
Appeal Decision

Site visit made on 14 September 2015

by J Flack BA Solicitor

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

Decision date: 23 September 2015

Appeal Ref: APP/A2525/W/15/3081133

34 Little London, Spalding, Lincolnshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Seagate Homes Ltd against the decision of South Holland District Council.
 - The application Ref H16-0716-14, dated 28 August 2014, was refused by notice dated 17 February 2015.
 - The development proposed is described as: proposed residential development for 14 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for proposed residential development for 14 dwellings at 34 Little London, Spalding, Lincolnshire in accordance with the terms of the application, Ref H16-0716-14, dated 28 August 2014, subject to the conditions set out in the Schedule to this decision.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area, with particular regard to density, and the effect of the proposal on the living conditions of future occupiers of the proposed dwellings.

Reasons

Character and appearance

3. The appeal site is a substantial T-shaped area with a frontage onto Little London. Within it are a number of large older commercial buildings of generally basic and utilitarian appearance; the remainder of the site comprises areas of open hardstanding. The proposed development would comprise two dwellings (Plots 1 and 2) fronting onto the road, with the remaining dwellings (Plots 3 – 14) arranged in a line along the rear of the site: a private drive within the site would provide access to the dwellings.
4. One side of the site is adjoined by the plots of dwellings; the other side is adjoined by a public house and its car park, and to the rear of the site is a very large commercial building. Development in the vicinity of the site is mainly residential, although there is large timber and DIY centre on the opposite side of Little London near to the site and there are a number of shops and smaller commercial premises along the road.

5. Residential development in the locality is very varied. Most dwellings face onto the highway, but whilst Plots 3 – 14 would be considerably set back from it, they would align with two recent dwellings which have been constructed behind the dwellings fronting Little London. Dwellings on the locality vary considerably in scale, age and plot size: while there are examples of more recent dwellings with generous plots, there are many very small older houses along Little London, these having narrow plots.
6. I understand that outline planning permission has previously been granted for residential redevelopment of the appeal site, this establishing the acceptability of the principle of such redevelopment. The proposed dwellings would be modest and their plots small. However, as I have described, existing development in the area is characterised by variety rather than by any strongly prevailing form or pattern. It follows that whilst the density of the scheme proposed at appeal would be quite high, this would not conflict harmfully with the character and appearance of the area in this respect, nor would there be such conflict in other respects, including layout.
7. I conclude therefore that the appeal proposal would not be harmful to the character and appearance of the area by reason of its proposed density or otherwise. The proposal would comply with Policy SG14 of the Local Plan¹, whose overall requirement is that new development should be designed to make a positive contribution to the architectural and visual quality of its surroundings. Section 7 of the National Planning Policy Framework (the Framework) sets out design policies, the objectives at paragraph 58 including that development should add to the overall quality of the area, respond to local character and reflect the identity of local surroundings, as well as optimising the potential of the site to accommodate development. For the reasons I have given, the proposal would sufficiently accord with these objectives.

Living conditions of future occupiers

8. The Council refused the application on the basis of poor residential amenity and impact on residents from the form of design and inadequate parking standards. At appeal, it draws attention to the access being in the form of a private drive, with what it describes as limited parking and a waste collection point well-removed from the majority of the dwellings. The latter would be located adjacent to the site frontage on London Road, but this would be, at most, a matter of modest inconvenience to the occupiers of Plots 3 to 14 rather than a substantial detriment to their living conditions.
9. As to the parking facilities proposed, Plots 1 and 2, which would be 3 bedroom houses, are each proposed to be provided with a garage and parking space. Plots 3 – 14 are two bedroom houses, and would each be provided with a single parking space. There would in addition be a number of visitor parking spaces. This provision does not seem to me inadequate to serve the needs of these modest dwellings, and the adjacent highway would have some capacity to absorb any residual parking demand, there being no parking restrictions in Little London. Moreover, I understand that no minimum parking standards are in force in the Council's area. Given also that the Highway Authority has not objected to the proposed arrangements, I conclude that the parking provision proposed would be satisfactory.

