
Appeal Decision

Site Visit made on 1 September 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2021

Appeal Ref: APP/F2605/W/21/3268777

Land to the north of School View, Caston NR17 1DD

- 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 Malcolm Daines-Smith (William Marcel Ltd) against the decision of Breckland Council.
 - The application Ref 3PL/2020/0262/O, dated 27 February 2020, was refused by notice dated 30 October 2020.
 - The development proposed is Erection of 4no. two storey dwellings with associated car parking, landscaping and access.
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Decision

1. The appeal is allowed and planning permission is granted for Erection of 3no. two storey dwellings with associated car parking, landscaping and access at Land to the north of School View, Caston NR17 1DD in accordance with the terms of the application, Ref 3PL/2020/0262/O, dated 27 February 2020, subject to the attached schedule of conditions.

Procedural Matters

2. Despite the description of development set out above, I consider the description found on the Decision Notice and the Appeal Form better reflects the scheme that is before me and that which the Council considered, particularly as the number of dwellings was reduced during the course of the determination of the planning application. The development proposed is therefore for 'Erection of 3no. two storey dwellings with associated car parking, landscaping and access'. I have therefore dealt with the appeal on this basis.
3. The planning application was submitted in outline and I have had regard to Drawing References: 01 18-200 Revision C (Proposed Site Plan), O 214_201 Revision A (Dwelling 1 and 2 Proposed Indicative Elevations), O 214_202 Revision A (Dwelling 3 Proposed Indicative Elevations) and Site Plan (dated 7 May 2019). However, I have treated the drawings as indicative, apart from the details of the access, layout and scale, when considering the likely impact of the proposal on the matters set out in the main issue below.
4. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). The main parties have had the opportunity to comment upon the relevance of any revised content of the Framework and I have had regard to any responses received in my decision.

Main Issue

5. The main issue is whether the site is a suitable location for the proposed development with reference to the spatial strategy in the development plan.

Reasons

6. The appeal concerns a triangular piece of land situated to the east of The Street, which directly abuts the gardens of neighbouring properties, including those in School View, which are arranged perpendicular to The Street, with no intervening separate natural or developed parcel of land between.
7. Policy HOU04 of the Council's Local Plan¹ forms part of the strategy for development outside of the settlement hierarchy. It states that development must be immediately adjacent to a settlement boundary to be allowed, but there does not appear to be any supporting definition as to what constitutes 'immediately adjacent', for the purposes of applying the policy.
8. In both the current and previous iterations of the Council's development plan, the settlement boundary for Caston does not include the northernmost extent of the gardens within School View. I understand that the houses were built on land previously occupied by residential buildings and the boundary is drawn to the extent of the original development. While I do not find the reasons why the boundary remained in the same position to be determinative, it strikes me that the Council's rigorous approach to the position of the boundary is somewhat illogical and inflexible to the circumstances on the ground.
9. There are no defining features, be it planted or built, to distinguish between the elements of the gardens within or outside the settlement boundary, but they are clearly more closely associated with the built-up parts of the settlement. Were Policy HOU04 applied in the same way by the Council for all sites with a comparable relationship, then it would be impossible for settlements to be extended in such locations, unless a proposed site included said land projecting beyond the boundary. Such an approach would undermine the intentions of the policy to facilitate some development whilst, at the same time, recognising the intrinsic character and beauty of the countryside. Clearly, in this instance, the Council did not identify any harm emanating from the proposal in this regard and the proposal would be well contained between existing development.
10. Given these very specific circumstances, it is not possible for the appeal site to have a closer physical relationship to the settlement boundary. The distance between is somewhat negligible and, unlike the appeal cases to which I have been referred for development at Caston² and Beetley³, it would not be separated from the settlement boundary by a permanent and substantial physical boundary, such as a road.
11. In light of the above, based on the evidence and submissions before me, I am satisfied that the proposal would be situated immediately adjacent to the settlement boundary of Caston. I therefore conclude that the appeal site would be a suitable location for the proposed development with reference to the spatial strategy in the development plan. Hence, the proposal would not be in

¹ Breckland Local Plan, adopted November 2019.

² Appeal Ref: APP/F2605/W/20/3257624 - School Lodge, The Green, Caston, Attleborough, Norfolk NR17 1DB.

³ Appeal Ref: APP/F2605/W/20/3253475 - Land to the North East of Fakenham Road, Beetley NR20 4BT.

conflict with Policies GEN01, GEN03, GEN05 and HOU04 of the Council's Local Plan.

