The Planning Inspectorate

Appeal Decision

Site visit made on 31 May 2018

by D Guiver LLB (Hons) Solicitor

an Inspector appointed by the Secretary of State

Decision date: 7 September 2018

Appeal Ref: APP/A2525/W/18/3195884
SNG Electrical Limited, 87 Moulton Chapel Road, Cowbit, Spalding PE12 0XD

- 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 N Gough SNG Electrical Limited against the decision of South Holland District Council.
- The application Ref H22-1045-17, dated 1 November 2017, was refused by notice dated 29 January 2018.
- The development proposed is residential development with all matters reserved.

Decision

1. The appeal is allowed and planning permission is granted for residential development with all matters reserved at SNG Electrical Limited, 87 Moulton Chapel Road, Cowbit, Spalding PE12 0XD in accordance with the terms of the application, Ref H22-1045-17, dated 1 November 2017, subject to the conditions set out in the attached Schedule.

Preliminary Matter

2. The application is made in outline with all matters reserved. Although the proposed block plan is described as both indicative and illustrative, I have considered all drawings submitted with the appeal showing access and site layout to be illustrative only and have determined the 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. The parties were given an opportunity to comment on the impact of the Framework on the application and I have taken all comments into consideration in determining this appeal.

Main Issues

4. The main issues are:

   a) the effect of the development on the character and appearance of the area; and

   b) whether the proposal would be a sustainable form of development with regard to local and national policy.

Reasons

Character and Appearance

5. The appeal site comprises a roughly rectangular plot of land adjacent to Moulton Chapel Road outside the main built-form of the village of Cowbit and the site is in the countryside for the purposes of local development plan policy. However, a significant number of residential properties are located close to the site on both sides of the road, including dwellings on either side of the site. The appeal site itself is partially open land currently used as paddock with the bulk of the site comprising previously developed land with existing buildings in business use for commercial and light industrial purposes.

6. The existing structures are simple brick buildings with high windows and of a design that reflects the business use. Those buildings are no longer required by the appellant for the purpose of its enterprise. The proposal is for the demolition of the buildings and the erection of up to six dwellings. Although there are some other commercial and agricultural premises on Moulton Chapel Road, buildings in the area are predominantly residential and the area is largely characterised by dwellings and open land.

7. The industrial design of the existing buildings is somewhat incongruous with the rural appearance of the area and if unused the buildings are likely to fall into disrepair, which would have a negative impact on the character of the area. While the design and scale of proposed dwellings are reserved matters, a change of use for the land to dwellings would be an opportunity for the construction of buildings more in keeping with the surroundings and the prevailing rural/residential character of the area.

8. Therefore, the proposal would be in accordance with Policies SG4 and SG14 of the South Holland Local Plan 2006 (the Local Plan) which seek to ensure that developments do not have unacceptable impacts on the landscape character of an area and make a positive contribution to the architectural and visual quality of the surroundings. These policies are consistent with the Framework which advises at paragraph 127 that developments should be sympathetic to local character.

Sustainable Form of Development

9. Outside the defined settlement limits of Spalding and identified Area Centres and Group Centres, Policy HS7 of the Local Plan seeks to ensure that new housing development is only permitted where it is for agricultural, forestry or other workers, or is for affordable housing. Policies SG1 and SG4 of the Local Plan seek to ensure that development in the countryside is only permitted where it is essential to be in such a location and cannot be accommodated within defined settlement limits elsewhere.

10. Although the appeal site is in the countryside, it is within easy walking distance of a bus stop that serves routes connecting the site with the main village on the far side of the A16 primary route and more distant locations. The village offers a number of services, and additional amenities are provided a short distance away in Moulton Chapel, which is also served by the available bus routes. While there is a higher likelihood of private car journeys in rural locations compared to larger conurbations, the evidence before me is that bus services are relatively frequent and the proximity of the main built form of

Cowbit would make public transport an attractive alternative. There is no footpath between the site and the bus stop, but the highway authority has suggested that one could be accommodated to the front of the site, which the appellant has accepted. The proposal would provide support for existing services in Cowbit and other nearby settlements.

11. Therefore, the proposed development would be in accordance with paragraph 78 the Framework, which advises that housing in rural areas should be located where it can enhance or maintain the vitality of rural communities including by supporting available services. Paragraph 78 of the Framework is a material consideration to which I attach significant weight. However, the proposal would not be in accordance with Policies HS7, SG1, SG2 and SG4 of the Local Plan insofar as they refer to restricting development other than within defined settlement limits.

