



Appeal Decision

Site visit made on 16 January 2018

by R A Exton Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th February 2018

Appeal Ref: APP/V2635/W/17/3187269

Land to the east of Cromer Road, Hunstanton PE36 6BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Bennett Homes against the decision of King's Lynn and West Norfolk Borough Council.
- The application Ref 17/01465/F dated 19 July 2017, was refused by notice dated 2 October 2017.
- The application sought planning permission for residential development of up to 120 dwellings with associated landscaping, open space, car parking and vehicular access from Cromer Road and Chapel Bank at land east of Cromer Road, Hunstanton without complying with conditions attached to planning permission Ref 16/0082/OM, dated 8 September 2016.
- The conditions in dispute are Nos 14, 18 and 23 which state that:
 - 14) Prior to the first occupation of the development hereby permitted visibility splays (measuring 4.5m x 90m to each side of the access where it meets the highway) shall be provided in full accordance with the details indicated on the approved plan (Drawing No 2956/2/sk06 Rev P4) The splay shall thereafter be maintained at all times free from any obstruction exceeding 0.225 metres above the level of the adjacent highway carriageway.
 - 18) Notwithstanding the details indicated on the submitted drawings no works shall commence on site unless otherwise agreed in writing until a detailed scheme for the off-site highway improvement works as shown indicatively on Drawing No 2956/2/SK08 rev P4 have been submitted to and approved in writing by the Local Planning Authority. The detailed scheme shall be in the form of a shared use cycleway/footway along the eastern side of A149 Cromer Road (from Chapel Break southwards to a new toucan crossing of the A149); new crossings of the A149; a new section of shared use footway/cycleway along the western side of the A149 Cromer Road (from the new toucan crossing southwards to the existing section of shared use) and a pair of new bus stops along the site frontage.
 - 23) Insofar as it relates to access the development hereby permitted shall be carried out in accordance with the following approved plans: Site Layout Plan – SK08 rev P4 dated 7 April 2016 received 12 April 2016.
- The reasons given for the conditions are:
 - 14) In the interests of highway safety.
 - 18) To ensure that the highway improvement works are designed to an appropriate standard in the interests of highway safety and to protect the environment of the local highway corridor.
 - 23) For the avoidance of doubt and in the interests of proper planning.

Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 120 dwellings with associated landscaping, open space, car parking and vehicular access from Cromer Road and Chapel Bank at land east of Cromer Road, Hunstanton without compliance with condition numbers 14, 18 and 23 previously imposed on planning permission Ref 16/0082/OM dated 8 September 2016, but subject to the conditions set out on the attached schedule.

Application for costs

2. An application for costs was made by Bennett Homes against the Kings Lynn and West Norfolk Borough Council. This application is the subject of a separate Decision.

Background and Main Issue

3. Planning permission Ref 16/0082/OM ('the approved scheme') granted outline permission for up to 120 dwellings with consideration of access, all other matters being reserved for future consideration. A single access point onto Cromer Road was approved as part of this permission. Conditions 14, 18 and 23 require development to be carried out in accordance with drawings showing the position and visibility splays associated with this access point. The appellant wishes to provide an additional 3 access points to Cromer Road and seeks to change conditions 14, 18 and 23 to refer to the drawing showing these and their associated visibility splays.
4. In light of the above, the main issue is whether conditions 14, 18 and 23 are a necessary and reasonable means of controlling development, with particular regard to the effect on highway safety in the area.

Reasons

Highway safety

5. From the information before me and my observations on site, Cromer Road appears to be a road well-used by through traffic by-passing the centre of Hunstanton. I accept that vehicle flows are likely to be higher in spring and summer months due to tourism related traffic.
6. The approved scheme would result in vehicle movements generated by up to 120 dwellings, accessing and leaving the site directly from Cromer Road. The appeal proposal would not change the amount of vehicle movements but would disperse those over 4 access points.
7. There would be an effect on traffic flow on Cromer Road as a result of the approved scheme. This would occur as a result of passing vehicles slowing or stopping to allow other vehicles to enter or leave the appeal site by the single access point. As the appeal proposal would not increase the amount of vehicle movements, its effect on the traffic flow on Cromer Road would not be greater, but more dispersed. The appeal proposal would be likely to reduce traffic flow on Cromer Road at intervals coinciding with the 4 proposed access points compared with the single access point in the approved scheme.
8. Under the approved scheme or the appeal proposal the majority of the appeal sites frontage to Cromer Road would be within a 30mph speed limit. The

appellant's Transport Assessment indicates that a high percentage of vehicles on Cromer Road currently travel at speed within this limit. The Council has not offered any evidence to the contrary and therefore I have no reason to question the Transport Assessment. For vehicles travelling within the speed limit, the reduction in speed required to accommodate vehicle movements into and out of the appeal site would not be significant when compared to a road with a higher speed limit.

9. In light of the above I consider that the appeal proposal would be likely to result in a similar effect to the traffic flow on Cromer Road as the approved scheme, but spread over a greater length of the road. Taking account of the speed limit, the reduction in traffic flow as a result of the appeal proposal would not be significant and may be less than the approved scheme due to the dispersion of the proposed access points.
10. A reduction in traffic flow is not necessarily harmful to highway safety; it can act as an improvement. I note the highway engineer's support for the proposal in conjunction with the proposed change in speed limit associated with the development. I also note the appellant's comments on the traffic calming effect of the appeal proposal. There is insufficient evidence before me to demonstrate that the appeal proposal would result in any effect on highway safety that would be either greater than that generated by the approved scheme or harmful.
11. Consequently, I conclude that the proposal would accord with Policy CS11 of the Core Strategy¹. This requires development proposals to provide for safe and convenient access for all modes of transport. It would also accord with the National Planning Policy Framework insofar as it relates to providing safe and suitable access.