Other Matters

12. The main parties agree that the Council is able to demonstrate a five-year supply of housing land, so the policies of the Council's Local Plan relevant to the consideration of the appeal can be given full weight. Nevertheless, I am mindful that the presence of a five-year supply does not represent a ceiling on the delivery of housing, as the Framework confirms the Government's aim to significantly boost the supply of housing and the contribution made by small and medium sized sites is important to achieving that aim.
13. The details of the proposal in respect of its scale and layout demonstrate how the resultant development of three houses would relate to the site and its surroundings. The houses would be of a size and arrangement that would be similar to other houses found in the locality. The proposal would therefore not have a harmful effect on the character of the area. I note that the Council arrived at a similar conclusion.
14. Due to its close relationship with the settlement, the site could not be said to be isolated in the context of paragraph 80 of the Framework, so its policy criterion does not apply. It would also not lead to a coalescence of settlements. Furthermore, although third parties have questioned the need for the size and type of houses proposed, there is no compelling evidence before me to suggest that such houses would not be required in the local area through the Strategic Housing Market Assessment, as required by Policy HOU06 of the Local Plan.
15. While one of the plots from the original planning application has been removed and further applications for development of that land could follow, a generalised concern of this nature does not justify withholding permission in this case.
16. There is concern that the proposal would result in the loss of agricultural land, I have not been referred to any policies in the Local Plan that protect agricultural land and I am mindful that Footnote 58 of the Framework only requires areas of poorer quality land to be preferred to those of a higher quality, where the development of agricultural land would be significant. To my mind, the scale of the proposed development would not qualify as 'significant'.
17. Given the number and layout of the proposed houses, and the intervening distances achieved, there would be unlikely to be harm caused to the living conditions of the occupants of neighbouring houses, particularly in terms of privacy, daylight and noise and disturbance, including from traffic.
18. I acknowledge the concerns raised about the proposed access arrangements due to parking on-street in connection with the drop-off and collection of children at the school, instances of vehicles having to travel on the opposite carriageway to pass these, the existing visibility from the access to School View and the extent of parking proposed within the site. However, subject to conditions neither the Highway Authority nor the Council raise objections on these grounds and there is no substantive evidence that the proposal would be likely to exacerbate these problems. There would also be reasonable provision of parking for the proposed dwellings. Nonetheless, it would be reasonable to minimise the impacts of the construction process for the proposed development

through a construction method statement, particularly in relation to contractors parking, deliveries and muck away lorries. This would be a reasonable approach given that construction would be for a temporary period only.

19. Whilst noting the anecdotal evidence submitted in respect of the presence of protected and other species on the site, I consider that it has not been demonstrated that the proposed development would have any adverse effects in these regards. I also note that the Council's Ecological and Biodiversity Consultant has not raised any such concerns, subject to a planning condition. I appreciate that hedgerows are a Norfolk Biodiversity Action Plan priority habitat, but the appellant's ecological survey⁴ suggests that the boundary hedges onsite are considered to be of low value. The loss of hedgerow to form the proposed access would therefore not have a detrimental effect on the ecology and biodiversity of the site. Nevertheless, in order that the proposed development avoids harmful effects to nesting birds, I consider it both reasonable and necessary to attach a further condition requiring any activity leading to the loss of trees, shrubs, hedgerows, or site clearance to avoid taking place during the bird nesting season.
20. The Council's Tree and Countryside Officer is satisfied that the effect of no-dig construction of the driveway, which passes through the root protection area of a tree subject to Tree Preservation Order, can also be dealt with by condition. Similarly, the Council's Contaminated Land Officer has not raised any objections to the development in respect of land contamination. There is no substantive evidence before me that would justify me coming to a different conclusion in respect of these matters.
21. Those parts of the site to be occupied by dwellings are at low risk of flooding (Zone 1) and there is no substantive evidence before me that it would not be possible to attenuate surface water on-site to avoid the development exacerbating storm water flooding incidents that have occurred nearby. However, it would be reasonable to control the final scheme of surface water drainage by planning condition.

Conditions

22. I have assessed the list of conditions supplied to me by the Council and appellant against the tests set out in paragraph 56 of the Framework, which states that they should only be imposed where they are necessary, relevant to planning and the development to be permitted, enforceable, precise, and reasonable in all other respects. I have made amendments to the wording of suggested conditions, where necessary, in the interests of clarity and precision.
23. As the appeal is in outline, I have attached the standard suite of conditions in respect of approval of reserved matters and implementation. In the interests of certainty, I have attached a condition which specifies the approved plans, in relation to the layout, scale, access arrangements and the red line boundary of the site.
24. Given that access is for detailed consideration at this stage I have attached conditions in relation to the proposed access and driveway, including alternative visibility splays as calculated by the local highway authority in

⁴ Preliminary Ecological Appraisal (Version 2 Final, 24 January 2020).

accordance with Manual for Streets. All such matters should be implemented prior to the occupation of the dwellings.

25. Conversely, I have not included the planning conditions suggested by the Council in respect of the number of dwellings, materials, and boundary treatments / screening, as they are either clearly referenced on the approved plans or would be likely to be considered alongside the details of appearance and landscaping required at Reserved Matters.
26. For the reasons outlined above, I have included conditions in respect of surface water drainage, the mitigation and methodologies for ecology/ biodiversity, works in connection with trees and construction, and included a further condition in respect of nesting birds.

