



Appeal Decision

Site visit made on 2 August 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 11 September 2023

Appeal Ref: APP/D0515/W/22/3310893

Land north of Rathbone, Atkinsons Lane, Elm, Wisbech PE14 0JR

- 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 Messrs A & S Clarke against the decision of Fenland District Council.
 - The application Ref F/YR21/1064/O, dated 3 August 2021, was refused by notice dated 30 June 2022.
 - The development proposed is 4 building plots for new-build development.
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Decision

1. The appeal is allowed and planning permission is granted for 4 building plots for new-build development at Land north of Rathbone, Atkinsons Lane, Elm, Wisbech PE14 0JR in accordance with the terms of the application, Ref F/YR21/1064/O, dated 3 August 2021, subject to the conditions within the attached schedule.

Applications for costs

2. An application for costs was made by Messrs A & C Clarke against Fenland District Council. The cost application is the subject of a separate decision.

Preliminary Matters

3. The appellants were identified as "Mr A S Clarke" and "Mr A & S Clarke" within the planning application documents. It has been clarified in correspondence with the appellants' agent that there are two appellants, "Messrs A & S Clarke."
4. The proposal seeks outline planning permission with all matters reserved except for access. I have considered the appeal on this basis and have treated any details in relation to the reserved matters as illustrative.
5. Interested parties have referred to the site as being within the Green Belt. In the interest of clarity, the site is an open field but is not within the Green Belt.

Main Issue

6. The main issue is whether the appeal site is an appropriate location for the proposed development, with regard to the accessibility of the site by sustainable transport modes.

Reasons

7. Atkinson's Lane is narrow and has shared facilities for both pedestrians and vehicles, with grass verges either side. This section of the lane does not accommodate street lighting; however, there is a streetlight over the parking area opposite the appeal site, facing away from the lane. Whilst the light is

directed away from the lane, there may be some light spill onto the lane itself. This section of Atkinson's Lane is only used to access a farm and equestrian facilities therefore the number of vehicular movements is low. Despite the characteristics of the road, due to the low traffic environment it is actively used by dog walkers and horse riders.

8. The proposal would lead to the development of up to 4 dwellings. As the application subject to this appeal is an outline application, the size of the dwellings is unknown. Nonetheless, the number of vehicular journeys along Atkinson's Lane would increase due to the movements of future residents and services, such as delivery drivers, accessing the properties. Regardless, the number of vehicular journeys would still be low given the modest scale of the proposed development. It would therefore not lead to the loss of the low traffic environment which encourages walkers, cyclists, and horse riders.
9. Vehicles and people accessing the site along Atkinson's Lane, would be able to join the road at its junction with Cedar Way which is only a short distance from the appeal site. Cedar Way has a footpath and street lighting, and the walk to the centre of the village is short and across relatively flat ground. These characteristics would encourage people to use sustainable transport modes, walking and cycling, to access facilities and services in the village. Also, as Cedar Way is only a short distance from the appeal site, the chances of conflict between vehicles and other road users is significantly reduced.
10. Consequently, the appeal site is an appropriate location for the proposed development having regard to the accessibility of the site by sustainable transport modes. The proposed development would therefore comply with Policies LP2, LP15 and LP16 of the Fenland Local Plan (LP), May 2014. These policies indicate that development proposals should positively contribute to creating a healthy living environment by promoting and maintaining effective, sustainable, and safe transport networks; development should be located and designed so that it can maximise accessibility; and proposals will only be supported where they do not disrupt the settlement pattern, amongst other factors. It is also in accordance with sections 8, 9 and 12 of the National Planning Policy Framework which seek to promote healthy communities and sustainable transport as well as achieve well designed places.

Other Matters

11. It is interested parties' contention that the proposed development would be detrimental to highway safety as Atkinson's Lane is regularly used by walkers, cyclists, and horse riders and these would conflict with vehicles. Also, there is a lack of passing points and the width of the road means it would not be possible for vehicles to pass one another. However, the nature of the road would limit the speed of moving vehicles, also the chance of conflict is low considering vehicles could access Cedar Way and The Oaks and therefore would only have to use a short section of Atkinson's Lane. Vehicles would therefore be able to manoeuvre safely along the road. Moreover, the Council do not consider that the proposed development would lead to any highway safety concerns.
12. The Council does not dispute the principle of development. Development on this site would accord with LP Policy LP3 as it would represent a small extension of a Limited Growth Village. Building on open fields is not wholly restricted by the development plan or the Framework. Concerns have been raised regarding the potential development of the remaining field and the

prospect of piecemeal development to avoid planning obligations and the provision of affordable housing. Nevertheless, there is no substantive evidence that the appellant desires to develop the rest of the field and all future proposals would be assessed on their own planning merit. This decision is without prejudice to any future applications on adjoining land.

