



Appeal Decision

Site visit made on 14 October 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 NOVEMBER 2022

Appeal Ref: APP/A3010/W/22/3291976

Land between Pinders Croft and the Chapel, High Street, Walkeringham, Doncaster DN10 4LW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Colin Holden (Chilli Construction Ltd) against the decision of Bassetlaw District Council.
 - The application Ref 21/00007/RES, dated 31 December 2020, sought approval of details pursuant to condition No 1 of planning permission Ref 17/00353/OUT, granted on 26 January 2018 under appeal Ref APP/A3010/W/17/3184900.
 - The application was refused by notice dated 3 November 2021.
 - The development proposed is residential development of land and properties at High Street, Walkeringham DN10 4LJ.
 - The details for which approval is sought are: reserved matters of access, appearance, landscaping, layout, and scale.
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Decision

1. The appeal is allowed and reserved matters are approved, namely details of access, appearance, landscaping, layout and scale submitted under application Ref 21/00007/RES, dated 31 December 2020, pursuant to Condition No 1 attached to planning permission Ref 17/00353/OUT, granted on 26 January 2018 under appeal Ref APP/A3010/W/17/3184900, and subject to the conditions set out in the attached schedule.

Application for costs

2. An application for a full award of costs has been made by Mr Colin Holden (Chilli Construction Ltd) against Bassetlaw District Council. This is the subject of a separate decision.

Background and Procedural Matters

3. Outline planning permission was granted on appeal on 26 January 2018 for residential development of the appeal site. All matters were reserved for future consideration under Condition 1 of this decision. The appeal before me relates to these reserved matters.
4. For the avoidance of doubt, planning permission has already been granted for residential development of the site under the aforementioned appeal reference. That is the planning permission and I am only able to consider the acceptability of the reserved matters which are before me. A reserved matters application is not a further application for planning permission and, as such, there is no

scope for me to reconsider matters which have been dealt with, or should have been dealt with, at the outline stage.

5. In these respects, I note the Council's reasons for refusal include reference to conflict with the Walkeringham Neighbourhood Plan (WNP), adopted in 2021. Whilst the WNP is now part of the development plan and a material planning consideration, its adoption does not mean that the principle of development of the appeal site can be revisited. The outline permission stands irrespective of the adoption of the WNP. I address the reasons for refusal citing conflict with the WNP further below.
6. The appeal decision granting the outline permission indicates that the proposal was assessed on the basis of 14 dwellings, although neither the formal description of development nor a condition attached to the decision specifies this to be the upper limit of development permitted. Nonetheless, the details before me relate to a scheme of 14 dwellings.
7. The Council's second reason for refusal relates to flood risk, which is not in itself a reserved matter; however, I address this issue below insofar as it is relevant to the reserved matters before me.

Main Issues

8. The main issues, therefore, are whether the reserved matters details submitted are acceptable, having regard to:
 - i) the effect of the proposal on the character and appearance of the area;
 - ii) highway safety, and;
 - iii) flood risk.

Reasons

Character and appearance

9. The site is a flat, agricultural field used, at the time of my site visit, as grazing land for sheep. It is located within the built-up area of the village. On the northern side are modest bungalows and taller chalet bungalows on North Moor Drive. A short section of the site on its eastern side fronts High Street between Pinders Croft, a bungalow, and Walkeringham Methodist Chapel. Behind the chapel and along the southern edge of the site are single storey dwellings on Moorland Avenue, with larger one-and-a-half and two storey detached dwellings further west on School House Lane. There are also two storey semi-detached pairs of dwellings on Moorland Avenue, Moorland Close and fronting High Street south of the chapel. The surroundings of the site therefore exhibit some variety, with modest and larger dwellings standing side-by-side.
10. The proposed layout would extend the dead end between 5 and 7 North Moor Drive into the site, forming a T-shaped cul-de-sac. This would reflect other similar layouts on North Moor Drive itself and on Moorland Close to the south of the site. The 14 dwellings would be evenly distributed across the site, with plot sizes and the general layout reflective of the surrounding pattern of development.
11. The Council's main concern relates to the scale and form of the dwellings themselves, which it contends would be inconsistent with the predominant

pattern of bungalows within this part of the village. Each dwelling would be detached and two storeys in height. As such, they would be taller than the bungalows immediately adjacent on North Moor Drive and Moorland Avenue, as well as Pinders Croft. However, they would also be seen in context with the larger dwellings on School House Lane to the south-western side and the two storey pairs along Moorland Avenue. As such, I do not agree with the Council that the scale of surrounding development is as uniform as it suggests. Rather, I find that the dwellings would fit within what is a varied scale of surrounding development.