Conclusion

27. The proposed development would accord with the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given above, I conclude that the appeal should succeed.

Paul Thompson

INSPECTOR

Schedule of Conditions

1. Details of the appearance and landscaping, hereinafter called "the reserved matters", shall be submitted to and approved in writing by the local planning authority before any development takes place and 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. The development hereby permitted shall be carried out in accordance with the following approved plans: 01 18-200 Revision C (Proposed Site Plan), O 214_201 Revision A (Dwelling 1 and 2 Proposed Indicative Elevations), O 214_202 Revision A (Dwelling 3 Proposed Indicative Elevations) and Site Plan (dated 7 May 2019), but only in respect of those matters not reserved for later approval.
5. No development shall take place, until details of the proposed surface water drainage works have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall first be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
- ii. include a timetable for its implementation; and
- iii. provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

None of the dwellings shall be occupied until the drainage works have been implemented in accordance with the approved details.

6. No development shall take place, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors (all such parking shall be within the curtilage of the site and not in the highway);
 - ii. loading and unloading of plant and materials (all of which shall be undertaken within the curtilage of the site and not in the highway);
 - iii. storage of plant and materials used in constructing the development;
 - iv. measures to control the emission of dust and dirt during construction, in relation to the functioning of the highway and neighbouring dwellings;
 - v. delivery and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

7. No development shall take place within the site, until a biodiversity mitigation and enhancement plan has been submitted to and approved in writing by the local planning authority. The plan be based on the findings of the Preliminary Ecological Appraisal, dated 24 January 2020, and shall include the following mitigation and enhancement measures:
 - i. details of all habitat enhancements;
 - ii. the three-metre buffer between the development and the ditch at the site frontage;
 - iii. the numbers and locations of bird and bat boxes;
 - iv. the location and nature of holes in boundary enclosures to maintain connectivity across the site for hedgehogs;
 - v. the proposed external artificial lighting within the site, during and post development; and
 - vi. a timetable for the implementation of the proposed mitigation and enhancement measures.

The measures shall be carried out strictly in accordance with the approved plan and timetable for its implementation.

8. No development shall commence until details of the proposed scheme for no-dig construction works for the proposed site entrance and driveway has been submitted to and approved in writing by the local planning authority. The scheme shall include the following:
- i. specifications for the proposed works, based on existing ground conditions and soil information (CBR);
 - ii. details of the product to be used, including the subbase, infill and surface materials, which shall promote the migration of water and nutrients and reduce pressure at ground level;
 - iii. loading information, including assumed maximum gross vehicle weight and assumed maximum axle load;
 - iv. all appropriate tree protection measures required before and during the course of development (in accordance with paragraph 5.5 of British Standard BS 5837) (or in an equivalent British Standard if replaced); and
 - v. an auditable system of arboricultural site supervision and inspection for the duration of the works.

The development shall be constructed in accordance with the approved works and using the approved tree protection measures.

9. No development (including any works of site clearance, and removal of trees, shrubs, and hedgerows) shall take place during the bird nesting season (1 March to 31 August inclusive) unless the local planning authority approves in writing the findings of a suitably qualified ecological consultant that affected trees, shrubs or hedgerows are not in use by nesting birds. If nested birds are located, work shall cease on that part of the site until nesting has completed and fledged young have departed the site.
10. Notwithstanding the requirements in relation to surface water drainage outlined in Condition No 5, the development shall proceed in strict accordance with the mitigation measures outlined in Section 5.2 of the Flood Risk Assessment (Ellingham Consulting Ltd, dated January 2020).
11. Notwithstanding the requirements of Condition No 7, the development shall proceed in accordance with the recommendations outlined in Sections 4.3, 4.6 and 4.7 of the Preliminary Ecological Appraisal, dated 24 January 2020, in respect of Badgers, Great Crested Newts and Reptiles.
12. Prior to the first occupation of the development hereby permitted the vehicular access crossing over the verge and ditch shall be constructed in accordance with a detailed scheme to be agreed in writing with the Local Planning Authority in accordance with the highways specification TRAD 4 and thereafter retained at the position shown on the approved plan. Arrangement shall be made for surface water drainage to be intercepted and disposal of separately so that it does not discharge from or onto the highway.
13. Notwithstanding the submitted details the proposed private drive shall be maintained in perpetuity at a minimum width of 4.8 metres and shall be constructed perpendicular to the highway carriageway for a minimum

length of 10 metres as measured from the near edge of the highway carriageway.

14. Notwithstanding the submitted details prior to the first occupation of the development hereby permitted a visibility splay measuring 2.4 metres x 59 metres shall be provided to the north west of the access where it meets the highway and 2.4 metres x 43 metres to the south east of the access where it meets the highway. The splays shall thereafter be maintained at all times free from any obstruction exceeding 0.225 metres above the level of the adjacent highway carriageway.
15. Prior to the first occupation of the development hereby permitted the proposed access parking and communal turning area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and retained thereafter available for that specific use.

END OF SCHEDULE