

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: 13 September 2017

Appeal Ref: APP/A2525/W/17/3173167

Land east of Crease Drove, Crowland, PE6 0BN

- 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 Mrs T Hunter-Shaw against the decision of South Holland District Council.
 - The application Ref H02-0723-16, dated 22 July 2016, was refused by notice dated 17 October 2016.
 - The development proposed is residential development.
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Decision

1. The appeal is allowed and planning permission is granted for residential development at land east of Crease Drove, Crowland, PE6 0BN in accordance with the terms of the application, Ref H02-0723-16, dated 22 July 2016, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The planning application to which the appeal relates was submitted in outline form with all matters except access 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.

Main Issues

3. The main issues are:
 - The effect of the development on highway and pedestrian safety;
 - The effect of the development on flood risk; and
 - The effect of the development on the setting of heritage assets.

Reasons

Highway and pedestrian safety

4. The Council's first reason for refusal relates specifically to the safety and free passage of vehicles and pedestrians along Crease Drove, which is currently a single track unclassified highway with no footways, formal drainage or street lighting along most of its length, including the section along the front of the site.

5. The Appellant's Transport Statement¹ includes widening the section of Crease Drove between Monks Meadow and Harvester Way to incorporate a 5.5m wide carriageway which would allow two-way traffic. This widened carriageway would link with existing two-way highways at either end. I note that whilst the Highway Authority considers that this provision would be acceptable, they raise concerns over its deliverability.
6. The scheme also proposes the provision of a pedestrian footway on the east side of Crease Drove along the length of the site frontage and extending north to Monks Meadow to link in with an existing footway.
7. The Appellant proposes that these highway improvements could be delivered in combination with all the other promoted development sites along Crease Drove. This includes neighbouring sites to the north, west and south. Whilst I note that at the time of writing my decision planning applications for development at some of these sites are awaiting determination by the Council, an appeal for residential development of up to 100 dwellings on a site to the south has recently been allowed². The Appellant has also indicated that there have been discussions with owners/developers of some of these proposed schemes regarding delivery.
8. I note that due to the extent of development proposals along Crease Drove, the Highway Authority would prefer that footways are provided on both sides of the carriageway. However as facilities and services are located generally north of the appeal site within the town centre I see no justification for the appeal scheme to provide pedestrian access south along Crease Drove. Furthermore the evidence shows that the level of pedestrian traffic generated by the development would be modest. I am therefore satisfied that the single footway proposed would be adequate in meeting this demand. Consequently I do not consider that the provision of a further pedestrian footway on the western side of Crease Drove would be necessary or reasonable for this appeal proposal. Nevertheless there is no reason why additional footways could not be provided by other development in the locality if this were to come forward.
9. There appears to be some uncertainty over the width of the public highway along Crease Drove. Concerns have therefore been raised over whether the carriageway improvement works proposed could be delivered on this land. The Highway Authority in their appeal statement conclude that it is most likely that the public highway is no more than 7.3m in width. Subject to an appropriate highway design, it is my judgement that this would allow the widening of the carriageway to 5.5m and the retention of verges or the delivery of a 1.8m wide pedestrian footway. If necessary the footway could be constructed on land within the appeal site.
10. Based on the evidence that is before me I consider that there are reasonable prospects that the necessary highway improvement works would be deliverable. As such, the imposition of a Grampian-style condition suggested by the Highway Authority, prohibiting development until the provision of necessary highway improvements would be appropriate in this instance. This would protect highway and pedestrian safety by ensuring that development of the site and occupation of the dwellings would not occur until the necessary highway improvements were in place.

¹ Appellant's Transport Statement, report ref: ADC1220_A, dated 26/07/16

² Appeal ref: APP/A2525/W/17/3171837

11. As regards concerns about the effect of the development on local road junctions, whilst I accept that the traffic generated by the proposal would increase use of the junctions by some extent, I have no evidence that this would cause demonstrable harm to highway safety. In this regard I note that the Highway Authority does not object and I have no reason to disagree.
12. Consequently taking the above factors into account I conclude that the proposed development would not have an adverse impact on highway or pedestrian safety. It would therefore be in accordance with Policy SG15 of the South Holland Local Plan (2006) (LP) which, amongst other things, seeks proposals that provide safe and convenient access to and within the site for road users, pedestrians and cyclists. It would also comply with the National Planning Policy Framework (the Framework) in this regard.