12. The design of the dwellings would accord with the modern style which prevails on surrounding streets. In addition, the proposed mix of 2, 3 and 4 bedroom dwellings would accord with the aims of the WNP to provide a mix of dwellings and help meet the need for smaller dwellings suitable for older people. Some details of rainwater goods and windows and doors have been provided, but I agree with the Council's conservation officer that full details of these and other materials as they pertain to the dwellings should be secured by condition.
13. The proposed landscaping is not extensive, with some tree planting shown within the open space on the eastern side. Details of the landscaping of the individual dwellings is limited, though from the site layout it appears they would have typical garden spaces to front and rear that would be consistent with the surrounding pattern of development. Precise details of the proposed landscaping within individual plots could be secured by condition.
14. The Council also considered the effect on the setting of Walkeringham Methodist Chapel, regarded as a non-designated heritage asset. The proposal would retain an area of open space adjacent to the chapel with dwellings set further back into the site. Viewed from High Street, the dwellings would form part of the established backdrop of residential development, whilst the open space next to the chapel would reflect a similar space on the other side and would ensure the chapel retains its prominence in the street scene. I am satisfied, therefore, that the proposal would not harm the setting of this non-designated heritage asset.
15. I note concerns raised by the Council's planning committee at the loss of the site as a village green space and harm to the village's rural character. I am also aware of a subsequent appeal decision on the site from September 2021¹ for a development of 9 dwellings which was dismissed. I note the Inspector's conclusions that the proposal would urbanise the site and would also fail to complement and enhance the natural environment.
16. Whilst I recognise that the development of the land for housing would fundamentally alter the open, undeveloped character of the site, that change has already been established by the outline permission. So far as is within the scope of this appeal, I am satisfied that the modest scale of development, its consistency with the surrounding pattern of the built form, and the fact that High Street would continue to have housing interspersed with open fields, particularly along its eastern side, means that the rural qualities of the village would be substantially maintained.
17. For these reasons, I conclude that the access, layout, scale, appearance and landscaping of the proposed development would preserve the character and

¹ APP/A3010/W/20/3262188

appearance of the area, and no conflict would arise with Policy DM4 of the Bassetlaw Local Development Framework Core Strategy (December 2011) (the CS), or Policies 2 and 3 of the WNP, which together require high quality design that is sympathetic to the local character and landscape setting.

18. The Council's third reason for refusal refers to conflict with Policy 1 of the WNP which states that infill development proposals within the development boundary will be supported where they can demonstrate that they are of a scale, density, layout and design that is compatible with the local, rural character. Again, it is not within the scope of this appeal to revisit the principle of development, but as I have not found harm in terms of the character of the area, I find no conflict with the overall aims of this policy.

Highway Safety

19. The Council's concern with the proposed access, echoed by interested parties, relates to the width of the carriageway and footpath, along with the anticipated increase in traffic from the development. The principle of development has been established on the basis of the 14 dwellings, with the same number now proposed. The Inspector in granting outline permission did not find that the proposal would give rise to congestion, parking problems or an adverse effect on highway safety, but notably a condition of the permission is that no vehicular access is to be taken from High Street. Consequently, based on the indicative layout at outline stage, this leaves North Moor Drive as the remaining potential location from which to access the site.
20. The evidence from the Council is limited to a brief summary of the committee meeting, from which I glean nothing that substantiates its position. No objection has been raised by Nottinghamshire County Council (NCC) as the local highway authority in terms of the layout of the access road or footpaths, which would be a continuation of the existing dead end on North Moor Drive. From my observations, there would be sufficient space for two vehicles to pass each other on the approach into the development, and adequate sight lines at each junction out to and including that of North Moor Drive and High Street. In these respects, I am content that the access is acceptable.
21. Moreover, nothing before me in evidence leads me to conclude that the proposal would fundamentally diverge from the level of impact on the wider highway network adjudged by the previous Inspector. I saw existing traffic to be very low within the village, and the additional traffic from the development would be modest and sporadic. I note concerns from local residents regarding incidents of congestion and parking problems around the school, but I am not persuaded that the volume of traffic would be so increased as to cause severe impacts on the operation of the road network.
22. I therefore conclude that, with respect to the matter of access, the proposal would not pose a risk to highway safety, and no conflict would arise with Policy DM4 of the CS in terms of its requirement that development does not cause detriment to highway safety, or Policy 3 of the WNP which requires proposals to demonstrate how safe access, parking and servicing arrangements have been provided. Nor would there be conflict with the National Planning Policy Framework (the Framework), which sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Flood Risk