¹ South Holland Local Plan Written Statement Adopted July 2006

10. The Council expresses concern as to what it sees as a lack of considered management for private drive and waste collection area. No management company is proposed: the areas of the site not within the curtilages of the dwellings would be subdivided and transferred along with the various plots. Effective upkeep of the communal facilities would be important to the living conditions of the future occupiers of the proposed dwellings, and any arrangement would depend to some extent on mutual co-operation between the owners of the dwellings. However, a sufficiently powerful incentive towards this would be provided, for it is proposed that the rights of each plot owner to use the areas of communal facilities not in their ownership would be dependent on the payment of an appropriate share of the costs of upkeep. I conclude that the management arrangements would be adequate and not such as to be likely to cause harm to the living conditions of future occupiers of the dwellings.
11. There is no evidence to demonstrate that the living conditions of future occupiers of the dwellings would be inadequate in respects other than those I have assessed above; in particular there is no indication that the private amenity areas of the dwellings, whilst modest, would be inadequate. I conclude therefore that the proposal would not have any unacceptably harmful effect on the living conditions of future occupiers of the proposed dwellings. The proposal would in this respect comply with Policy SG16 of the Local Plan, which requires appropriate parking and servicing arrangements, and Policy SG17, which requires that development does not cause material harm to residential amenity. The proposal would also sufficiently comply with the objective at paragraph 58 of the Framework that developments should function well.

Other matters

12. Adjacent residents have raised concerns as to the impact of the proposal on their living conditions. The proposed house at Plot 2 would closely adjoin an existing house fronting Little London, No 34b. However, the front and rear elevations of the house at Plot 2 would be broadly aligned with those of the main body of the house at 34b, and the latter is set back from the shared boundary apart from a small single storey side projection and an associated car port. Any overlooking of the windows and rear amenity area of 34b from the first floor windows of the house at plot 2 would be at an oblique angle, and whilst the first floor windows of the houses at plots 11 - 14 would face towards the rears of 34B and the house adjoining it, the separation distances involved would be sufficient to avoid unacceptably harmful overlooking. Concern is raised that the house at Plot 14 would be detrimental to the living conditions of occupiers of an adjoining bungalow, 30b Little London. However, I saw that large single storey buildings currently lie along almost all of this shared boundary: the house at Plot 14 would be materially higher, but would extend along a lesser proportion of the shared boundary, and I consider that there would be no significant overall increase in visual intrusion or overshadowing, and any overlooking of 30b from houses within the proposed development would be at an oblique angle.
13. I conclude overall that the proposal would not be unacceptably overbearing, nor would it cause substantial overshadowing or overlooking, or in other respects be unacceptably detrimental to the living conditions of adjoining residents. The proposal would in this respect comply with the relevant requirements of Policy SG17 and the Framework I have mentioned above.

14. The occupiers of No 34b have made representations to the effect that their rights under the Human Rights Act 1998, in particular those arising from Article 1 of the First Protocol, would be violated if the appeal were allowed. However, given the conclusions I have reached in the previous paragraph, I consider that the degree of interference that would be caused by the proposed development would be insufficient to give rise to a violation of rights under Article 1 of the First Protocol or other human rights within the scope of the 1998 Act.
15. Construction of the proposed development and associated vehicle movements would give rise to some disruption and disturbance, but the effects would be only temporary and could therefore be adequately controlled by a condition requiring adherence to an approved construction management scheme. Local residents also raise concerns as to the adequacy of sewerage and drainage systems to cope with the demands of the proposed development, but Anglian Water states that the sewerage system has available capacity, and whereas the appeal site is covered by buildings and hardstanding, the proposed development would include substantial grassed and planted areas. In these circumstances it would suffice to impose a condition requiring the implementation of approved details as to surface water disposal. A Flood Risk Assessment (The FRA) is before me: this identifies only minor flood risk, and the Environment Agency raises no objection to the proposed development subject to the imposition of a condition requiring the implementation of mitigation measures proposed by the FRA. I have no reason to take a different view, noting that the Council does not seek to challenge the conclusions of the FRA.
16. The appeal proposal engages policy HS8 of the Local Plan, which requires residential development to contribute to the provision of affordable housing. The two units proposed are fewer than the minimum sought by this Policy, but the Council is content that this is justified by submitted evidence as to viability. I have no reason to disagree, and whilst it is clearly necessary that there be an effective means of securing the delivery of the units, the condition proposed by the Council seems to me sufficiently comprehensive.

