



---

## Appeal Decision

Site visit made on 12 July 2016

**by Jason Whitfield BA (Hons) DipTP MRTPI**

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

**Decision date: 26 August 2016**

---

**Appeal Ref: APP/Y2003/W/16/3149010**

**Ash Tree Close, Belton, North Lincolnshire DN9 1NH**

- 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 Mr Martin Phillips, North Lincolnshire Homes against the decision of North Lincolnshire Council.
  - The application Ref PA/2015/0960, dated 21 July 2015, was refused by notice dated 9 March 2016.
  - The development proposed is new build affordable housing development consisting of 12 houses and 4 bungalows.
- 

### Decision

1. The appeal is allowed and planning permission is granted for a new build affordable housing development consisting of 12 houses and 4 bungalows at Ash Tree Close, Belton, North Lincolnshire DN9 1NH in accordance with the terms of the application, Ref PA/2015/0960, dated 21 July 2015, subject to the conditions set out in the Schedule to this decision.

### Application for costs

2. An application for costs was made by Mr Martin Phillips, North Lincolnshire Homes against North Lincolnshire Council. This application is the subject of a separate Decision.

### Main Issues

3. The main issues are:
  - Whether the proposal would provide an appropriate mix of housing and the subsequent effect on community cohesion and the risk of crime in the area.
  - Whether the proposal represents an acceptable form of development having regard to flood risk and surface water drainage.

### Reasons

#### *Mix of Housing*

4. The appeal site is a rectangular shaped, undeveloped parcel of land located in a predominately residential area within the settlement boundary of Belton. It is proposed to erect 16 dwellings on the land. The scheme would comprise 12 two bed units, 2 three bed units and 2 four bed units. The Council considers that the proposal would lack sufficient elderly persons accommodation and
-

- would fail, therefore, to provide an appropriate mix of housing which would, in turn, affect community cohesion and increase the risk of crime in the area.
5. Policy CS7 of the North Lincolnshire Core Strategy 2011 (CS) states that all proposals for housing should include a variety of housing types, sizes and tenures to meet local housing needs. Saved Policy H8 of the North Lincolnshire Local Plan 2003 (LP) states that new development should create an appropriate mix of dwellings size and type.
  6. The appellant has indicated that all 16 of the dwellings proposed would be affordable housing. Four of the proposed dwellings would be single storey and specifically designed to accommodate elderly persons. Those dwellings would provide flexible accommodation so that they can be adapted to meet the future needs of residents.
  7. The North Lincolnshire Affordable Housing Policy Interim Position Statement 2015 provides guidance for developers on providing affordable housing within the area. The Statement does not, however, provide any prescriptive ratios or standards for the provision of elderly persons accommodation. Rather, it states that the Council will assess each planning application and make a recommendation for the type of affordable housing that should be provided.
  8. Comments from the Council's Strategic Housing Team state that the demand for affordable housing in Belton is high. Around 25% of those households looking for affordable housing in Belton comprise older people (50+). In my view, an overall provision of 25% of the total dwellings proposed to be specifically designed for elderly persons would be a reasonable level of provision. As a result, I am satisfied that the proposal would provide an appropriate mix of housing. Furthermore, there is no substantive evidence before me that the proposed housing mix would affect community cohesion or result in an increased risk of crime.
  9. I conclude, therefore, that the proposal would provide an appropriate mix of housing and would not have a harmful effect on community cohesion and the risk of crime in the area. The proposal would, consequently, accord with Policy CS7 of the CS and saved Policy H8 of the LP. The proposal would also comply with paragraph 50 of the National Planning Policy Framework (the Framework) which aims to create sustainable, inclusive and mixed communities.

#### *Flood Risk and Surface Water Drainage*

10. The Council considers that the appellant has failed to provide sufficient information to establish that the proposal would not increase flood risk and that surface water drainage would be adequately accommodated.
11. Policy CS19 of the CS states that the Council will support proposals that avoid areas of current or future flood risk and which do not increase the risk of flooding elsewhere. In addition, the policy requires development to incorporate Sustainable Urban Drainage Systems (SUDS) to manage surface water drainage. Saved Policy DS1 of the LP states that suitable on-site drainage should be provided.
12. The appeal site is located in Flood Zone 1 which is defined in the National Planning Practice Guidance (the Guidance) as land having a less than 1 in 1,000 annual probability of flooding. The appellant's Flood Risk Assessment (FRA) indicates that flooding from watercourses, rivers, the sea or groundwater

is considered to be low risk. In terms of flooding from surface water or from sewers, it is proposed for finished floor levels to be a minimum of 300m above ground level. Moreover, the FRA concludes that the proposal would not increase or cause flooding in the surrounding area. As a result, in the absence of any substantive evidence to the contrary, I am satisfied that the proposal would avoid areas of current or future flood risk and the proposal would not increase the risk of flooding elsewhere.