Flood risk

13. I have evidence before me, submitted by the Appellant, which includes an updated Flood Risk Assessment (FRA) prepared by Neoflood Ltd dated June 2017. I also have a letter dated 11 July 2017 from the Environment Agency confirming that the updated FRA complies with the requirements of the Framework and that they withdrawal their objection to the proposal. Whilst the Environment Agency's response is to a re-submitted application³ of the development that is before, it is for the exact same proposal.
14. It is incumbent on me to consider all available evidence that is before, if it is relevant to the appeal. I therefore consider that it is entirely reasonable for me to take account of the updated FRA and the Environment Agency's response as these documents relate to the exact same appeal site and scheme. On this basis I have no reason to disagree with the Environment Agency's conclusions.
15. I therefore conclude that subject to the imposition of a condition requiring the development be carried out in accordance with the updated FRA, the proposal would not result in an unacceptable flood risk to people or property. It would therefore accord with the Framework in this regard.

Heritage assets

16. The Council's third reason for refusal states that there is insufficient information regarding the potential impact of the proposal on the historic environment.
17. As part of the appeal process, a Heritage and Archaeological Statement (Oct 2016) (HAS) has been provided by the Appellant. I note that the Council's concerns remain.
18. The assessment undertaken by the Appellant considers the likely impact of the proposal on local heritage assets, including scheduled monuments, listed buildings and the Crowland Conservation Area. It also assesses the potential impact of the proposal on local archaeological assets.
19. The appeal site is not located in a conservation area and there are no scheduled monuments or listed buildings within its boundary or immediate proximity. Heritage assets identified appear to be located some distance from the site. Consequently, due to these distances and as existing screening from

³ Council planning application ref: H02-0216-17

surrounding development limits any views of the heritage assets, I consider that the development would not harm their significance, settings, character or appearance. I therefore concur with the findings of the HAS in this regard.

20. In relation to the potential effect of the proposal on archaeological assets, and based on the evidence submitted, I am satisfied that appropriate archaeological investigations, recording and any necessary mitigation measures could be implemented by a suitably worded condition.
21. The Framework recognises that heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance. Based on the evidence that is before me, I consider that no harm to the significance of the heritage assets, including within their settings has been demonstrated. I therefore conclude that the development would preserve the settings of the heritage assets identified and consequently would accord with the Framework in this regard.

Other matters

22. The Framework aims to boost the supply of housing and there is no dispute that the Council is unable to demonstrate a 5 year housing land supply. The proposal would deliver a sizeable number of houses, 30% of which would be affordable homes. This carries considerable weight in its favour.
23. The Appellant has submitted a signed and dated unilateral undertaking which includes a financial contribution towards education and the provision of 30% affordable housing. The former would go towards projects at Deepings School to accommodate the additional pupils generated by the appeal proposal. The Council confirms that the latter would be in accordance with Council policy.
24. Both contributions have been requested by the Council and the evidence submitted justifies their provision. It is clear from the information provided that these contributions are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development proposed, which satisfies the tests in the Framework and Regulation 122 of the Community Infrastructure Levy 2010 (as amended). I therefore take these planning obligations into consideration within my decision.
25. Whilst the Parish Council has requested contributions towards new and replacement play equipment it has not been demonstrated that these are necessary to make the development acceptable.
26. Whilst I have considered the concerns raised by local residents regarding the effect of the development on the demand for local services, I have no substantive evidence before me to demonstrate that it would be detrimental or exacerbate any existing issues to such an extent that it would warrant dismissal of the appeal. Furthermore the Council and service providers do not object to the proposal in this regard.
27. A number of local residents also consider that there would be harm to their living conditions from noise, air pollution and loss of outlook and privacy leading to overlooking and security concerns. Whilst I acknowledge that the outlook from some local properties would change, there is no right to a view in planning terms. In my judgement I see no reason why adequate separation distances between properties could not be achieved or the site suitably

designed to avoid undue harm to living conditions in relation to the other matters. Such design and layout details would be considered at the reserved matters stage.

28. In relation to 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.
29. Concerns have also been raised about the loss of the field for community uses including dog walking and jogging. However the land is private property and whether such uses have established any rights is a matter that does not form part of the planning merits of the case.
30. The level of public consultation on the proposal has been queried but the statutory requirements have been met.
31. Concerns raised about the character and appearance of the proposed development including such scale and density are matters to be considered under reserved matters.

