



Appeal Decision

Site visit made on 13 January 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th February 2023

Appeal Ref: APP/D2510/W/22/3302271

Land off Masonic Lane, Spilsby, Lincolnshire PE23 5QT

- 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 Graham Young against the decision of East Lindsey District Council.
 - The application Ref S/165/00754/21, dated 14 April 2021, was refused by notice dated 30 May 2022.
 - The development proposed is outline application for the erection of seven dwellings, with access to be considered.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for an award of costs has been made by Mr Graham Young against East Lindsey District Council. This is the subject of a separate decision.

Preliminary Matters

3. The application was made in outline with all matters reserved except for access. I have duly considered the appeal on this basis and, except where related to the matter of access, I have treated the details shown on the submitted plans as for illustrative purposes only.
4. The site address was originally given as '3 Jacks Lane', but I have used the address subsequently used on the decision notice and appeal form, which more accurately describes the location and proposed access to the site.

Main Issues

5. The main issues are:
 - Whether the proposal represents a suitable location for housing, having regard to relevant local and national policy and the effect on the character and appearance of the area, and;
 - The effect of the proposed access on highway safety and the living conditions of residents on Masonic Lane.

Reasons

Location for Housing

6. Jacks Lane and Masonic Lane are parallel cul-de-sacs to the south of Hundleby Road. The appeal relates to land to the rear of the dwelling at 3 Jacks Lane,

comprising several paddocks with a stable building and manège towards the centre. The proposed development would be accessed from Masonic Lane to the east, via the site of a now demolished former dwelling at No 34.

7. The development plan is the East Lindsey Local Plan Core Strategy (July 2018) (the LPCS). Spilsby is designated as a Town at the top of the settlement hierarchy for the district set out under Policy SP1. Policy SP2 reflects the presumption in favour of sustainable development set out in the National Planning Policy Framework (the Framework). Policy SP3 sets out that windfall development, such as the current proposal, is supported in 'appropriate locations' within the settlement and outside of, but immediately adjacent to the 'developed footprint.'
8. An 'appropriate location' is defined as one which, when developed, would retain the core shape and form of the settlement; not significantly harm the settlement's character and appearance or that of the surrounding countryside or rural setting, and which is connected to the settlement by way of a footpath. It is further defined as a location that does not conflict, when taken as a whole, with national policy or policies in the LPCS.
9. 'Developed footprint' is defined as the continuous built form of the settlement and excludes individual buildings or groups of dispersed buildings which are clearly detached from the continuous built up area of the settlement. Also excluded are gardens, paddocks and other undeveloped land within the curtilage of buildings on the edge of the settlement where land relates more to the surrounding countryside than to the built up area of the settlement; and outdoor sports and recreation facilities in other formal open spaces on the edge of the settlement. Contrary to the appellant, I do not regard the boundary of the Spilsby Neighbourhood Plan (SNP) as defining the developed footprint as it extends significantly beyond the built-up area into the surrounding hinterland, its purpose being to define the area to which the SNP applies, not to establish a settlement boundary for the purposes of Policy SP3.
10. In this case, the land is close to the continuous built form on Jacks Lane and Masonic Lane but is comprised mainly of open paddocks which are specifically excluded from the definition of 'developed footprint'. The stable building and manège are also detached from the continuous built form and I saw on site that the open character of the land relates more closely to the countryside beyond the site than to the built-up area of the settlement. Consequently, I find that the site does not fall within the 'developed footprint' of the settlement as defined in the LPCS.
11. I note the appellant's arguments that the site constitutes previously developed land (PDL) and should be regarded as falling within the developed footprint. Reference is made to various legal judgements and appeal decisions concerning PDL as defined by the Framework, though I am not furnished with the full particulars of these cases to be able to establish if they are analogous to the appeal before me, but I note differences in terms of location and material considerations, with some relating to development in the Green Belt which is not relevant here.
12. Under the Framework, PDL includes the curtilage of the developed land. I do not dispute that the stables and manège represent permanent built form at the centre of the site. Beyond this the paddocks are undeveloped areas defined only by fencing to their perimeter. Whether this land falls within the curtilage of

a building is a matter of planning judgement, but I have limited evidence of how the land is or has been used and it is not clear that the paddocks fall within the curtilage of the stables and manège.