13. In terms of drainage, it is proposed to use a soakaway system to dispose of surface water. The appellant's Drainage Strategy indicates that infiltration testing has indicated that the site would be suitable for the use of SUDS. The Council's Drainage Team has not objected to the proposal subject to an appropriate condition for final details of the surface water drainage scheme to be agreed. As a result, in the absence of any substantive evidence to the contrary, I am satisfied that satisfactory on-site drainage would be achieved.
14. I conclude, therefore, that the proposal represents an acceptable form of development having regard to flood risk and surface water drainage. The proposal would, consequently, accord with Policy CS19 of the CS and saved Policy DS1 of the LP.

### **Other Matters**

15. I note the concerns of residents regarding the effect of the proposals on the living conditions of the occupiers of properties on Jeffrey Lane and High Street with regard to privacy. However, I am satisfied that, given the intervening distances to the proposed dwellings on the western and southern boundaries, as well as the opportunities for appropriate landscaping and boundary treatments, the proposal would not have a detrimental effect on the living conditions of those residents.
16. I also note the concerns of local residents regarding the effect of the proposal on highway safety in the area. However, whilst the proposal would result in a material increase in vehicular movements on the surrounding network, I have had regard to the comments of the Highway Authority which has raised no objections. Moreover, the appeal site is in a relatively sustainable location with good public transport links. In the absence of any compelling evidence to the contrary, I am satisfied that the surrounding highway network could accommodate the proposed vehicular movements and as a result, the proposal would not have a detrimental effect on highway safety.
17. In addition, there is no substantive evidence before me that the foul water drains on High Street and Jeffrey Lane would be affected by the proposal. Indeed, Severn Trent Water Limited has indicated that the foul water sewer in Jeffrey Lane could accommodate the proposal and that it has no objections to the proposal subject to a condition for a scheme for foul sewage disposal to be agreed.

### **Conditions**

18. In addition to the standard time limit condition, I consider a condition relating to the approved plans necessary as this provides certainty. I also consider a condition requiring details of materials to be necessary in the interests of the character and appearance of the area. A condition requiring schemes for the disposal of surface water and foul drainage are necessary in the interests of

flood risk as is a condition requiring details to be agreed to prevent surface water run-off onto the highway. A condition requiring implementation of the measures relating to finished floor levels within the FRA is necessary to make the scheme safe from flooding.

19. The submissions of the Council's Environmental Health team indicated that the development is immediately adjacent to former railway land and as a result is potentially contaminated. As a result, conditions relating to contaminated land are necessary. The appeal site connects with a wildlife corridor which is of Local Wildlife Site quality further south. The Framework indicates that opportunities to incorporate biodiversity around developments should be encouraged. I consider, therefore, a condition to ensure biodiversity enhancements necessary.
20. The Council's Historic Environment Record indicates that that there was settlement in Belton during the Iron Age, Romano-British and Anglo-Saxon periods prior to the development of the medieval village. As a result, there is the potential for construction work to encounter previously unrecorded archaeological deposits. A condition requiring an archaeological mitigation strategy is therefore necessary.
21. I consider a condition requiring all hard and soft landscaping works to be agreed necessary in the interests of the character and appearance of the area and to ensure the proposal would not have a harmful effect on the living conditions of neighbouring residents with regard to privacy. A condition requiring details of the affordable housing provision at the site, including arrangements to ensure the units remain affordable in perpetuity, is necessary to ensure the proposal would provide an appropriate mix of housing.
22. I consider a condition requiring details of the proposed access road to be agreed necessary in the interests of highway safety, although I do not agree that it is necessary for the details to include the number and location of vehicle parking spaces since these are depicted on the approved plans. Further conditions relating to the completion of the access road and footway, the setting out of the access and the visibility splays, and the need to set out the access and parking spaces on each plot are necessary in the interests of highway safety. Furthermore, conditions requiring the improvement of the existing footway adjacent to the site and the completion of the access road before the development is completed are also necessary in the interests of highway safety.
23. Given the residential character of the area, it is appropriate that controls are placed upon hours of construction, site clearance and other operations. It is also necessary to ensure that no loose material is placed close to the adopted highway unless mitigation measures are ensured in the interests of highway safety.

