The Planning Inspectorate

Appeal Decision

Site visit made on 21 March 2018

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 April 2018

Appeal Ref: APP/A2525/W/17/3191685
6 Orchard Close, Saracens Head, Spalding PE12 8AR

- 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 G Forman against the decision of South Holland District Council.
- The application Ref H23-0701-17, dated 23 July 2017, was refused by notice dated 17 October 2017.
- The development proposed is described as 'residential development 3 dwellings'.

Decision

1. The appeal is allowed and planning permission is granted for 'residential development 3 dwellings' at 6 Orchard Close, Saracens Head, Spalding PE12 8AR in accordance with the terms of the application, Ref H23-0701-17, dated 23 July 2017, subject to the conditions set out in the attached schedule.

Procedural Matter

2. I have taken the description of development form the appeal form since it best describes the development to which the appeal relates. It is the same description that is shown on the Council's decision notice. As such I am satisfied that proceeding on this basis would not be prejudicial to either parity.

Main Issues

3. There are two main issues; these are the effect of the proposed development on a) the character and appearance of the area and b) the living conditions of existing neighbouring occupiers.

Reasons

Character and Appearance

4. The appeal site is a narrow, roughly rectangular flat parcel of land slightly raised from the larger agricultural field beyond. It abuts the residential curtilages of dwellings to the south and east. It is laid predominantly to rough grass and moss and there is evidence of recent clearance. The proposed development seeks outline planning permission for the erection of three dwellings with all other matters reserved for future consideration. The appeal scheme follows a previous outline planning permission that was granted for the erection of two dwellings[1] which is extant at the time of writing.

[1] Local Planning Authority Reference H23-1273-16

5. Taking into account the planning history of the site as well as the Council's current housing supply situation, the Council has no objections to the principle of the proposed development. The crux of their concern in respect of this main issue is the fact that a scheme for three dwellings would represent an over intensive form of development of the site in its context. Being harmful to the rural fringe of the settlement.

6. The appeal site abuts a fairly dense built up area. Whilst there are limited examples of backland style development in pattern terms, the principle is established. The final layout of the approved development is not fixed, and similarly neither is the one before me. Putting this in the context of the surrounding grain of development, there is therefore clear potential for a scheme to be developed that would assimilate satisfactorily.

7. The site is sufficiently sized to be able to accommodate the proposed development, allowing for access and private garden space, without appearing cramped or the buildings too close together. I make reference here to the indicative layout plan. The site is on the outer edge of the built extremities of the settlement but development at this point already has a garden backing onto open agricultural field relationship which would not fundamentally alter. Indeed, I do not see a significant difference in how three dwellings would appear and interact with the settlement's fringe than two. From the outside looking in, one would still appreciate a cluster of dwellings directly abutting the edge of the settlement. In addition, I see the appeal site as visually distinct from the wider agricultural land uses by virtue of its treatment and height.

8. With all of the above in mind, I do not agree that the proposed development would be harmful in visual or character terms. Consequently, there would be no conflict with saved Policy SG14 of the Local Plan[2] or section 7 of the Framework[3]. These policies seek to ensure, amongst other things, that new development is of a high quality and contextually appropriate design and appearance that responds to local character.

Living Conditions

9. The access for the proposed dwellings would be via a single width track, currently gated, that runs between numbers 6 and 7 Orchard Close. The Council's concerns in this respect stem from the potential for there to be noise disturbance through the intensified use of this access.

10. In terms of No 6, the access would abut part of its side garden. The more private rear garden is situated further away and there would be some shielding provided by an existing detached garage. What appears to be a private driveway would then turn through roughly 90 degrees and run alongside the side elevation of No 7 and effectively the length of the side, back garden boundary. Whilst the route of this access within the site is indicative, its constraints are such that it is more likely than not it would run in the general vicinity of where it is shown. I have no doubt that there would be some affect in additional noise terms on users of this garden. It is important however to place this in context.

11. The area more generally is far from tranquil, owing largely to the proximity of the edge of the settlement to the busy A17, a local arterial route that evidently

[2] South Holland Local Plan 2006
[3] The National Planning Policy Framework 2012

carries a high proportion of HGV traffic. Orchard Close is not a through road but nevertheless occupiers will be generally used to vehicular comings and goings associated with light domestic use, a type and nature of use that the proposed development would reflect. In addition, there is substantial mature landscaping along the length of the garden boundary.

12. Notwithstanding the above which I consider to be important mitigating factors to any adverse effect, it also needs to be borne in mind that an extant planning permission exists for the erection of two dwellings which could come forward regardless of the outcome of this appeal. I have alluded to above that I do not consider three to be materially different in character and appearance terms to two and I make the same comment here. In essence, additional movements associated with three dwellings over and above those which could conceivably arise from two would not be so significant to the extent that it would be reasonable to withhold planning permission.

13. On the matter of privacy, the Council's explanation of the precise nature of harm in this respect is light. Nonetheless, close boarded fencing and landscaping along abutting garden boundaries as well as the placement of existing buildings is such that overlooking from either vehicles or the new dwellings themselves would unlikely have an adverse effect on privacy. I note that the indicative plans do shown how direct views from the new dwellings would not overlook the rear garden to No 7 but also since the scheme seeks outline planning permission, internal layouts, building orientation and the use of specialist glazing can play a further part in ensuring that the privacy of neighbours can be protected. This can be part of any detailed scheme at the reserved matters stage.