Housing Land Supply

12. For applications involving the provision of housing, Footnote 7 of the Framework provides that the policies most important for determining the application would be out of date where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73 of the Framework). Although there is no specific agreed figure for the available housing land supply, it is common ground between the parties that the Council is currently unable to demonstrate a five-year supply of deliverable housing land sites and accordingly Policies HS7, SG1, SG2 and SG4 of the Local Plan are out of date insofar as they seek to restrict housing development.

13. Paragraph 11 of the Framework provides that where local development plan policies which are most important for determining the application are out of date, a presumption in favour of sustainable development applies and that permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. There are no specific policies in the Framework to protect areas or assets of particular importance that would provide a clear reason for refusing the proposal.

14. I have concluded that the proposal would accord with Policies SG4 and SG14 of the Local Plan in terms of character and appearance and that the scheme would offer support for services and amenities in Cowbit and other villages consistent with paragraph 78 the Framework. I have not identified any adverse effects of the proposal that would significantly and demonstrably outweigh the benefits and, accordingly, the proposal benefits from the presumption in favour of sustainable development in paragraph 11 of the Framework. Moreover, as the appeal site comprises approximately 0.46 hectares, the proposed development would further assist the Council's delivery of housing land sites in accordance with paragraph 68 of the Framework, which advises that at least 10% of housing should be delivered through site of less than one hectare.

Other Matters

15. The appeal site lies partially within Flood Zone 2. However, while a Flood Risk Assessment (FRA) has not been provided, the Council's hazard map in the South Holland Strategic Flood Risk Assessment (SFRA) concludes that the site would be unaffected in the event of a breach of flood defences. The

Environment Agency has confirmed that a FRA would be unlikely to provide additional information over and above that already provided in the SFRA and that a separate FRA is unnecessary. The Council accepts this position and confirms that, subject to works to raise ground levels, the proposal would satisfy the sequential test and exceptions test. Such works could be secured by the imposition of a planning condition.

16. I have been referred to Policies from the emerging South East Lincolnshire Local Plan (the Emerging Plan), but this is still at the stage of examination in public and policies may be subject to significant revision. I therefore attach limited weight to the policies in the Emerging Plan.

17. Interested party objections referred to highway safety concerns but other than the lack of footpath, which would be addressed as part of the proposed development, there is no compelling evidence of a highway safety concern. I note that the Council reached a similar conclusion.

Conditions

18. 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. The application form and illustrative block plan identified six dwellings to be developed and I have added a planning condition to reflect this number.

19. 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 but have not included drawing no. AA-17-08 that shows an illustrative layout of the site as this is a reserved matter. Notwithstanding that site layout is a reserved matter, in the interests of highway safety I have imposed conditions to ensure that on-site parking and turning will be provided and for the construction of a footpath to provide for pedestrian access to the site and to nearby public transport infrastructure.

20. Due to previous land use, the Council's Environmental Protection Team requested a condition to deal with possible land contamination and I have therefore imposed one. To ensure the site is adequately drained I have imposed a condition requiring approval and implementation of a scheme for foul and surface water disposal. Notwithstanding that appearance is a reserved matter, because the site is within a Flood Zone I have also imposed a condition requiring approval of details for the ground floor levels of any buildings.

Conclusion

21. For the reasons given above, and taking into consideration all other material matters, I conclude that the appeal should succeed.

D Guiver

INSPECTOR

Schedule

1) The development hereby permitted shall comprise no more than six dwellings.

2) 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.

3) 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.

4) 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.

5) The development hereby permitted shall be carried out in accordance with the following approved plans: untitled document showing location; and drawing marked 'Location Map'.

6) Details of access and site layout to be submitted as reserved matters shall include provision for vehicles to turn so that they may enter and leave the site in forward gear and that provision shall thereafter be kept available at all times for that purpose.

7) No development shall take place until details of construction of a means of access for pedestrians along the frontage of the site shall have been submitted to and approved in writing by the local planning authority. No building shall be occupied until the means of access has been constructed in accordance with the approved details.

8) No development shall commence until two full copies of an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:

   i) a survey of the extent, scale and nature of contamination;

   ii) the potential risks to:
   - human health;
   - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
   - adjoining land;
   - ground waters and surface waters;
   - ecological systems; and
   - archaeological sites and ancient monuments.

9) No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until two full copies of a detailed

remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.

10) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

11) No development shall take place until works for the disposal of foul water and works for the disposal of surface water shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.

12) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) and in particular the following mitigation measures:
    i) Finished floor levels shall be set at east 300mm above existing ground level;
    ii) Flood resilient and resistant construction measures shall be incorporated into the development to at least 300mm above finished floor level

    The mitigation measures shall be fully implemented prior to occupation.