
Appeal Decision

Site visit made on 21 July 2017

by Y Wright BSc (Hons) DipTP MSc DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 August 2017

Appeal Ref: APP/A2525/W/17/3170487

Land adjacent 62 Austendyke Road, Weston Hills, Spalding PE12 6BX

- 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 Simon Earle (F Earl and Son) against the decision of South Holland District Council.
 - The application Ref H22-1004-16, dated 29 September 2016, was refused by notice dated 10 February 2017.
 - The development proposed is outline residential development.
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Decision

1. The appeal is allowed and planning permission is granted for outline residential development at land adjacent 62 Austendyke Road, Weston Hills, Spalding, Lincolnshire PE12 6BX in accordance with the terms of the application, Ref H22-1004-16, dated 29 September 2016, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The planning application to which the appeal relates was submitted in outline form with all matters reserved for future determination. I have considered the appeal on this basis. An indicative layout was submitted with the planning application, but I note that this is for illustrative purposes only.
3. The planning application refers to the site address as 62 Austendyke Road. However the land is adjacent to this address. To ensure clarity I have amended the site address accordingly.

Main Issues

4. I consider the main issues are:
 - Whether future occupants would have acceptable access to local services; and
 - The effect of the development on the character and appearance of the surrounding area.

Reasons

Accessibility to local services

5. The appeal site is located adjacent to existing development along Austendyke Road in the northern part of Weston Hills, a rural settlement. There is a public

house directly opposite the site which also trades as a tea room and the local shop, though I note the opening hours for the latter are restricted. In addition my attention has been drawn to other local facilities in Weston Hills including a primary school, access to a secondary school via school transport, a church, community hall and a playing field¹. Whilst these facilities appear to be located in the southern part of Weston Hills I do not consider that the distance from the appeal site is so significant that it would prevent some future occupiers of the development from accessing them by foot or bicycle.

6. Limited information is before me in relation to the bus services accessible from the site. Nevertheless from the evidence provided I note that there is a bus stop within around a 200m walking distance of the appeal site. Whilst bus services appear to be limited, those that are available include a reasonably short trip to Spalding, the adjacent main town, which has a wide range of facilities and services.
7. I recognise that the appeal site is not as accessible as other more urban locations. However the proposal would be well related to the built up area of the settlement, would be directly opposite some local services and within reasonable travelling distance of a wider range of facilities. Accordingly the proposal would not be isolated development in the countryside.
8. Therefore based on the evidence that is before me and my observations on site, I conclude that future occupiers of the proposed development would have acceptable access to local services. Accordingly I find no fundamental conflict with LP Policy SG2, which includes ensuring where possible, that development is served by a choice of transport modes, or the Framework in this regard.

Character and appearance

9. The site forms a small part of a substantial arable field which extends north to the rear of houses along Austendyke Road. I note that the former Methodist Church stood on part of the site, but that this was demolished in the 1990s. As such only the front wall remains of this previous development.
10. Notwithstanding the rural character of the site itself, its surroundings are dominated by the existing urban form consisting predominantly of residential properties which extend along Austendyke Road. Indeed the site is surrounded on three sides by existing development. There is a mix of terraced and detached houses directly opposite the site together with the public house. Detached and semi-detached dwellings are situated directly to the west. Detached properties to the east on Delgate Bank are separated from the site by the lane and the entrance to the field.
11. I acknowledge that the proposal would clearly introduce urban development on to what is currently an open site of rural character which would change the character and appearance of the area locally. In this regard I am mindful that the Framework requires that the intrinsic character and beauty of the countryside is recognised, whilst having regard to the policies in the Framework as a whole.
12. In this instance, the proposal would inevitably result in some adverse impact to character and appearance due to development of a site of open farmland

¹ South East Lincolnshire Sustainability of Settlements Study 2015 (Appendix 9 of the Appellant's statement of case)

character. However, the appeal site is well related to the built up area of the settlement and as such I consider that the proposal would appear in keeping with the existing local pattern of development. It is my view that the proposal would overall be seen as a relatively small and proportionate extension to the settlement rather than an intrusive form of ribbon development.

13. In light of the above I conclude overall that the effect on character and appearance would only be slightly adverse. Whilst this would conflict with LP Policies SG4 and HS7 which both seek to protect the countryside from development that does not meet specified criteria, the extent of the harm would be such that it carries only marginal weight against the proposal.

