a different overall conclusion on the main issues.

Planning Balance

17. The CS dates from 2011 with the LP dated 2003 however the weight attached to these development plans does not hinge on their age. Paragraph 219 of the Framework makes it clear that due weight should be given to existing development plan policies according to their degree of consistency with the Framework. The Framework states that the creation of high quality, beautiful and sustainable buildings and places are fundamental to what the planning and development process should achieve. I have found that the proposal conflicts with Policy CS2 of the CS and Policies RD2 and LC7 of the LP in respect of effects on character and appearance. The appeal site does not lie within any landscape policy designation and I accept that the scale, style and materials of the individual proposed properties would not be out of keeping with the existing properties in the area. So, on this basis, the harm and the conflict with the proposal and the development plan policies, I attribute moderate weight in this appeal.
18. The Council state that they cannot demonstrate a five year supply of deliverable housing sites. The Council further indicate that there is a clear shortfall within the area of housing of all types so whilst there is no description of the actual shortfall, given the Council's comments in the committee report, I consider the shortfall to be significant. In these circumstances footnote 8 of the Framework establishes that the policies which are most important for

determining the application are out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The site is not within a protected area.

19. With regards to the Framework's three overarching objectives, there would be economic, social and environmental benefits to the proposed development. The proposal would bring contributions to the local economy and employment opportunities. The site would also be in an accessible location close to public transport, shops and services. These benefits, given the size of the proposed development, would amount to minimal weight. The proposed development would also provide housing including contributing to an identified need for affordable homes. Given the Council's lack of a five year housing land supply, I attribute substantial weight to these particular benefits.
20. On this basis, I find that the moderate adverse impacts of the development would not significantly and demonstrably outweigh the benefits. The development therefore benefits from the presumption in favour of sustainable development set out in the Framework.
21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The presumption in favour of sustainable development is a significant material consideration which justifies a decision other than in accordance with the development plan in this case.

Conditions and Planning Obligations

22. The conditions imposed are those that were attached within the Council's committee report. In the interests of precision and clarity I have undertaken some minor editing and rationalisation where necessary.
23. Conditions relating to timeliness and the identification of plans are necessary in the interests of proper planning and to provide certainty. In the interest of highway safety it is necessary to impose conditions relating to access, roads, footways, junctions, driveways and traffic management. To prevent undue risk to the local environment it is necessary to attach conditions relating to drainage, contamination and biodiversity management. To safeguard the living conditions of nearby residents conditions are necessary in relation to construction times and construction environmental management. In the interests of the character and appearance of the area, a condition is necessary relating to landscape implementation. To encourage sustainable modes of transport and reduce carbon emissions a condition is imposed relating to electrical vehicle charging points.
24. A completed Section 106 Agreement has been submitted which details obligations for affordable housing, contributions towards open space and education provision. It is necessary that I consider these obligations against the three tests set out in the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CIL).
25. The Council indicate there is an identified need for affordable housing. All new housing developments can bring about demand for open spaces and increased capacity at schools. Given the scale of the development and comments from specialist officers from the Council, I am satisfied that the proposed

contributions would be necessary to make the development acceptable in planning terms. Furthermore, on the evidence before me, they would be directly related, and fairly and reasonably related in scale and kind, to the development proposed. The obligations therefore meet the relevant tests and I am satisfied that the proposal adequately contributes to affordable housing and infrastructure in the area.

Conclusion

26. For the reasons given above I conclude that the appeal should be allowed subject to the appropriate conditions and the relevant terms of the submitted Section 106 Agreement.

Chris Baxter

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; Proposed Site Layout; Proposed Hard Landscaping & Boundary Treatment; Proposed External Material Plan; Proposed Block Plan; Landscape Masterplan; Landscape Details Shrub Beds S1-S22; Landscape Details Shrub Beds S23-S39; House Type F112; House Type F113; House Type F114; House Type F136.
- 3) The development hereby permitted shall not commence until details of the drainage, construction, services and lighting of the proposed access road, including the junction with the adjacent highway, have been submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.
- 4) The development hereby permitted shall not commence until a construction phase traffic management plan has been submitted and approved in writing by the local planning authority. The details submitted shall include:
 - an approved access point to the development;
 - all associated traffic movements, including delivery vehicles and staff/construction movements;
 - any abnormal load movements;
 - contractor parking and welfare facilities
 - storage of materials; and
 - and traffic management requirements, including the means of controlling the deposition of mud onto the adjacent highway, along with appropriate methods of cleaning the highway as may be required.

Once approved the plan shall be implemented, reviewed and updated as necessary throughout the construction period.

- 5) The development hereby permitted shall not commence until a protected species method statement has been submitted to and approved in writing by the local planning authority. The method statement shall include details of measures to avoid harm to reptiles, hedgehogs and nesting birds during vegetation clearance and construction works. Any measures shall be implemented within identified timescales.
- 6) No development hereby permitted shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:

- a survey of the extent, scale and nature of contamination;
- the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.

- 7) No development hereby permitted shall commence where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 8) The development hereby permitted shall not commence until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:

Noise and vibration – the CEMP shall set out the particulars of:

- (a) the works, and the method by which they are to be carried out;
- (b) the noise and vibration attenuation measures to be taken to minimise noise and vibration resulting from the works, including any noise limits; and
- (c) a scheme for monitoring noise and vibration during the works to ensure compliance with the noise limits and the effectiveness of the attenuation measures.

