
Appeal Decision

Site visit made on 28 June 2018

by D Guiver LLB (Hons) Solicitor

an Inspector appointed by the Secretary of State

Decision date: 20 August 2018

Appeal Ref: APP/A2525/W/18/3197601

10 Peterborough Road, Crowland, Peterborough PE6 0BA

- 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 Amelio Homes Limited against the decision of South Holland District Council.
 - The application Ref H02-0536-17, dated 5 June 2017, was refused by notice dated 11 September 2017.
 - The development proposed is a residential development of two detached houses.
-

Decision

1. The appeal is allowed and planning permission is granted for a residential development of two detached houses at 10 Peterborough Road, Crowland, Peterborough PE6 0BA in accordance with the terms of the application Ref H02-0536-17, dated 5 June 2017, subject to the conditions in the attached Schedule.

Preliminary Issues

2. The application was made in outline with all matters reserved for future consideration. I have therefore considered drawings submitted with the application to be merely indicative and have determined this appeal accordingly.
3. Since the date of the Council's decision, the National Planning Policy Framework 2018 (the Framework) has been published and has effect. Local development plan policies that pre-date the publication should be given due weight according to the degree of consistency with the Framework. Where Policies are consistent, I am satisfied that neither party would be prejudiced by my determining this decision in accordance with those Policies without seeking further comments.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of neighbouring properties at Nos. 8A and 10 Peterborough Road, with particular regard to noise from vehicular and pedestrian traffic movements.

Reasons

5. The appeal site comprises a relatively large area of land to the rear and within the curtilage of No. 10 Peterborough Road. The proposal represents backland

development, which is relatively common in the vicinity. The surrounding area is largely residential and is within walking distance of a number of local services and public transport links to the main shopping area of Crowland, which is somewhat less than half a mile distant. Access would be via an approximately 4.2-metre wide road laid between the flank elevation of No. 10 and the boundary fence with the neighbouring dwelling at No. 8A Peterborough Road. A garage that was on the site in the location of the proposed access has been removed.

6. The proposed access at the appeal site is wide enough to safely accommodate both vehicles and pedestrians. The access would pass the retained garden at No. 10 but vehicles would not be travelling at any great speed to generate noise. Occasional noise from passing vehicles is part of the background noise within residential areas and therefore would not cause any harm. There are no windows in the flank wall of No. 10 overlooking the proposed access and as such vehicular and pedestrian movements along this road would not have an unacceptably detrimental effect on the living conditions of the occupiers of this neighbouring property.
7. There are a number of windows in the flank wall of No. 8A but this is two metres or so away from the boundary shared with the appeal site and the space in between provides for its own vehicular access along the flank wall to parking at the rear of the property. Furthermore the number of vehicular and pedestrian journeys to the two houses proposed would be similar to the likely number of journeys by the occupiers of No. 8A and principal journeys for work or school drop-offs are likely to occur at similar times. Therefore the impact would be minimal and not harmful. The proposed turning and parking areas would be parallel with a small part of the garden area at No. 8A beyond its garage but would be separated by the full width of the proposed drive. As mentioned above, occasional noise from passing vehicles that is part of everyday background noise is not harmful.
8. Therefore, the proposal would accord with Policies SG14 and SG17 of the South Holland Local Plan 2006 (the Local Plan) which seek to ensure developments respect the amenity of neighbouring residents and do not result in unacceptable harm from noise associated with traffic movements. Policies SG14 and SG17 are compatible with the Framework which advises at paragraph 127 that local development plan policies should ensure that developments create places that are safe and accessible with a high standard of amenity for existing and future users.

Other Matters

9. Although not forming part of the reason for refusal, the Council's evidence does raise a question about the potential impact on the occupiers of No. 8A from overlooking and loss of privacy. Although final design and site layout are reserved matters, the appellant has indicated that any windows in the side elevation of the proposed dwelling closest to the boundary would have obscured glazing which could be conditioned when dealing with these matters to mitigate any overlooking issues. Moreover, the indicative location of the proposed dwellings would provide sufficient separation to prevent any unacceptable harm to privacy and this can be further addressed when dealing with the site layout reserved matter.