23. The Council's reason for refusal states that insufficient information has been provided to satisfactorily demonstrate that the development would not result in increased flood risk. As already indicated, flood risk is not itself a reserved matter. At outline stage, it formed a main issue of the appeal, wherein the Inspector concluded that the site was capable of accommodating a suitable sustainable drainage system (SUDs) that would control surface water run-off, as proposed in the flood risk assessment (FRA) submitted with the application. Condition No 7 of the outline permission requires submission, approval and implementation of a SUDs prior to the occupation of the dwellings. Condition No 8 requires a similar process for sewer drainage.
24. I am not advised that either of these conditions has yet been discharged, but they are the mechanism by which outstanding matters relating to flood risk are to be addressed. It is not within the scope of this appeal to revisit the principles of the development in terms of flood risk, only to consider whether the details now before me, principally the layout, would materially alter these principles.
25. I have noted the comments of interested parties in respect of flooding, including photographs showing flooding on the site and comments on the flood alleviation scheme in the village. However, I have no substantive evidence before me from the Council to explain its precise concerns with the reserved matters details as they pertain to flood risk, beyond general comments made by members of the planning committee that the site was subject to flooding and that the reserved matters application should have included details of drainage. No objections have been raised by the Environment Agency or NCC as the lead local flood authority.
26. There is also nothing within the appellant's submissions to indicate a significant departure from the proposals originally set out in the FRA. Moreover, nothing within the layout plans before me indicates that a suitable SUDs could not be provided on site through details to be submitted through the aforementioned conditions. Indeed, an attenuation pond is specifically shown on the site layout plan as referred to in the FRA and by the previous Inspector as a potential surface water drainage option for the site.
27. On the evidence before me, therefore, I have no firm reasons to conclude that the reserved matters details would lead to demonstrable risk of flooding or drainage problems within or beyond the site. Therefore, I find that, so far as the reserved matters before me may influence the issue of flood risk, there would be no conflict with Policy DM12 of the CS, which requires that proposals will only be supported where it is demonstrated to the Council's satisfaction that the development will not exacerbate existing land drainage and sewerage problems. Nor would there be conflict with the guidance of the Framework in respect of flood risk.

Other Matters

Lack of Consultation

28. The Council's fifth reason for refusal cites the lack of consultation by the appellant with the local community, resulting in conflict with Paragraph 39 of the Framework and Community Objective 9 of the WNP, both of which encourage early engagement by applicants in the planning process, particularly

at the pre-application stage, to improve the efficiency and effectiveness of the planning process and enable improved outcomes for the community.

29. In short, such concerns do not relate in substance to any of the reserved matters. In any event, the thrust of the aforementioned objectives is one of encouragement rather than requirement. As a result, and bearing in mind that this is not a fresh application for planning permission, a lack of prior engagement by the appellant with the local community at the reserved matters stage is not a justifiable reason to dismiss the appeal.