13. Even if the land is considered PDL, the Framework makes clear that it should not be assumed that the whole of the curtilage should be developed. Moreover, nowhere under Policy SP3 does it set out that PDL should be regarded as falling within the developed footprint, or that the site being PDL qualifies it as an 'appropriate location.' However, the question of whether the whole of the site is PDL is not ultimately decisive, as Policy SP3 supports housing immediately adjacent to the developed footprint, subject to it constituting an 'appropriate location' in terms of its effect on the core shape and form of the settlement and its character. These are the relevant considerations to which I turn.
14. The long and narrow shape of the site means that the proposal would extend development a considerable distance beyond the existing built form of Masonic Lane and Jacks Lane into the countryside. Development is already sporadic beyond 32 Masonic Lane, with only No 25 further to the south on the opposite side and the lane itself becoming unpaved and more rural in appearance. Though the former site of No 34 and the plot to the south show signs of past development, they remain heavily vegetated and have a rural character. Beyond this is a wooded area argued to be part of the residential garden of an existing dwelling. Whilst aerial photographs show this was previously more open, it has clearly been left to grow to a dense copse and exhibits no obvious domestic character and no visible built development.
15. The plans show a linear cul-de-sac with spacious, detached dwellings. I recognise that the layout is only indicative, but given the long and narrow shape of the site, and the need to provide access to each dwelling, it seems to me that the design is unlikely to diverge significantly from that shown on the plans. Such a design and layout, with large dwellings on spacious plots, an engineered access and prominent parking area, would contrast strongly with the more modest size of dwellings and plots along Masonic Lane and the increasingly rural character at the end of the lane. In particular, the development would not continue the established building lines, but would be noticeably offset, forming a new line of development some distance behind the built form on Jacks Lane.
16. It is this arrangement that the Council described as an 'isolated finger' of development. I find that 'isolated' in this sense is not intended as a reference to Paragraph 80 of the Framework which seeks to avoid the development of isolated homes in the countryside, but rather refers to the development extending by itself away from the built form in a manner that fails to recognise or integrate with the existing extent and shape of the developed footprint. In this respect, the proposal would contrast with the development at The Gables to the west of the site which extends no deeper than development on surrounding cul-de-sacs and so retains the overall shape of the settlement.
17. I recognise that landscaping could be employed to soften the appearance of the development, but it would still be observable from dwellings on Masonic Lane, Jacks Lane and The Gables, and would represent a crude incursion of an urban form of development into the countryside that would fail to retain the core shape and form of the settlement or reflect the character at the end of Masonic Lane where the built form transitions softly to open countryside.

18. Moreover, whilst I appreciate that the specific scale and design of dwellings is a reserved matter, I am not persuaded that suitable designs for the dwellings themselves would overcome my concerns with the location of the development and its relationship to its surroundings. Nor would the argued re-use of PDL be sufficient to outweigh the harm identified to character and appearance.
19. The appellant argues that the Council has not dealt in a consistent manner with this application, citing several developments granted permission around Spilsby which are purportedly similar to the appeal scheme. However, the details provided for these schemes is brief, and consequently I am unable to ascertain if the circumstances of these schemes are in fact comparable to the proposal before me. Moreover, it is clear from my analysis above that consideration of whether a site lies within an 'appropriate location' involves planning judgement on the site-specific facts in each case. Consequently, these other decisions have not been decisive to my reasoning and I have considered the appeal scheme on its own planning merits.
20. I also recognise that permission has been granted for redevelopment of No 34 for two dwellings, but this relates to the replacement of an existing dwelling on the same site within the pattern of built form on Masonic Lane, and is not comparable in position, form or scale to the proposal before me.
21. For these reasons, I conclude that the proposal would fail to retain the core shape and form of the settlement and would harm the character and appearance of the area, contrary to the aims of Policy SP10 for well-designed sustainable development that maintains and enhances the character of the District's towns, villages and countryside. Consequently, the proposal would not constitute an 'appropriate location' under Policy SP3 and so would not represent a suitable location for housing having regard to the overall settlement strategy of the LPCS as set out under Policies SP1, SP2 and SP3.

Access

22. It is proposed to take access from the end of Masonic Lane via the site of the former dwelling at No 34. There is dispute as to the status of Masonic Lane, with the Council describing it as a private road and the appellant indicating that ownership is unknown and that it should be considered as an unadopted public road. Interested parties indicate the lane to be private, with upkeep the shared responsibility of the residents.
23. This aside, the road itself is straight but narrow, and of varying width in places. Dwellings line both sides with on-street parking mainly to one side leaving sufficient space for only one vehicle to pass. Towards the northern end is further parking in front of a car garage, whilst the side walls and fences of buildings at the junction with Hundleby Road create a narrow, enclosed entrance to the lane. I saw the surfacing of the lane was largely unmade towards both ends, comprised of compacted earth and gravel, with an area of asphalt towards the centre which is broken in parts. The lane is also shared by pedestrians with no dedicated footpaths.
24. I note the comments of interested parties in respect of issues including the condition of the lane, poor drainage, lack of turning space, access difficulties for larger vehicles, damage to vehicles and noise and disturbance. The appellant comments that the lane exceeds the required width for new streets under the Council's design guidance and that several properties benefit from

vehicular access to the rear. Notwithstanding this, my observations were of a street that, due to its physical constraints and the number of dwellings it serves, is sub-optimal in terms of vehicular access and highway safety generally. Indeed, the appellant acknowledges that there are '*significant concerns around safety for all users predominantly caused by a lack of parking, no segregated walkway and the absence of a turning point which makes access for emergency vehicles and bin trucks dangerous.*'