13. I am confident that a detailed proposal, or series of proposals, for the site could be provided at the reserved matters stage that respects the character and appearance of the area and does not affect the living conditions of neighbouring residents. There is sufficient space within the appeal site for dwellings to be sited away from existing properties.
14. Neighbouring residents would be affected by the construction of the dwellings; also, the narrow lane may make it difficult for some large construction vehicles to manoeuvre. However, these effects could be mitigated through the implementation of a construction management plan, which could be conditioned as part of any planning permission.
15. The appeal site is in Flood Zone 1 and there is no substantive evidence before me that the appeal site or Atkinson's Lane floods. The proposed development should not increase flooding elsewhere including properties which are sited on lower ground. Therefore, it is important that any detailed proposals are supported by a drainage scheme which demonstrates that flooding would not be increased elsewhere. Likewise, a foul sewerage scheme would need to be provided with a detailed proposal to show the development could dispose of foul water appropriately.
16. There is no substantive evidence that the proposed development would have a harmful effect on various species, including hedgehogs, bats, and owls; the capacity of local services and facilities; or water pressure in the local area. Likewise, there is no substantive evidence that the appeal site is of an archaeological interest.
17. The proposed development would not lead to the loss of open space, from the evidence before me the site is privately owned and there is no intention for the site to become a public open space.
18. The issue of the effect of the proposed development on property values has also been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.

Conditions

19. The Council has indicated the conditions that it considers would be appropriate. I have considered these in light of the guidance contained within the Planning Practice Guidance and paragraph 56 of the Framework.
20. Conditions specifying what the reserved matters are, time limits to submit reserved matters applications and implement the permission, and approved plans are necessary in the interest of certainty.
21. A condition requiring details of the proposed foul disposal scheme and surface water drainage scheme to be submitted to and approved by the local planning authority and installed prior to occupation is necessary to ensure that the proposed development is serviced and drains appropriately. A condition requiring details of a construction management plan to be submitted to and

approved by the local planning authority is necessary to ensure that the proposed development does not harm the living conditions of neighbouring residents during construction and to ensure highway safety.

22. In the interest of the living conditions of existing and future residents a condition specifying the actions required if contamination is found on site is necessary. A condition requiring the on-site parking and turning area to be laid out prior to first occupation is necessary to ensure that appropriate servicing facilities are provided and in the interest of highway safety.

Conclusion

23. The proposed development accords with the development plan when considered as a whole. Therefore, for the reasons given above I conclude that the appeal should be allowed, and planning permission is granted.

J Hobbs

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (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 plan, Ref. 6372-PL01@A1 Rev C, except in respect of the reserved matters shown on the plan.
- 5) Prior to commencement of development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved plan shall be adhered to throughout the construction of the development. The Construction Management Plan shall include details of:
 - temporary facilities for the parking, turning, loading, and unloading of all vehicles visiting the site during the period of construction;
 - routes for construction traffic;
 - hours of operation for construction;
 - noise and dust mitigation measures;
 - wheel washing facilities;
 - pedestrian and cyclist protection
 - any necessary traffic management and associated signage;
 - hours and access of deliveries to site; and
 - waste management for clearance of the land and disposal of any hazardous waste or noxious matter.
- 6) Prior to the commencement of development details of a scheme for the provision and implementation of foul disposal and surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The drainage shall be constructed and completed in accordance with the approved plans and specification at the times specified within the scheme and thereafter retained in perpetuity.
- 7) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 8) Prior to the first occupation of the development the proposed on-site parking and turning area shall be laid out in accordance with the approved plans and surfaced in a bound material and drained to prevent

surface water run-off onto the adjacent public highway. The parking and turning area, surfacing and drainage shall thereafter be retained as such in perpetuity.