Other matters

12. I note the completed s106 agreement relating to the approved scheme and the completed deed of variation that would transfer its requirements to the appeal proposal. I have no evidence or reason to question the appropriateness of the original agreement or its transfer to the appeal proposal.
13. I also note interested parties concerns. However, many of these relate to the effects of the approved scheme and therefore could occur regardless of the outcome of this appeal. I consider that none of the other issues raised, including headlamp glare and tree and hedgerow loss would cause harm significant to warrant the refusal of planning permission.

Conditions

14. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. The conditions the Council requests are imposed if the appeal is allowed differ from those imposed on the original planning permission by apparently reflecting the fact that some conditions have already been discharged. Consequently, I have imposed the conditions requested by the Council as part of this appeal. In the event that other

¹ The Kings Lynn and West Norfolk Borough Council Local Development Framework – Core Strategy adopted in 2011.

conditions have in fact been discharged, that is a matter which can be addressed by the parties. I have re-worded and re-ordered these in the interests of precision and clarity.

15. As a planning permission granted under section 73 cannot extend the time limit within which a development must be started or an application for reserved matters made, I have amended the relevant conditions accordingly.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed.

Richard Exton

INSPECTOR

Richborough Estates

Schedule of conditions

- 1) Details of the 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 in accordance with such details as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 20 January 2016.
- 3) 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.
- 4) No development shall take place until details of the foul water drainage arrangements for the approved development have been submitted to and approved in writing by the local planning authority. Drainage shall be carried out in accordance with such details as approved prior to the occupation of any dwelling.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) delivery, demolition and construction working hours.
 - ii) Sound power levels of equipment and its location.
 - iii) Measures to control the emission of noise, dust and dirt during construction.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 6) The development hereby approved shall not be brought into use until a scheme for the provision of a fire hydrant has been implemented in accordance with a scheme that has previously been submitted to and approved in writing by the local planning authority.
- 7) The development hereby approved shall be carried out in accordance with section 6 'mitigation' of the Ecological Impact Assessment dated December 2015 unless otherwise agreed in writing by the local planning authority.
- 8) The development hereby approved shall be carried out in accordance with the revised version of the Flood Risk Assessment and Surface
- 9) No dwelling hereby permitted shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with such details as approved until such time as an agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established.

- 10) No development shall take place until detailed plans of roads, footways, cycle ways, foul and surface water drainage have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with such plans as approved.
- 11) No works shall be carried out on roads, footways, cycle ways, foul and surface water sewers otherwise in accordance with the specifications of the local planning authority.
- 12) Before any dwelling hereby permitted is first occupied the roads, footways and cycle ways shall be constructed to binder course surfacing level from the dwelling to the adjoining county road in accordance with details to be approved in writing by the local planning authority.
- 13) Prior to the first occupation of the development hereby permitted visibility splays (measuring 4.5m x 90m to each side of the access and 2.4m x 90m to each side of the private access drives where they meet the highway) shall be provided in accordance with the details shown on drawing No 3134.104 Rev P3. The visibility splays shall thereafter be maintained at all times free from any obstruction exceeding 0.225m above the level of the adjacent highway carriageway.
- 14) No development shall take place until a scheme detailing on-site parking for construction workers for the duration of the construction period has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented throughout the construction period.
- 15) No development shall take place until details of wheel cleaning facilities for construction vehicles have been submitted to and approved in writing by the local planning authority. Such facilities as approved shall be made available for during the construction period.
- 16) For the duration of the construction period all traffic associated with the construction of the development permitted shall use the approved wheel cleaning facilities.
- 17) Notwithstanding the details indicated on the submitted drawings, no development shall take place until a detailed scheme for the off-site highway improvement works as shown indicatively on drawing No 3134.104 Rev P3 have been submitted to and approved in writing by the local planning authority. The detailed scheme shall be in the form of a shared use cycleway/footway along the eastern side of A149 Cromer Road (from Chapel Break southwards to a new toucan crossing of the A149); new crossings of the A149; a new section of shared use cycleway/footway along the western side of the a149 (from the new toucan crossing southwards to the existing section of shared use) and a pair of new bus stops along the sites frontage.
- 18) Prior to the first occupation of the development hereby approved the off-site highway improvement works referred to in condition 17 shall be completed in accordance with such details as approved.
- 19) No development shall take place until a Traffic Regulation Order for extension (northwards) of the existing 30 mph speed limit has been promoted by the Highway Authority.

- 20) A landscape management plan including long-term design objectives, management responsibilities, management and maintenance schedules for all informally identified landscape areas on plan 004 Rev C, other than small privately owned, domestic gardens, shall be submitted to and approved by the Local Planning Authority prior to the occupation of any part of the buildings or any phase of the development, whichever is the sooner, for its permitted use. The landscape management plan shall be carried out as approved.
- 21) The development hereby permitted shall for no more than 120 dwellings.
- 22) The development hereby permitted shall be carried out in accordance with the following approved plans:-
 - Site located plan dated 9 September 2016
 - Highway Junction Plan Drawing No 3134.104 Rev P3
- 23) The development hereby approved shall be carried out in accordance with the Written Scheme of Investigation as agreed under 16/00082/DISC_A
- 24) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under 16/00082/DISC_A
- 25) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under 16/00082/OM and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

Richborough Estates