



Appeal Decision

Site visit made on 22 October 2018

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th November 2018

Appeal Ref: APP/E2001/W/18/3204496

Land North and East of Oaklea, Holme Road, Market Weighton YO43 3EN

- 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 Philip Lovel (Lovel Developments (Yorkshire) Ltd) against the decision of East Riding of Yorkshire Council.
 - The application Ref DC/17/02441/PLF/WESTWW, dated 17 July 2017, was refused by notice dated 22 March 2018.
 - The development proposed is the erection of 17 dwellings and associated garages.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 17 dwellings and associated garages at land north and east of Oaklea, Holme Road, Market Weighton YO43 3EN in accordance with the terms of the application, Ref DC/17/02441/PLF/WESTWW, dated 17 July 2017, subject to the conditions set out in Annex A.

Application for costs

2. An application for costs was made by Mr Philip Lovel (Lovel Developments (Yorkshire) Ltd) against East Riding of Yorkshire Council. This application is the subject of a separate Decision.

Procedural Matter

3. The application was amended prior to its determination by the Council. The revised scheme reduced the number of houses proposed on the site from 18 to 17 as described in the banner heading above. I have determined the appeal on this basis.

Main Issue

4. The main issue in the appeal is the effect of the proposed development on the living conditions of nearby residents with particular regard to noise and disturbance from additional traffic.

Reasons

5. The appeal site is currently vacant open land in a predominantly residential area. It is indicated by both parties that the eastern part of the site forms part of the MW-B housing allocation within the *East Riding Local Plan 2012 – 2029 Allocations Document (adopted July 2016)*. The allocation expects that access will be taken from Holme Road. This has not been created to date but an access has been provided into the site from the roundabout on the A1079.

Although the western part of the site does not fall within this allocation the Council have stated that as this lies within the settlement boundaries of the town, its development for housing is acceptable in principle.

6. The land immediately to the north of the site, which also forms part of this allocation, has already been developed. The Council have indicated that this was permitted in advance of the provision of the access road from Holme Road, because the scheme included a health centre which provided significant public benefits. This development is currently accessed from Northgate Vale, but the Council's evidence indicates that this is a temporary measure and that this route will be closed once the alternative access from Holme Road is provided.
7. In the short term it is proposed that the development would also be accessed from Northgate Vale and Medforth Street. However, in the longer term, like the Medforth Street development to the north, it would be able to be served by the proposed access from Holme Road, and so it would not prevent the closure of the access via Northgate Vale. Whilst I note the Council's concerns regarding the masterplan submitted by the appellant, the development would not compromise the delivery of the larger allocation in accordance with the masterplan submitted in the Council's evidence.
8. The Council have indicated that a condition on the permission for the Medforth Street scheme aimed to prevent any more of the allocation being accessed via Northgate Vale. However, whilst they state that this clearly shows the intention that further developments should not be accessed in this way, they have indicated that the condition cannot be enforced through this proposal. I see no reason to come to a different conclusion in this regard.
9. The application was accompanied by a Transport Note which utilised data from the TRICS database. This assessment indicates that the development of 17 houses would generate 10 two-way trips an hour at peak time which equates to approximately 1 car every 3 minutes. Outside peak times the movements would be lower. The Council have not disputed these figures nor have they provided any evidence to counter that provided in the assessment.
10. This level of traffic movement would not create a continuous flow of traffic, and so there would not be constant traffic noise for residents living on Medforth Street or Northgate Vale. In addition, the nature of the roads means that the speed of vehicles would be limited which would further reduce the noise created. Nor would the additional traffic generate noise and disturbance associated with the opening and closing of car doors in the vicinity of the existing houses. Whilst cars may at times be required to wait to pass a parked car, or to turn right at a junction, should a vehicle be coming in the opposite direction, such delays would be momentary, and would not cause any undue noise and disturbance. To this end the Council have not raised any concerns about the capacity at either of the junctions on Northgate Vale, and so the proposal is unlikely to cause excessive queuing at these.
11. I appreciate that during the construction period, additional traffic would be generated by workers and deliveries, but a condition can be used to control the hours of operation and deliveries. Moreover, given the size of the development, the construction period would be likely to be relatively short.
12. The Council has stated that the surrounding road network, including Northgate Vale, has the capacity to cope with the additional traffic the proposal would

generate, and so I am satisfied that the appeal scheme would not give rise to highway safety concerns. In addition, whilst I note the Council's concerns regarding the impact that on-street parking on Northgate Vale has on pedestrian safety, I see no reason why this proposal would exacerbate this existing situation.