Other Appeal Decision

30. I have already made reference to the dismissed appeal in 2021. It is clear from this decision that a number of other material considerations came to bear on the overall conclusions of the Inspector, including the adoption of the WNP and a Character Study and Design Guide, which were not before the previous Inspector when the outline permission was granted. The Inspector also drew distinctions between the schemes in terms of the Council's respective housing land supply positions at the time of each application, and in the provision of affordable housing through the approved outline scheme.
31. Overall, the circumstances at the time of the dismissed appeal in 2021 were materially different to those in 2018 when the outline permission was granted, and each case must be judged on its merits. However, the dismissal of the appeal in 2021 does not negate the outline permission to which this reserved matters appeal relates; and it is against that outline permission that I have considered the reserved matters before me. I have taken into account the comments of the Inspector in 2021 on matters of character and appearance, but have reached my own conclusions on the proposal based on my observations of the site and the specific evidence before me.

Other Issues Raised

32. Some objection has been raised in respect of neighbours' living conditions, specifically loss of privacy, overshadowing and loss of sunlight. The Council's committee report sets out that all dwellings to the southern side of the site would have generous rear gardens and would be set sufficient distances from the nearest neighbouring dwellings. Dwellings on the northern side would be slightly closer to neighbouring dwellings on North Moor Drive, but still separated by the rear gardens and mature boundary hedgerows, which I saw offer screening of the neighbouring bungalows. On the evidence before me, including my observations on site, I am satisfied that no harmful levels of overlooking would occur. Similarly, the separation distances are such that there would not be harmful levels of overshadowing or loss of sunlight to neighbouring properties.
33. Reference is made to the layout potentially leading to security risk or anti-social behaviour. I have little evidence that this would be the case. If anything, the site would become more secure as residents would seek to monitor their own properties and there would be passive surveillance of communal areas. Nothing in evidence suggests to me that there would be a demonstrable risk of anti-social behaviour within the green space, which would be overlooked from High Street and dwellings within the development.

34. The risk to various species populating the site is raised. This was addressed at outline stage with the imposition of Condition No 6 requiring submission of an ecological survey and implementation of mitigation measures where found to be necessary, along with Condition No 9 relating to the timing of site clearance work outside of bird breeding season and Condition No 11 requiring existing boundary trees and hedgerows to be retained. As far as the reserved matters are concerned, the location of bat and bird boxes within the development can be secured by condition.
35. I have had regard to other matters raised, either by members of the planning committee or interested parties. Some relate to matters of principle that cannot be revisited, including the site not being allocated in the WNP and whether village services can accommodate increased demand from future occupants. Others relate to issues not directly related to the five reserved matters or which fall to be assessed under other conditions of the outline permission. On the whole, I have not identified other matters of such significance as to be decisive to the outcome of the appeal, and therefore I do not address them further.

Conditions

36. The Planning Practice Guidance makes it clear that conditions may only be added to reserved matters which relate directly to those matters. It is not open to me to impose conditions which should have been attached to the original outline planning permission.
37. In the absence of a schedule of prospective conditions from the Council at appeal stage, I have considered the list of conditions set out in its Committee Report. Where necessary, I have amended or amalgamated conditions in the interests of precision and conciseness. The appellant has agreed to the imposition of the conditions.
38. To provide certainty, a condition specifying the approved plans is necessary. Conditions requiring details of facing materials, windows and doors, cills and heads and rainwater goods are necessary in order to ensure a satisfactory appearance and preserve the setting of the non-designated heritage asset. Conditions requiring details of boundary treatments, hard and soft landscaping and a schedule of tree planting are also necessary to ensure an acceptable layout and appearance.
39. It is necessary to require the implementation of hard surfaced accesses, driveways and bin stores to each dwelling prior to their occupation to ensure a satisfactory access and maintain highway and pedestrian safety. For the same reasons, it is necessary to secure details and implementation of a construction method statement, which is a pre-commencement condition as it relates specifically to impacts that would arise from the outset of the construction phase and would be ineffective or lead to harm or loss were they required to be addressed at a later stage.
40. It is further necessary to secure details of the future maintenance of the internal roads and drainage, to ensure the access and layout is maintained to an appropriate standard, and to secure implementation of the connecting footpath to High Street to provide a sustainable means of access. It is necessary to secure details of the location and design of bat and bird boxes

within the layout of the development, and their installation, in the interests of biodiversity.