Conclusions

17. None of the matters assessed in the preceding five paragraphs give rise to concerns which could not be satisfactorily addressed by conditions. I have also concluded that the proposal would not be harmful to the character and appearance of the area by reason of its proposed density or otherwise, and that the proposal would not have any unacceptably harmful effect on the living conditions of future occupiers of the proposed dwellings. These conclusions are not disturbed or outweighed by any other matter arising from the evidence before me. The appeal is therefore allowed.
18. In reaching my conclusions I have considered the conditions proposed by the Council in the event that I allow the appeal, together with the Framework's policy on conditions set out at paragraph 206. I have made some minor amendments in the interest of clarity and consistency. In addition to the standard commencement condition, a condition is necessary to require adherence to approved plans, in the interests of proper planning and for the avoidance of doubt. To ensure the satisfactory appearance of the proposed development, conditions are necessary to require the implementation of approved external boxes and pipes for services and external materials, and to

secure the implementation of the landscaping scheme shown on the approved drawings. However, I consider the requirement to carry out the landscaping scheme within twelve months of commencement to be excessively inflexible given that this is not a minor development, and have instead required implementation to be achieved prior to occupation of any of the proposed dwellings. To secure the satisfactory functioning of the proposed development, conditions are necessary to require the provision and retention of bin storage areas and points for refuse and recycling collection. The proposed residential use is sensitive to the possibility of land contamination, and given the past commercial use of the site, I consider that the comprehensive contamination condition proposed by the Council is necessary.

19. The Council also suggests a condition requiring that a minimum of 10% of the predicted energy needs of the development be met through renewable energy production equipment, but by way of justification it provides only a bare reference to Policy SG7 of the Local Plan: given that this policy is now many years old and that there have been changes in the requirements of the building regulations regime in the intervening period, I am not convinced that this condition is necessary. However, for the reasons I have given above, further conditions are necessary to secure that two of the proposed dwellings will be provided as affordable housing, to implement a scheme to identify and address contamination of land and pollution of controlled waters, to implement approved details of surface water disposal and an approved construction method statement, and to implement mitigation measures proposed by the FRA.

J Flack

INSPECTOR

SCHEDULE

CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: J016-PL01A, J016-PL02, J016-PL03, J016-PL04A and 4796-1.
- 3) Before the commencement of the development hereby permitted a schedule of external materials of construction of buildings shall be submitted to and approved in writing by the Local Planning Authority. Samples shall be provided as may be required by the Local Planning Authority of the materials in the schedule and the use of such samples shall be approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the schedule and samples so approved.
- 4) Before the development is commenced there shall be submitted to and approved in writing by the Local Planning Authority a scheme for the provision and phasing of 2 of the total residential units as affordable housing on the site to meet local housing needs. The scheme shall identify how the affordable housing is to be provided, whether by means of a non-profit registered provider or otherwise, and the timing of delivery. In the submission of these details the location of each affordable housing unit shall be indicated, along with the size and tenure, the type of affordable housing, and arrangements for ensuring that the affordable housing to be provided meets identified local housing need. Not more than 6 of the total number of the approved dwellings, excluding the affordable element, shall be occupied until there has been a material commencement on the affordable housing units, and not more than 10 of the approved dwellings, excluding the affordable element, shall be occupied until all the affordable housing units have been completed.
- 5) 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 are required). Two full copies of the desk-top study and a non-technical 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. Post-remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation has been fully met.
- 6) Before the commencement of the development hereby permitted, full details of the means of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented in full before the development hereby permitted is first brought into use.
 - 7) Before the commencement of the development hereby permitted, details of the design and positions of all external boxes for gas and electricity supplies and of any gas flues and soil vent pipes shall be submitted to and approved in writing by the Local Planning Authority and there shall be no variation from the details so approved.
 - 8) Before the commencement of the development hereby permitted, 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 and the construction process shall be carried out in accordance with the scheme so approved.
 - 9) The bin storage areas shown on plan J016-PL01A shall be provided for each dwelling prior to occupation and thereafter retained.
 - 10) The refuse/recycling collection points shown on plan J016-PL01A shall be provided before any of the dwellings the collection point serves is first occupied and thereafter retained.
 - 11) The scheme of landscaping and tree planting shown on Plan J016-PL01A shall be carried out in its entirety prior to the occupation of any of the dwellings hereby permitted. 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.

- 12) The development hereby permitted shall be carried out in general accordance with the measures set out in the Flood Risk Assessment (Final Report, Geoff Beel Consultancy, June 2014, Ref GCB/Warrick), and in particular the following mitigation measures:
- i) Finished floor levels of the dwellings hereby permitted shall be set no lower than 3.35AOD;
 - ii) Flood resilient and resistant construction techniques shall be incorporated throughout the dwellings.