13. All in all, I consider that the proposed development would not have an adverse impact on the living conditions of nearby residents with particular regard to noise and disturbance from additional traffic. Therefore it would not conflict with Policy ENV1 of the *East Riding Local Plan 2012 – 2029 Strategy Document (adopted April 2016)* (ERLP) which requires that developments have a high quality of design that, amongst other things, have regard to the amenity of existing, or proposed, properties.

Other Matters

14. Concerns have been raised about drainage and the stream that runs close to the boundary with Skelton Crescent. I note that, subject to conditions, there is no objection to the scheme from Yorkshire Water, or the Lead Local Flood Authority. Given that there is no substantive evidence to the contrary I am satisfied that the proposal would not have any significantly adverse effect in this respect.
15. An Extended Phase 1 Habitat Survey and a Bat Survey were submitted with the application. These show that the potential impact of the scheme on habitats and species can be appropriately mitigated for, and that it would not have significant ecological impacts. Subject to conditions to ensure the implementation of the mitigation measures, I consider that the scheme would not have a detrimental impact on wildlife or biodiversity.
16. It has been suggested that the scheme would adversely affect the outlook from houses on Medforth Street. However, given the separation distances that would be maintained between the existing and the proposed houses, I am satisfied that, although the outlook from the houses on Medforth Street may change, the appeal scheme would not have an overbearing impact on them.
17. I note the concerns regarding the consultation on the planning application, but these are matters that would need to be taken up with the Council in the first instance. In addition, what will happen with the existing bungalow on the site is not a matter that is before me.

Planning Obligation

18. The appellant has submitted a signed Unilateral Undertaking which makes contributions towards off-site children's open space and outdoor sports facilities, maintenance of the amenity green space, as well as securing the provision of 4 affordable housing units on the site, together with an off-site contribution for the same. I have considered this in the light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and paragraph 56 of the National Planning Policy Framework.
19. *Affordable Housing*. The obligation makes provision for four affordable houses on the site and an off-site contribution which in total equates to 25% of the 17 houses. This is supported by Policy H2 in the ERLP and the *East Riding Affordable Housing Supplementary Planning Document (adopted April 2016)*. The affordable housing would comprise 3 x 2 bed and 1 x 3 bed house, 2 of

which would be Affordable Rented Dwellings and the other two would be Intermediate Dwellings. The Strategic Housing Market Assessment 2016 indicates the need for smaller houses. The Obligation sets out detailed arrangements for the transfer and management of these units. As such, I am satisfied that the agreement would ensure the development contributes to affordable housing needs within the borough, and I consider the obligation passes the statutory tests.

20. *Open Space.* The Council have indicated that there is a shortfall in the area for children's open space, outdoor sports facilities and amenity green space. Whilst there would be some public open space provided on the site, it is agreed that due to the size of the site it is impractical to provide children's equipped play space and outdoor sports facilities on the site itself. Therefore the Obligation makes provision for the funding and maintenance of these, as well as the maintenance of the on-site amenity space, by way of a commuted sum. This is supported by policy C3 of the ERLP and the *Open Space Supplementary Planning Document (adopted November 2016)* which also sets out the justification for the costings. The Council have indicated that the commuted sum for children's open space and outdoor sports facilities would be utilised to upgrade and improve/expand existing facilities in the vicinity and that not more than 5 commuted sums would be utilised for this purpose. I consider that the contribution sought by the Council in this respect is directly related to the development and is fairly related in scale and kind. As such it would accord with the statutory tests.

Conclusion and Conditions

21. For the reasons set out above, I conclude that the appeal should be allowed.
22. In addition to the standard implementation condition, to provide certainty it is necessary to define the plans with which the scheme should accord. In the interests of the character and appearance of the area conditions are required to control the external appearance of the dwellings and the landscaping of the development. The landscaping condition needs to be a pre-commencement condition as the landscaping scheme may affect the design and layout of the proposal.
23. In the interests of nature conservation a condition is required to protect and ensure adequate mitigation is carried out for protected species. This needs to be a pre-commencement condition to provide adequate protection during the construction period. To protect the living conditions of nearby residents, and for highway safety reasons, a condition is required to ensure the provision of a construction management plan. This needs to be a pre-commencement condition as it mitigates the effects of the construction phase.
24. To ensure the development has adequate parking and for highway safety reasons, it is necessary to ensure adequate vehicular access and parking are provided before the dwellings are occupied. To prevent an increased risk of flooding and to ensure the satisfactory drainage of the site it is necessary to control details of the drainage systems. The surface water condition needs to be a pre-commencement condition as the works may affect the design and layout of the scheme.