25. In this context, the addition of seven, family-sized dwellings, a net increase of six, would add demonstrably to the volume and frequency of traffic using the lane, an increase of some 25% on the basis of there being 23 existing dwellings on Masonic Lane. Traffic to and from the dwellings, which could reasonably have two cars each, would have to travel the full length of the lane. Added to this would be more delivery vehicles and visitors. Such an increase would add significant further risk to the safety of pedestrians and potential damage to vehicles and property due to the narrow passing widths. Moreover, additional traffic would bring with it noise and vibration that would increase disturbance to existing occupants along the full length of the lane, harming their living conditions.
26. The appellant proposes to reconstruct the entire lane as part of the scheme. However, there is no detail within the application as to how this would be achieved. The aforementioned lack of clarity regarding the ownership of the lane casts further doubt on the ability of the appellant to carry out these works. Consequently, I am not satisfied that a condition requiring these works to be undertaken would be suitable in this instance. Moreover, even if the surface of the lane were improved, this would not in and of itself address other physical constraints such as the lack of width of the lane, nor satisfactorily offset the other impacts of the additional traffic set out above.
27. As a further response, the appellant proposes ten parking spaces for residents next to the access to address existing constraints caused by on-street parking. These would be provided with electric vehicle charging points. However, there are no details before me as to how these spaces would be managed or which properties would be entitled to a space. Conversely, I note concerns that the spaces could be taken by non-residents, that they would be out of sight of residents' homes and a potential security concern, and that the appellant could remove the spaces in future. Given this uncertainty, I am not satisfied that a condition would be appropriate, and there is no other mechanism before me to secure the retention of the spaces for the benefit of the residents in perpetuity. Consequently, I place limited weight on this as a prospective benefit. In any event, even if the spaces were used by residents, this would conversely increase pedestrian movements as residents move between their cars and dwellings. There would also be no way of preventing on-street parking from still taking place along the lane, nor would the proposed spaces address noise or disturbance from the additional traffic arising from the development.
28. I accept that the provision of a turning head to the top of the lane would potentially assist larger vehicles to turn more safely but this would not be sufficient to mitigate the other adverse impacts the access would create.
29. For these reasons, I conclude that the proposed access would cause harm to highway safety and neighbours' living conditions, contrary to Policy SP10 of the LPCS, which requires that development does not unacceptably harm nearby

residential amenity or reduce the safety of highways, cycleways and footways. This results in further conflict with Policy SP3 in terms of whether the site is an 'appropriate location' for development.

30. There would also be conflict with the Framework which states that development should ensure that safe and suitable access to the site can be achieved for all users, and create places that are safe, inclusive and accessible, with a high standard of amenity for existing and future users.

Other Matters

31. The Council did not refuse the application in respect of other matters, including biodiversity, trees, flood risk and drainage. I have had regard to the evidence before me in these matters, including comments made by interested parties, but I have found no substantive reasons to reach different conclusions to the Council. The absence of harm in these respects means they are neutral factors in the planning balance.
32. From the other public comments made, I have not identified further significant benefits or harms that would attract material weight in the planning balance. Accordingly, it is not necessary to address them in further detail as they would not alter my overall conclusions.

Planning Balance and Conclusion

33. The proposal would cause harm in terms of the effects on the character and appearance of the area, neighbours' living conditions and highway safety. Therefore, the proposal would not amount to an 'appropriate location' for development under the spatial strategy for the district and would conflict with the development plan, taken as a whole. I afford this conflict very significant weight.
34. The proposal would add dwellings to the Council's housing stock. This would represent a benefit, albeit a modest one given the scale of the proposal. Nonetheless, considering the importance placed on the supply of housing in the Framework, this benefit attracts moderate weight in favour of the appeal.
35. There would be benefits arising from economic activity during construction and afterwards as residents engage in the local economy. However, the scale of these benefits would be limited, having regard to the size of the development. I also accept that the dwellings would be located sufficiently close to facilities in Spilsby which could be reached by means other than the private car. However, any environmental benefits in this regard would be limited given there would still be reliance on the car for many journeys.
36. Overall, other material considerations, taken together, are not of sufficient weight to indicate that a decision should be taken other than in accordance with the development plan. Consequently, I conclude that the appeal should be dismissed.

K. Savage

INSPECTOR