14. For these reasons, the proposed development would not be harmful to the living conditions of existing neighbouring occupiers. As a result, the proposed development would comply with the provisions of saved Policy SG17 of the Local Plan. This policy, amongst other things and along with one of the core principles of the Framework, seeks to ensure that new development should consider potential noise associated with vehicular activity and overlooking or loss of privacy to ensure a good standard of amenity for existing and future users of land and buildings.

Other Matters

15. I note that the appeal site is in flood zone 3. The Environment Agency has commented on the proposed development and the Council has exercised their obligations with regard to the sequential and exception tests as set out by section 10 of the Framework. There is no evidence before me to lead me to a different conclusion on this matter, taking into account the views of the relevant parties on matters of defence and the Council's consideration of the South East Lincolnshire Strategic Flood Risk Assessment 2017.

16. The consensus is that, in terms of the exception test, it would be reasonable and appropriate to ensure that the finished floor levels of the new dwellings should be set 300mm above the existing ground level. I do not foresee any detrimental effect that may arise out of this taking into account my findings on the main issues and agree that it would be eminently sensible, and indeed reasonable and necessary, to impose a suitably worded planning condition to deal with this matter.

Conditions

17. I have had regard to the conditions that have been suggested by the Council. I have imposed the following for the reasons I have given, making some changes to wording in the interests of clarity and enforceability.

18. I have set out the standard time conditions and timescales for the submission and approval of the reserved matters. I have also set out the approved plans for certainty. I have not imposed a condition for the landscaping of the site or details of parking and turning areas since the former is explicitly mentioned as a reserved matter and the latter, it would seem reasonable, is capable of being shown on a detailed layout which can be approved along with the reserved matters. The consideration of such detail is within the Council's control at a later date. In addition, it is highly unlikely, with regard to saved Policy SG16 of the Local Plan, that the Council would approve a detailed scheme without parking or turning arrangements.

19. To ensure the continued protection of neighbours' privacy, as well as for the avoidance of doubt, I have included a condition to agree boundary treatments. It would be sufficient to agree this detail prior to the occupation of the first dwelling.

20. For certainty, and to ensure appropriate functioning in light of my findings in paragraphs 15 and 16, I have imposed a condition requiring the flood risk mitigation measures set out by the submitted Flood Risk Assessment to be incorporated into the scheme at an appropriate time.

21. Concern has been expressed by local residents regarding the potential effects of any construction work. Given the proximity of the site to other residential uses I feel it reasonable to attach a condition requiring agreement of relevant and proportionate matters concerning works on site prior to the commencement of development.

22. The Council's evidence sets out that the proposed development lies within an area known for salt making and it is therefore of some potential archaeological significance. In this interest therefore I have imposed conditions requiring the agreement and implementation of a written scheme of investigation and monitoring appropriate to the area. Given the nature of archaeological matters, it would be prudent for this detail to be agreed and appropriate arrangements put in place prior to the commencement of any development.

Conclusion

23. It is for the reasons I have set out above and subject to the conditions included in the attached schedule that, whilst having regard to all other matters raised, the appeal is allowed.

John Morrison

INSPECTOR

SCHEDULE OF CONDITIONS

1) Details of the access, 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 three years from the date of this permission.

3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.

4) Prior to the occupation of the first dwelling hereby approved, details of all boundary treatments shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

5) The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment submitted with the application and as undertaken by Geoff Beel Consultancy, dated December 2016 and incorporate the following mitigation measures which shall be implemented prior to the occupation of each dwelling:
   i) Finished floor levels of the new dwellings shall be set no lower than 300mm above the existing ground level;
   ii) Flood resilient and resistant construction methods shall be incorporated into the development to at least 300mm above the finished floor level; and
   iii) The dwellings shall be at least two storeys.

6) No development shall take place, including any works of demolition, 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) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
   v) Wheel washing facilities;
   vi) Measures to control the emission of dust and dirt during construction;
   vii) A scheme for recycling/disposing of waste resulting from demolition and construction works; and
   viii) Delivery, demolition and construction working hours.

   The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

7) No development shall take place until a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:
   i) the programme and methodology of site investigation and recording;
   ii) the programme for post investigation assessment;
   iii) the provision to be made for analysis of the site investigation and recording;
   iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
   v) the provision to be made for archive deposition of the analysis and records of the site investigation;
   vi) the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

8) Lincolnshire County Council Historic Environment Department shall be notified in writing of the intention to commence at least fourteen days before the start of archaeological work required in connection with Condition 6 in order to facilitate adequate monitoring arrangements.

9) A copy of the final report required in connection with Condition 6 shall be submitted within three months of the work being carried out to the Local Planning Authority and the Lincolnshire Historic Environment Record. The material and paper archive required as part of the written scheme of investigation shall be deposited with an appropriate archive in accordance with guidelines published in the Lincolnshire Archaeological Handbook.