10. Interested parties have raised concerns about the potential for the proposal to result in an overbearing development and pollution, presumably from vehicle movements. The indicative plans show the proposed dwellings being erected within a metre or so of the existing boundaries with No. 8A and No.12 Peterborough Road. The suggested house type shown in drawing no. TK1/02 shows a gable-ended detached property with the eaves of the dual-pitched roof running parallel to the boundary. The designs are relatively traditional and the proposed locations are some distance away from the existing dwellings on the neighbouring sites. The surrounding area is largely open with no other buildings and therefore the impact of the proposed dwellings would be small in overall terms and would not have an overbearing effect. There is no compelling evidence before me to demonstrate how the presence or movement of vehicles on the site would lead to unacceptable levels of pollution or how such pollution might arise from any other source.

Planning Balance

11. The Council's decision notice refers to Policy HS4 of the Local Plan, which seeks to ensure that developments other than on sites allocated within the Local Plan are limited to brownfield sites within defined settlement limits. The Policy does not relate to the reason for refusal, namely impact of the development on the living conditions of the occupiers of neighbouring properties, but the appeal site does not satisfy the criteria for a brownfield site as defined in the Glossary of the Framework. However, the Council accepts that it is currently unable to demonstrate a five-year supply of deliverable housing sites and therefore insofar as it seeks to restrict the development of housing, Policy HS4 of the Local Plan should be considered out of date. Accordingly, the 'tilted balance' in paragraph 11 of the Framework applies.
12. It is common ground that the appeal site is within the defined settlement limit of Crowland. The Council states that while garden land in a built-up area is not brownfield it accepts that the site is in a sustainable location. The proposal for two dwellings would assist the Council in delivering its housing land supply. There is no compelling evidence before me of any adverse impacts arising from the proposed development that would significantly and demonstrably outweighed the clearly acknowledged benefits and therefore the proposal benefits from the presumption in favour of sustainable development.

Conditions

13. The conditions set out in the accompanying schedule are based on those suggested by the Council. Where necessary I have amended the wording of these in the interests of precision and clarity in order to comply with the advice in the Planning Practice Guidance.
14. In the interests of proper planning I have imposed the standard conditions in respect of time limits. For certainty I have imposed a condition requiring compliance with the plans. To mitigate any risk of flooding on or from the site I have imposed conditions requiring the implementation of mitigation measures identified in the appellant's flood risk assessment and for the implementation of an approved drainage scheme.
15. I have not imposed a suggested condition in relation to submission of schemes for detailed landscaping and boundary treatments as these are matters to be dealt with at reserved matters stage.

16. The Council sought removal of permitted development rights for free-standing structures within the curtilages of, and extensions and roof alterations to the proposed dwellings. However, paragraph 53 of the Framework advises that conditions should not be used to restrict permitted development rights unless there is clear justification to do so. Paragraph 55 advises that, amongst other things, conditions should be necessary and reasonable in all other respects. Final appearance and layout are reserved matters and curtilage buildings and roof form can be addressed at that stage. In addition, the removal of rights sought does not accord with the reason for refusal and no compelling evidence has been provided to show why such removal of rights is necessary or reasonable in all the circumstances. I have therefore not imposed the suggested condition removing permitted development rights.

Conclusion

17. For the reasons given, and taking into account all other matters raised, I conclude that the appeal should succeed.

D Guiver

INSPECTOR

Schedule

- 1) Details of the appearance, landscaping, layout, and scale, access (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) The development hereby permitted shall be carried out in accordance with the following approved plans: Sketched Site Layout dated May 2017 (insofar as it relates to access); TK1/02; TK1/03.
- 5) The development hereby permitted shall be carried out in accordance with the Flood Risk Assessment prepared by S M Hemmings, dated 27th March 2018, including the following mitigation measures which shall be completed before first occupation of any building:
 - i) dwellings are to be two-storey with finished floor levels set no lower than 2.3m AOD; and
 - ii) flood resilient/resistance construction to a minimum of 300mm above the finished floor level.
- 6) Development shall not commence until drainage works for foul and surface water have been carried out in accordance with details which shall have first been submitted to and approved in writing by the local planning authority. The submitted scheme shall include details of the proposed soakaway system for the disposal of surface water, including percolation test results and, in the event that percolation test results are unacceptable, an alternative means of providing for surface water drainage.