
Appeal Decision

Site visit made on 19 December 2023

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th January 2024

Appeal Ref: APP/W0530/W/23/3322599

Land South of Willingham Green, Brinkley, Cambridgeshire CB8 0SW

- 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 Nino Piccoli (Sigurd Investments Limited) against the decision of South Cambridgeshire District Council
 - The application Ref 22/03497/OUT, dated 25 July 2022, was refused by notice dated 19 January 2023.
 - The development proposed is the erection of 1 No. dwelling (with access).
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 1 No. dwelling (with access) at land south of Willingham Green, Brinkley, Cambridgeshire CB8 0SW in accordance with the terms of the application, Ref 22/03497/OUT, dated 25 July 2022, subject to the conditions identified in the attached Schedule to this decision.

Preliminary Matters

2. On 19 December 2023 an updated version of the National Planning Policy Framework (the Framework) was published but this does not materially alter the assessment of the appeal scheme.
3. The appeal application was submitted in outline form with all matters reserved for subsequent approval except for the means of access.

Main Issue

4. It is considered that the main issue is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

5. The appeal site comprises part of a former breaking, storage and repair facility, with associated sales, which is within the countryside. The Council and the appellant refer to the facility as a scrapyard. The lawful use of the scrapyard was established by the issuing of a Certificate of Lawful Development (Ref S/1362/04/LDC). The scrapyard has the appearance of having undergone some form of remediation work but still possesses an unkempt appearance which detracts from the predominant verdant and open character and appearance of the surrounding area. Part of the appeal site is occupied by existing buildings which are in a poor condition.

6. Although there are dwellings adjacent to the former scrapyards, the site is not included within a village framework boundary as defined by Policy S/7 in the South Cambridgeshire Local Plan (LP). Accordingly, for the purposes of LP Policies S/6 and S/7 the site is within the countryside and the proposed dwelling does not fall within the categories of housing which would need to be located within the countryside. LP Policy S/11(3) referred to in the Council's reason for refusal is principally directed at larger scale development within defined infill villages rather than housing on isolated sites in the countryside.
7. By reason of its location in the countryside, the proposed development would conflict with the location of housing as identified in LP Policies S/6 and S/7 but the appellant has sought to identify other material considerations which should be assessed. The Council's assessment of these other considerations was that they provided insufficient justification for departing from the relevant development policies.
8. From the evidence provided, the former vehicle breaking, storage and repair facility is included on the Council's brownfield land register. The Framework refers to the important contribution small and medium sized sites can make to meeting the housing requirement of an area. To promote the development of a good mix of sites, the Framework identifies that local planning authorities should identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare. Significant weight is given to the site's inclusion on the register and its potential re-use for housing purposes in the determination of this appeal.
9. As claimed by the appellant, the site falls within the definition of previously developed land as identified in the Glossary to the Framework. Further, the Framework identifies that in the rural area the use of previously developed land should be encouraged where suitable opportunities exist. In the assessment of this appeal, significant weight is given to the site being previously developed land and its potential redevelopment for housing purposes.
10. The building adjacent to the road is clearly noticeable because it projects above the hoarding which is the means of enclosure along the road frontage. Another single storey building within the site is set further back from the road but is still visible. These buildings are in poor condition and are not an attractive design. They do not blend into the landscape and because of their scale, design and condition they have a negative effect on the character and appearance of the open and verdant surrounding area. The indicative siting of the proposed dwelling would require these buildings to be demolished. Accordingly, significant weight is given to the potential improvement to the character and appearance of the site because of the proposed development and the potential, at reserved matters stage, for a built form of development of a higher design quality.
11. Planning permission was granted by the Council for the erection of 4 dwellings on the scrapyards (Ref S/4528/18/FL). Although in an isolated location within the countryside, the evidence indicates that consent was given because there was an extant permission for the erection of 2 dwellings (Ref S/2674/FL), no 5-year supply of housing land could be identified and the ceasing of the commercial use would be beneficial to the occupiers of the adjacent dwellings. The Council claims that there is now more than a 5-year supply of housing

land, there is not an extant consent for housing development, the Local Plan has been adopted since the previous decision and the previous consent is not capable of implementation albeit this is disputed by the appellant.