Other matters

14. The Framework aims to boost the supply of housing and from the evidence before me there is no dispute that the Council's housing land supply is only 2.9 years. As such there is a very significant housing land shortfall. The proposal whilst delivering a modest number of houses would nevertheless contribute to this shortfall which carries moderate weight in its favour.
15. The development would also provide additional social benefits through the support of existing local services. The construction phase could also provide some temporary economic benefits. These benefits carry some modest weight in support of the appeal.
16. The Council states as part of its reason for refusal that the grant of planning permission for this proposal would compromise future decisions affecting the character of the area by setting an undesirable precedent. However, my findings in this appeal must be based only on the planning merits of the case that is before me. I consider this appeal is very specific particularly in regards to its location directly opposite some existing village facilities. The circumstances of other sites are likely to be different and if proposals were to come forward elsewhere within the locality they would be assessed in the light of the factors relevant to that case. Therefore I consider the concern about precedent does not offer a basis for resisting the scheme.
17. Reference has been made by both main parties to the emerging South East Lincolnshire Local Plan 2011-2036 which proposes to define Weston Hills as an 'Other Service Centre and Settlement' within the new settlement hierarchy. The Council suggests that Weston Hills will be an area of 'development restraint' under this emerging Plan with minimal opportunity for development. However the Plan is at an early stage of production, is still evolving and may be subject to challenge and change. I therefore give this plan very little weight within my decision.
18. With regard to drainage and flooding, whilst I note the concerns of local residents in this respect, there is no substantive evidence before me to demonstrate that this development would exacerbate any existing problems. Indeed I note the Appellant's suggestion that the development would improve drainage in the locality. Furthermore the statutory agencies have not objected to the development on these grounds subject to the imposition of suitably worded conditions.
19. As regards concerns about loss of wildlife, I have no substantive evidence that existing wildlife would be adversely affected by the proposal or that the loss of

agricultural land would be so detrimental to warrant refusal. The Council does not object on this basis and I have no reason to disagree. Whilst part of the site's side and front boundaries feature hedgerows, there is no reason why such features could not be considered for incorporation into the design of the development at the reserved matters stage.

20. In relation to concerns raised about traffic generation and highway safety I have no substantive evidence to indicate that the development itself would increase the risk of accidents in the area or cause significant harm as regards highway safety. Furthermore I note that the Council and Highway Authority do not object to the proposal on highway safety grounds, subject to the imposition of a suitable condition requiring vehicles to be able to exit the site in forward gear. I note that some of the residents opposite the site are concerned that they will no longer be able to park their vehicles along the edge of the existing field. However the land is private property and the Appellant has stated that no rights exist in this regard. Whilst I understand the residents' concerns, this matter does not form part of the planning merits of the case.
21. Whilst the view for residents living opposite the site would change, there is no right to a view in planning terms. As regards loss of privacy I am satisfied that the site could be designed at the reserved matters stage to ensure that intervening distances between properties would be sufficient so that living conditions for existing residents would not be prejudiced. I also note that the Council does not object on these grounds. These factors therefore do not weigh against the proposal.
22. I recognise that there would be some local disruption to neighbours that would be caused during the construction stage. Clearly building work often involves a local upheaval but this would only be for a temporary period and due to the small size of the site would be of a reasonably short duration.
23. Whilst I have taken into consideration the other developments which have been drawn to my attention I can only give them little weight. Whilst the policy framework appears to be the same, I cannot be sure that the schemes are directly comparable, particularly as most relate to different settlements or are on brownfield land. In any case each appeal must be determined on its own individual planning merits.

The Planning Balance

24. There is no dispute that the Council is unable to demonstrate a five year housing land supply. As such adopted local plan policies relevant to the supply of housing are considered to be out of date and planning decisions on housing development must therefore be made in the context of Paragraph 14 of the Framework. Accordingly the presumption in favour of sustainable development applies.
25. Paragraph 14 of the Framework states that planning permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or that specific policies in the Framework indicate development should be restricted. It has not been suggested to me by either main party that the latter point is relevant to this case. I have no reason to determine otherwise.

26. I have found that the proposal would result in slight harm to the character and appearance of the surrounding area. Against this I have concluded that future occupiers of the development would have some access to services and facilities by means other than the private car and the site would contribute to the significant housing shortfall within the District. These factors weigh moderately in support of the proposal. Other social and economic benefits carry modest weight in favour of the development. Whilst I have given careful consideration to the local representations made, I have concluded that these other matters would not weigh against the proposal.
27. Consequently in accordance with paragraph 14 of the Framework I conclude that there are no harmful impacts that would significantly or demonstrably outweigh the benefits of the development. This is therefore a case where material considerations indicate that determination should be other than in accordance with the development plan. Consequently I consider that the appeal proposal would accord with the provisions of the Framework when read as a whole and therefore would be sustainable development.