The Planning Balance

32. 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.
33. 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 and I have no reason to determine otherwise.
34. In considering the main issues as set out above I have found that the proposal would result in no material harm. 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. 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

35. I have considered the conditions suggested by the Council in light of the advice given in the PPG. As such I impose most of them and amend some wording where necessary in the interests of precision and enforceability. I have included pre-commencement conditions on matters relating to drainage, highways, archaeology and a construction method statement as these are fundamental to ensuring that the development is satisfactory in regards to the living conditions of future occupants and highway safety. I am satisfied that the conditions set out in my decision meet the tests within the PPG.

36. 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. However I do not refer to the Flood Risk Assessment in condition 2 as this is included as a separate condition (18). I use the suggested Environment Agency condition in this regard. A drainage condition is also necessary to ensure there is adequate provision and to prevent increased risk of flooding.
37. Whilst landscaping and design are reserved matters, conditions requiring details on planting and boundary treatments. However the suggestion that all landscaping and tree planting must be completed within 12 months of the development commencing appears to be impractical and unreasonable. I therefore amend the suggested condition to require that a timetable for delivery of the landscaping is agreed in writing with the Local Planning Authority.
38. Notwithstanding that layout and design are reserved matters, I attach conditions requiring that adequate open space provision is made available for the occupiers of the development and that provision is made for the management and maintenance of the open space and also communal areas.
39. In the interest of highway safety I attach a condition requiring the structural improvement and widening of Crease Drove including highway drainage, for the section between Monks Meadow and Harvester Way. However I do not consider it necessary or reasonable for the development to provide for footways extending south of the appeal site or along the western side of Crease Drove. Accordingly I have amended the condition to require the provision of a single footway on the eastern side of the highway only between Monks Meadow and the site frontage. To ensure the provision of safe and adequate access to the site and each dwelling I impose conditions relating to the provision of estate roads and footways.
40. The submission and implementation of a construction method statement is necessary to minimise detrimental effects to the living conditions of neighbouring residents. To ensure highway safety during the construction phase, wheel washing facilities are necessary.
41. I impose archaeological conditions to ensure satisfactory archaeological investigations, recording and any necessary mitigation of the site is put into place.
42. I do not impose a condition requiring the submission of a scheme for affordable housing within the site as this is to be provided through the Appellant's unilateral undertaking. In addition, details of the design and positions of external boxes for gas and electricity supplies and gas flues and soil vent pipes are design matters and can be approved at the reserved matters stage. It is therefore not necessary to impose such a condition on an outline application.
43. The appeal site has been in agricultural use for a substantial period of time. There is no evidence before me demonstrating that the land is contaminated. I therefore see no justification for including the suggested contamination condition and accordingly do not impose it.