### **Conclusion**

24. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be allowed.

*Jason Whitfield*

**INSPECTOR**

## SCHEDULE

- 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: J1459 (8) 01, J1459 (8) 02, J1459 (8) 03, J1459 (8) 20, J1459 (8) 21, J1459 (8) 22, J1459 (8) 23, J1459 (8) 30, J1459 (8) 31, J1459 (8) 32, J1459 (8) 33, J1459 (8) 34, J1459 (8) 35, J1459 (8) 36, J1459 (8) 37, J1459 (8) 38, J1459 (8) 39, J1459 (8) 40, J1459 (8) 41, J1459 (8) 50, and J1459 (8) 51.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until schemes for the disposal of surface water and foul sewage have been submitted to and approved in writing by the local planning authority. The dwellings hereby approved shall not be brought into use until the scheme has been implemented. The implemented scheme shall thereafter be retained for the lifetime of the development hereby permitted.
- 5) No development shall take place until details showing an effective method of preventing surface water run-off from hard paved areas within the site onto the highway have been submitted to and approved in writing by the local planning authority. These facilities shall be implemented in accordance with the approved details prior to the access and parking facilities being brought into use and thereafter retained as such for the lifetime of the development hereby permitted.
- 6) No development shall take place until details of the layout, drainage, construction, services and light of the proposed access road, including the junction with the adjacent highway have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.
- 7) No development shall commence until 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:
  - a survey of the extent, scale and nature of contamination;
  - 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.

- 8) No development shall take place where land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until 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.
- 9) 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.
- 10) No development hereby permitted shall take place until a biodiversity management plan has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved biodiversity management plan and the measures contained therein retained for the lifetime of the development hereby permitted. Prior to occupation of the final dwelling hereby permitted, the developer, or successor in title, shall submit a written report to the local planning authority setting out evidence that the biodiversity management plan has been implemented in full.
- 11) No development shall take place until an archaeological mitigation strategy has been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved archaeological mitigation strategy and the measures therein implemented in full. Thereafter a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be submitted to the local planning authority within six months of the date of the completion of the development hereby permitted.
- 12) No development hereby permitted shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping, including boundary treatments. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 13) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons

following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 14) No dwelling hereby permitted shall be occupied until details of the arrangements for the provision of affordable housing at the site have been submitted to and agreed in writing by the local planning authority. Such details shall include:
- Arrangements to ensure that the dwellings remain available as affordable units both of initial and subsequent occupiers; and
  - The occupancy criteria to be used for determining the identity of prospective and successive occupiers of the housing the means by which such criteria will be enforced.

The affordable housing shall thereafter be retained in accordance with the approved details.

- 15) No dwelling hereby permitted shall be occupied until the access road has been completed to at least base course level and lit from the junction with the adjacent highway up to the access of the dwelling.
- 16) No dwelling hereby permitted shall be occupied until the footway has been completed to at least base course level from the junction with the adjacent highway up to the access of the dwelling.
- 17) No other works hereby permitted shall be commenced until the access road junction with the adjacent highway, including the required visibility splays, has been set out and established.
- 18) No dwelling hereby permitted shall be occupied until the vehicular access to it and the vehicle parking spaces serving it have been completed and, once provided, the vehicle parking spaces shall be retained for the lifetime of the development hereby permitted.
- 19) The development hereby permitted shall not be brought into use until the existing footway fronting the site has been improved in accordance with details which have first been submitted to and approved in writing by the local planning authority.
- 20) The development hereby permitted shall not be occupied until the mitigation measures detailed within the submitted Flood Risk Assessment (FRA), including the heights of finished floor levels, have been fully implemented in accordance with the FRA. The measures shall be retained thereafter.
- 21) No works on the penultimate dwelling hereby permitted shall commence until the access road has been completed.
- 22) Construction and site clearance operations, including HGV movements to and from the site, and the installation of equipment on the site, shall only take place between 0700 hours to 1900 hours on Mondays to Fridays and 0700 hours to 1300 hours on Saturdays, and shall not take place at any time on Sundays or Bank Holidays.
- 23) No loose material shall be placed on any driveway or parking area within 10 metres of the adopted highway unless measures are taken in

accordance with details to be submitted to and approved in writing by the local planning authority. Once agreed and implemented, those measures shall be retained for the lifetime of the development hereby permitted.

-----END OF SCHEDULE-----

Richborough Estates