41. It is necessary in this instance to remove permitted development rights for the erection of fences, walls, gates or other means of enclosure, beyond that expressly approved via other conditions, in order to ensure a consistent appearance to the development and one that integrates with its surroundings.
42. Finally, I note the Council's suggested condition in relation to the provision of electric vehicle charging points. However, since June 2022, this has become a requirement of the Building Regulations. As such, it is not necessary to duplicate this requirement via planning condition.

Conclusion

43. For the reasons set out, I conclude that the reserved matters details are acceptable in respect of access, layout, scale, landscaping and appearance, and the appeal should therefore be allowed.

K Savage

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
Location Plan Drawing No. 2020/66/CH;
Site Layout Plan Drawing No. 2020/66/CH RM01 D;
House Type A Drawing No. 2020/66/CH RM02 C;
House Types B and C Drawing No. 2020/66/CH RM03 C;
House Type C Drawing No. 2020/66/CH RM04 C;
House Type D Drawing No. 2020/66/CH RM05.
- 2) 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;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) details of wheel washing facilities and procedures.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 3) Before any construction occurs above slab level, samples of all new facing materials to be used in the development hereby approved shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out only in accordance with the agreed brick/stone details.
- 4) Before any windows and doors are installed to the dwellings hereby approved, details of their material, design, specification, method of opening, method of fixing and finish, in the form of drawings and sections of no less than 1:20 scale, shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved details.
- 5) Before any window or door heads and cills are installed to the dwellings hereby approved, details of their design, material and construction, in the form of scale drawings and material samples/specifications, shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved heads and cills details.
- 6) Before any rainwater goods are installed to the dwellings hereby approved, samples or detailed specifications of all rainwater goods shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out only in accordance with the agreed rainwater goods details.
- 7) Before any construction occurs above slab level, full details and specifications of all new boundary treatments (including any alterations to existing boundary treatments) shall be submitted to and agreed in writing by the Local Planning Authority. The information submitted shall include details of all wall/gate/fence materials, designs, brick sample(s), coping sample(s), brick bond(s) and finishes. The completed boundary treatments shall only be in accordance with the agreed details.

- 8) Before any construction occurs above slab level, full details and specifications of all hard and soft landscaping and surfacing within each plot shall be submitted to and agreed in writing by the Local Planning Authority. The completed hard and soft landscaping and surfacing shall be undertaken in respect of each dwelling prior to the occupation of that dwelling and shall only be in accordance with the agreed details.
- 9) A scheme for tree planting and landscape treatment of the communal areas of the site shall be submitted to and agreed in writing by the Local Planning Authority before development commences above slab level. The agreed scheme shall be fully implemented within nine months of the date when the last dwelling on the site is first occupied. Any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced by trees or shrubs of a size and species similar to those originally required to be planted.
- 10) No development shall commence above slab level until a scheme for the provision of bird and bat boxes units within the development has been submitted to and agreed in writing with the Local Planning Authority. The approved bird and bat boxes shall be completed and available before the dwellings hereby permitted are first occupied.
- 11) No dwelling shall be occupied until the roads and footways affording access to that dwelling have been completed up to binder course level and no individual dwelling shall be occupied until such time as the access and parking area to that dwelling has been provided in a bound material (not loose gravel) and which shall be drained to prevent the unregulated discharge of surface water onto adjacent roads and footways.
- 12) No dwelling shall be occupied until a scheme for the future management and maintenance of the proposed streets, including associated drainage, have been submitted to and approved by the Local Planning Authority. The streets and drainage shall for the lifetime of the development be maintained in accordance with the approved private management and maintenance details unless subsequent agreement is reached for the streets to be adopted into the public highway.
- 13) Prior to occupation of plots 2 to 6 the footpath to High Street detailed on plan reference RM01 Rev D shall be surfaced in a bound material and shall be available for use without obstruction such that pedestrian and cycle access is available via the footpath between High Street and North Moor Drive. The footpath shall be maintained in good condition and shall remain available for the lifetime of the development.
- 14) Prior to plots 2 to 6 and 9 to 13 respectively being occupied the communal bin stores detailed on plan reference 2020/66/CH RM01 D shall be provided with a metalled hardstanding.
- 15) Notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order), no fence, wall, gate or other means of enclosure shall be erected on the site, unless otherwise agreed in writing with the Local Planning Authority.