Conclusion

44. 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. No's: 15/179-01 and 16/179-03; Landscape and Visual Appraisal (ref: INF_N0336, June 2016); Noise Assessment Report (ref: 2707.11/1, March 2016); Ecological Constraints and Opportunities Assessment (ref: RSE_680_01-V1, July 2016) and Transport Statement (ref: ADC1220_A, July 2106).
- 4) The following matters are reserved for subsequent approval by the Local Planning Authority and no development to which these matters relate shall be carried out until these matters have been approved:
 - i) detailed drawings of the estate layout to a scale of not less than 1:500 and including road and plot layouts;
 - ii) detailed drawings to a scale of not less than 1:100 showing the siting, design and external appearance of each building, including a schedule of the materials to be used for external walls and roof;
 - iii) the means of foul and surface water disposal;
 - iv) details of landscaping and tree planting; and
 - v) the existing and proposed site levels and floor levels of the buildings and hard surfaced areas.
- 5) When application is made to the Local Planning Authority for approval of reserved matters, that application shall be accompanied by a scheme of landscaping and tree planting indicating, inter alia, the number, species, heights on planting and positions of all trees in respect of the land to which that application relates, together with details of post-planting maintenance and such a scheme shall require the approval of the Local Planning Authority before any development is commenced. Such scheme as is approved by the Local Planning Authority shall be carried out in its entirety within a period of twelve 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) Prior to its installation, details of the proposed boundary treatment, including a schedule of materials, and details of the size and species of any hedging, shall be submitted to and approved in writing by the Local Planning Authority, and the details so approved shall be implemented in full before the development is first brought into use.
- 7) No part of the development hereby permitted shall be commenced until such time as details have been submitted to and approved in writing by the Local Planning Authority for the structural improvement and widening of Crease Drove, including highway drainage, for the section between Monks Meadow and Harvester Way, and the provision of one footway on the eastern side of Crease Drove, to include street lighting and highway drainage, for the section between Monks Meadow and the extent of the whole site frontage. The submitted details shall also include a programme for the construction of the improvement works, works which shall in any event be completed in their entirety, in accordance with the approved details, prior to the occupation of any dwelling on the permitted development.
- 8) Before each dwelling is occupied, the roads and footways providing access to that dwelling, for the whole of its frontage, from the existing public highway, shall be constructed to a specification to enable them to be adopted as Highways Maintainable at the Public Expense, less the carriage and footway surface courses. The carriageway and footway surface courses shall be completed within three months from the date upon which the erection is commenced of the penultimate dwelling.
- 9) No dwelling shall be commenced before the first sixty metres of estate road from its junction with Crease Drove, including visibility splays as shown on the submitted drawings, has been completed so that site vehicles may be able to park, manoeuvre and unload without obstructing Crease Drove.
- 10) No development shall take place until a surface water drainage scheme for the site, based on sustainable urban drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall:
 - a) Provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
 - b) Provide attenuation details and discharge rates which, unless agreed otherwise with the surface water receiving body, shall be restricted to 1.4 litres per second per hectare;
 - c) Provide details of the timetable for and any phasing of implementation for the drainage scheme; and
 - d) Provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

The development shall be carried out in accordance with the approved drainage scheme and no dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full in accordance with the approved details.

- 11) A detailed scheme of construction management to minimise disturbance during the construction process through noise, dust, vibration and smoke shall be submitted to, and approved in writing by the Local Planning Authority, before the development commences, and the construction process shall be carried out in accordance with the scheme so approved.
- 12) Details of the precautions to be taken to prevent the deposit of mud on public highways by vehicles travelling from the site during construction of the development, shall be submitted to, and approved in writing by the Local Planning Authority, before the development commences. These facilities shall include the provision of wheel washing facilities, where considered necessary by the Local Planning Authority. These precautions shall be made available before commencement of the construction of the development, and be kept available and in full working order, until such time as the Local Planning Authority agrees, in writing to their withdrawal, or the completion of the development.
- 13) Before the commencement of development hereby permitted, a management plan for the areas of publicly accessible open space, including management responsibilities and maintenance schedules, shall be submitted to, and approved in writing, by the Local Planning Authority. The management of these areas shall be carried out in accordance with the details so approved.
- 14) Before the commencement of development hereby permitted, details of the landscape management and maintenance schedule for the areas of incidental open space, refuse/recycling collection points and parking courts/private drives, shall be submitted to, and approved in writing, by the Local Planning Authority. Thereafter these areas shall be maintained in accordance with the approved details.
- 15) No development shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. This scheme should include the following and should be in accordance with the archaeological brief supplied by the Lincolnshire County Council Historic Environment advisor on behalf of the Local Planning Authority:
 1. An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).
 2. A methodology and timetable of site investigation and recording
 3. Provision for site analysis
 4. Provision for publication and dissemination of analysis and records
 5. Provision for archive deposition
 6. Nomination of a competent person/organisation to undertake the work
 7. The scheme to be in accordance with the Lincolnshire Archaeological Handbook.

The archaeological site work shall only be undertaken in accordance with the approved written scheme.

- 16) The applicant shall notify the Lincolnshire County Council Historic Environment Department in writing of the intention to commence at least fourteen days before the start of archaeological work required in connection with Condition 17 above in order to facilitate adequate monitoring arrangements.
- 17) A copy of the final report required in connection with Condition 17 above 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.
- 18) The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment prepared by Neoflood Ltd report ref: A30-R01A job number A30-IBA Rev A dated June 2017 and the following mitigation measures detailed within the FRA:
 - Finished floor levels will be set no lower than 2.19m AOD.
 - The dwellings will be two storey.
 - Flood resilience measures will be incorporated into the proposed development as stated in the FRA.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing/phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed in writing by the Local Planning Authority.