25. In accordance with Section 100ZA of the Town and Country Planning Act 1990, the appellant has provided written agreement to the pre-commencement conditions.

Alison Partington

INSPECTOR

Richborough Estates

Annex A

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: Survey 3049/04; Location Plan 3049/05a PA; Detailed Site Layout 3049/09c; House Type D 3049 10; House Type C 3049 11; House Type E (terrace) 3049 12; House Type B (semi) 3049 14; House Type A (semi) 3049 15; House Type A & B 3049 16; House Type D (handed) 3049 17; House Type C (handed) 3049 18 ; Boundary Details 3049 19; and House Type B (terr) 3049 30.
- 3) No development above damp proof level shall take place until details of the materials to be used in the construction of the external surfaces of the development 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 an Ecological Construction Method Statement (ECMS) and Ecological Enhancement and Management Plan (EEMP) have been submitted to, and approved in writing by, the local planning authority. The ECMS and EEMP shall be compiled by a suitably qualified ecologist, include a timetable for implementation and a detailed plan. The documents shall provide full details of all ecological mitigation, enhancement, and management measures along with a programme for the implementation of each element of the development, and shall include:
 - A risk assessment of potentially damaging construction-type activities;
 - Details of precautionary Methods of Working for works such as tree or hedgerow removal and clearance of grassland areas;
 - Full details of relevant on-site working practices to safeguard wildlife during the development process (e.g. badgers, breeding birds) including action to be taken if any protected species are found during construction works;
 - Full details and plans of measures to protect water courses from run-off, pollution and adverse changes in water quality and flow;
 - Details of a lighting strategy which secures dark corridors for foraging bats and nesting birds on the boundaries of the site;
 - Full details of ecological enhancement and management which shall be based on, but not restricted to, the enhancement prescriptions detailed in section 7 of the Extended Phase 1 Habitat Survey (Wold Ecology Ltd, June 2017) and section 7.2.5 Bat Survey (Wold Ecology Ltd, June 2017).
 - Full details of measures for incorporating a 25% box to building ratio to enhance nesting opportunities for birds across the site, and a 25%box/ tube to building ratio to enhance bat roosting provision within the development.
 - A detailed drawing specifying the precise location of the enhancement measures to be provided;
 - Data to demonstrate how the delivery of enhancements and green infrastructure will provide a nett gain for biodiversity. This should

include a clear and transparent summary of hedgerow and tree nett losses and gains.

- Details of site induction information and tool box talks for all relevant on-site working practices. Protocols to demonstrate that the site work force will be briefed about potential ecological issues on the site prior to commencement of construction shall be provided.
- Confirmation of suitably qualified personnel responsible for overseeing implementation of measures detailed in the ECMS and EEMP.

Upon commencement of development all aspects of the approved Ecological Construction Method Statement and Ecological Enhancement and Management Plan shall be implemented in full.

- 5) No development shall commence until details of both hard and soft landscape works have been submitted to, and approved in writing by, the local planning authority. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 6) 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) the parking of vehicles of site operatives and visitors;
 - ii) detailed routing of construction traffic;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 7) No dwelling shall be occupied until the means of vehicular access has been provided from the junction with the public highway and space has been laid out within the curtilage of that dwelling for motor cars to be parked in accordance with the details hereby approved. These vehicle parking facilities shall thereafter be retained.
- 8) The site shall be developed with separate systems for foul or surface water on and off site. The peak pumped foul water discharge shall not exceed four litres per second.
- 9) No development shall take place until a scheme for the discharge of surface water from the site, incorporating a sustainable drainage system

and associated maintenance and management plan, has been submitted to, and approved in writing by, the local planning authority. No dwelling shall be occupied until the surface water drainage system has been constructed in accordance with the approved scheme, and thereafter it shall be managed and maintained in accordance with the approved scheme.

- 10) None of the dwellings hereby permitted shall be occupied until works for the disposal of sewage 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.

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