12. In the absence of a Certificate of Lawful Development, whether the residential planning permission has or has not been implemented is not a matter for consideration as part of this appeal and limited weight can be given to any potential fallback position. Similar weight is given to the previous permission in the determination of this appeal because of the differences in the planning circumstances between the previous and current schemes, specifically the adequacy of the current housing land supply which does not engage the presumption in favour of sustainable development identified in the Framework.
13. There is no specific evidence to indicate that the former use established by the Certificate Lawful Development could not be resumed in some form. The erection of a dwelling on the site would have the potential to both deter the scrapyard use being re-established and secure the continued restoration of the scrapyard which would be of benefit to the occupiers of the nearby-by properties. Accordingly, reflecting the previous planning permission, moderate weight is given to potential permanent cessation of the vehicle breaking, storage and repair facility use.
14. Other benefits claimed by the appellant include the provision of an energy efficient dwelling sustainably constructed, expenditure by future occupiers in the local area, Council Tax income to the Council and the creation of construction jobs. However, the standard of construction and energy performance of the proposed dwelling would be determined by Building Regulations. By reason of only being a single dwelling, the other claimed benefits would be limited or temporary in nature. Overall, only limited weight is given to these other claimed benefits in the determination of this appeal.
15. The appellant has referred to an appeal for the redevelopment of a factory site for housing development at Meidreth (Ref APP/W0530/W/19/3223691). However, this other appeal related to a site which is within the development framework of the village rather than being in an isolated location. Accordingly, very little weight is given to this other scheme in the determination of this appeal.
16. When taken together, the other material considerations which have been identified and specific to this appeal scheme are judged to be of such significance that they cumulatively outweigh the identified conflict with LP Policies S/6 and S/7. For this reason, it is concluded that the location of the proposed development would not cause unacceptable harm to the character and appearance of the surrounding area.

Other Matters

17. The Council has not objected to the proposed access which is shown on Drawing No. 1616-02-02. Although the concerns of the Highway Authority have been noted, this Block Plan and the observations made during the site visit provide sufficient details to assess that the proposed access would not represent an unacceptable danger to other highway users. However, it would be appropriate for conditions to be imposed to ensure that the proposed access is constructed to an appropriate standard if this appeal succeeds.

Conditions

18. The Council has not suggested conditions in the event this appeal succeeds. However, conditions are necessary to secure the submission of reserved matters and to identify the approved drawings, including the proposed access.
19. Other conditions have been suggested by the consultees and they have been assessed against the test in the Framework and the Planning Practice Guidance. The conditions have been redrafted for reasons of precision.
20. A Phase II Environmental Assessment accompanied appeal application which identified that the site contains materials that represent unacceptable risks to future occupiers and recommendations were made to mitigate the risk to human health. There is sufficient information in the Assessment to identify the risks to human health and, as such, conditions are required to secure the necessary remediation measures to protect the future occupiers.
21. Details of the drainage for the proposed dwelling are required to avoid any future concerns associated with pollution or flooding. To protect the living conditions of near-by occupiers, a Construction and Environmental Management Plan should be prepared to control the construction activities on the site, including parking for contractors. As has been identified, conditions are necessary to ensure that the proposed access is constructed to an appropriate standard.
22. Accordingly, it is concluded that this appeal should be allowed.

D J Barnes

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 begins 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 three years from the date of this permission.
- 3) The development hereby permitted shall begin either before the expiration of three years from the date of this permission or not later than two 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: 1616-02-01 and 1616-02-02 but only in so far as it relates to the access.
- 5) No development shall take place on the site where land as identified in the Phase II Environmental Assessment affected by contamination has been found, and which poses risks identified as being unacceptable in the 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.

- 6) 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.
- 7) Prior to commencement of the development hereby permitted schemes for the disposal of surface water and foul water that can be maintained for the lifetime of the development shall be submitted to and approved in writing by the local planning authority. The schemes shall ensure that no private water from the site or the access drains across or onto the public highway. The dwelling hereby permitted shall not be occupied until the foul and surface water schemes have been implemented in accordance with the approved schemes and shall then be maintained in accordance with the approved schemes.
- 8) No development shall take place, including any works of demolition, until a Construction and Environmental Management Plan has been submitted to, and approved in writing by the local planning authority. The Plan shall provide for:
 - a) Full details of any piling technique to be employed, if relevant;
 - b) Contact details for site manager, including how these details will be displayed on site;
 - c) Hours of operation for the construction period; and
 - d) A contractor's parking plan demonstrating how the developer will control and regulate on street motor vehicle parking for the contractors and sub-contractors constructing the development.

The approved Construction and Environmental Management Plan shall be adhered to throughout the construction period of the development.

- 9) Prior to the occupation of the development hereby permitted the vehicular access identified on Drawing No. 1616-02-02 where it crosses the public highway shall be laid out and constructed in accordance with Cambridgeshire County Council's construction specification. The access shall be retained as constructed thereafter.
- 10) The proposed vehicular access shall be constructed using a bound material, for the first 5 metres from the boundary of the public highway into the site and the bound material shall be retained for the lifetime of the development.

- 11) Any access gates must be set back at least 5 metres from the boundary of the public highway.

END