Light – the CEMP shall set out the particulars of:

- (a) specified locations for contractors' compounds and materials storage areas;
- (b) areas where lighting will be required for health and safety purposes;
- (c) location of potential temporary floodlights;
- (d) identification of sensitive receptors likely to be impacted upon by light nuisance;
- (e) proposed methods of mitigation against potential light nuisance, including potential glare and light spill, on sensitive receptors.

Dust – the CEMP shall set out the particulars of:

- (a) site dust monitoring, recording and complaint investigation procedures;
 - (b) identification of receptors and the related risk of dust impact at all phases of the development, including when buildings and properties start to be occupied;
 - (c) provision of water to the site;
 - (d) dust mitigation techniques at all stages of development;
 - (e) prevention of dust trackout;
 - (f) communication with residents and other receptors;
 - (g) a commitment to cease the relevant operation if dust emissions are identified either by regular site monitoring or by the local authority;
 - (h) a 'no burning of waste' policy.
- 9) The development hereby permitted shall not commence until details of the foul water drainage strategy have been submitted to and agreed in writing with the local planning authority. The scheme of foul drainage shall thereafter be implemented and retained.
- 10) The development hereby permitted shall not commence until details showing an effective method of preventing surface water run-off from hard paved areas within the site onto the highway have been submitted to and approved in writing by the local planning authority. These facilities shall be implemented prior to the access and parking facilities being brought into use and thereafter so retained.
- 11) No loose material shall be placed on any driveway or parking area within 10 metres of the adopted highway unless measures are taken in accordance with details to be submitted to and approved in writing by the local planning authority to prevent the material from spilling onto the highway. The development shall be constructed in accordance with any agreed details and thereafter retained.
- 12) No dwelling on the site shall be occupied until the vehicular access to it and the vehicle parking spaces serving it have been completed and, once provided, the vehicle parking spaces shall be retained.
- 13) No dwelling served by the private driveway shall be occupied until it has been constructed in accordance with details, including the following, to be submitted to and agreed in writing by the local planning authority:
- the proposed method of forming access from the highway, including the required visibility splays;
 - the method of constructing/paving the drive
 - the provision of adequate drainage features;
 - the provision of suitable lighting arrangements;
 - the provision of a suitable bin collection facility;
 - the provision of street name plates that include the words 'Private Drive'.
- The development shall be constructed in accordance with the agreed details and once constructed it shall thereafter be retained.

- 14) The development hereby permitted shall not commence until details of the drainage, construction, services and lighting of the proposed access road, including the junction with the adjacent highway, have been submitted to and approved in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.
- 15) No dwelling on the site shall be occupied until the access road has been completed to at least base course level and lit from the junction with the adjacent highway up to the access to the dwelling.
- 16) No other works shall be commenced on the site until the access road junction with the adjacent highway, including the required visibility splays, has been set out and established.
- 17) No dwelling on the site shall be occupied until the footway has been constructed up to base course level from the junction with the adjacent highway to the access to the dwelling.
- 18) The penultimate dwelling on the site shall not be occupied until the access road has been completed in accordance with the agreed details.
- 19) Within six months of the commencement of development, a biodiversity management plan shall be submitted to and agreed in writing by the local planning authority. The plan shall include:
 - (a) prescriptions for the installation of bat bricks or bat boxes on at least five new dwellings, concentrating on those nearest to East Wood Local Wildlife Site;
 - (b) prescriptions for the installation of nest boxes on at least five new dwellings and on retained trees and hedgerows;
 - (c) provision for hedgehogs to pass through any fencing installed between gardens and between areas of grassland;
 - (d) prescriptions for landscaping using trees, shrubs and hedge plants of high biodiversity value;
 - (e) prescriptions for the creation and management of a landscape buffer around East Wood Local Wildlife Site, comprising tree and shrub species recorded in East Wood and Far Wood;
 - (f) prescriptions for the control of invasive species, including Indian Balsam and variegated yellow archangel;
 - (g) restrictions on external lighting to avoid impacts on bat roosts, bat foraging areas and sensitive habitats;
 - (h) measures to avoid fly-tipping and other factors that would harm habitats and species;
 - (i) providing a wildlife gardening leaflet for each new resident;
 - (j) proposed timings for the above works in relation to the completion of the buildings.
- 20) The biodiversity management plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority. Prior to the construction of the 20th dwelling, the applicant or their successor in title shall submit a report to the local

planning authority, providing evidence of compliance with the biodiversity management plan.

- 21) The hours of operation for construction and demolition works shall be restricted to between 08:00 – 18:00 Monday to Friday and 08:00 – 13:00 on a Saturday. No work is permitted to take place on Sundays or Public Holidays. HGV movements shall not be permitted outside these hours during the construction and demolition phase. Installation of equipment on site shall not be permitted outside these hours.
- 22) The development hereby permitted shall not be occupied until a scheme for the provision of electrical vehicle charging points has been submitted to and approved in writing by the local planning authority. The approved scheme shall be installed in full and retained in perpetuity thereafter.
- 23) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.