Conditions

28. I have considered the conditions suggested by the Council in the light of the advice given in the Planning Practice Guidance (PPG). As such I have imposed all of them, though have made minor changes in wording to some in the interests of precision and enforceability. I am satisfied that the conditions set out in my decision meet the tests within the PPG.
29. Conditions on setting reasonable time limits and the provision of details on reserved matters are necessary as the application made is for outline permission. I also impose a condition specifying the approved plans for reasons of certainty.
30. Whilst landscaping is a reserved matter, a condition requiring specific details is necessary in the interests of the character and appearance of the area. In addition I impose a condition requiring compliance with the flood risk assessment and particularly in relation to floor levels, to safeguard against flooding. A drainage condition is also necessary to prevent flooding. As part of the appeal site has previously been developed on, I impose a condition requiring the investigation and remediation of contamination on the site to ensure that the living conditions of future occupiers are protected and to avoid pollution.
31. To ensure highway safety and notwithstanding that layout and design are reserved matters, I attach conditions relating to turning spaces within the curtilage of each proposed dwelling and the provision of a footway to the front of the site.

Conclusion

32. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be allowed.

Y Wright

INSPECTOR

Schedule of Conditions

- 1) 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.
- 2) 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.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: Dwg. nos. 27716/01 and 1637-01.
- 4) Notwithstanding the details accompanying the application, no development shall take place without the prior written approval of the Local Planning Authority of all details of the following reserved matters:
 - i) the layout, scale and external appearance of building(s), including a schedule of external materials to be used;
 - ii) means of access;
 - ii) the landscaping of the site;
 - iii) the means of sewage and surface water disposal;
 - iv) the existing and proposed site levels and floor levels of the buildings and hard surfaced areas.The development shall be carried out as approved.
- 5) In accordance with condition 4 the written approval of the local planning authority is required for a scheme of landscaping and tree planting for the site indicating, inter alia, the number, species, heights on planting and positions of all the trees, together with details of post-planting maintenance. Such scheme shall be carried out in its entirety in accordance with the approved details, within a period of 12 months beginning with the date on which development is commenced. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.
- 6) Before the commencement of development hereby granted, full details of boundary treatment /screening, including type, materials and height, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the dwellings are brought into use and thereafter retained.
- 7) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) and in particular the finished floor levels shall be set at 3.1m AOD. The mitigation measures shall be fully implemented prior to occupation.
- 8) The development hereby permitted shall not be commenced until a scheme to deal with any contamination of land or pollution of controlled waters has been submitted to and approved in writing by the Local Planning Authority (LPA) and until the measures approved in that scheme have been implemented. The scheme shall include all of the following measures:

- i) a desk-top study carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/Quantitative Risk Assessment (or state if none required). Two full copies of the desk-top study and a nontechnical summary shall be submitted to the LPA without delay upon completion.
 - ii) if identified as being required following the completion of the desk-top study, a site investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed taking into account the sites existing status and proposed new use. Two full copies of the site investigation and findings shall be forwarded to the LPA without delay upon completion.
 - iii) thereafter, a written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters affecting the site shall be submitted to and approved in writing by the LPA, and all requirements shall be implemented and completed to the satisfaction of the LPA. No deviation shall be made from this scheme. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing by the LPA.
 - iv) two full copies of a full closure report shall be submitted to and approved in writing by the LPA. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post-remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation has been fully met.
- 9) When application is made for approval of the 'Reserved Matters', that application shall show details of arrangements to enable a motor vehicle to turn within the curtilage of each dwelling so that it can enter and leave the highway in a forward gear. Such details shall be agreed in writing by the local planning authority. The development shall be constructed in accordance with the approved details.
- 10) No development shall take place before a scheme has been agreed in writing by the local planning authority for the construction of a 1.8 metre wide footway, together with arrangements for the disposal of surface water run-off from the highway at the frontage of the site. The agreed works shall be fully implemented in accordance with the approved details before any of the dwellings are occupied or in accordance with a phasing arrangement to be agreed in writing with the local planning authority.