



Appeal Decision

Site visit made on 19 November 2014

by David Nicholson RIBA IHBC

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

Decision date: 16 December 2014

Appeal Ref: APP/D2510/A/14/2225402

Fairfield, Scremby Road, Partney, Spilsby PE23 4PX

- 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 Mr Gary Avison against the decision of East Lindsey District Council.
 - The application Ref. N/136/00354/14, dated 24 February 2014, was refused by notice dated 14 May 2014.
 - The development proposed is outline erection of residential development for up to 15 dwellings (with access to be considered).
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Decision

1. The **appeal is allowed** and outline planning permission is granted for the erection of residential development for up to 15 dwellings (with access to be considered) at Fairfield, Scremby Road, Partney, Spilsby in accordance with the terms of the application, Ref. N/136/00354/14, dated 24 February 2014, subject to the attached Schedule of conditions.

Application for costs

2. An application for costs was made by Mr Gary Avison against East Lindsey District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application was made in outline form with all matters (appearance, landscaping, layout and scale) reserved except for access, which would be located close to the public house and village hall. The Design and Access Statement (DAS) confirms that the amount and scale of development would be up to 15 dwellings. There is nothing more specific with regard to the other matters.
4. A Unilateral Undertaking dated 28 October 2014 was submitted under section 106 of the Town and Country Planning Act 1990. This includes provisions to construct a lay-by and a footpath opposite the school; transfer the village hall car park to the village hall or the Parish Council; transfer the eastern half of the field, together with a financial contribution, to an appropriate body or the Parish Council to develop it as a recreation ground; and contribute to local facilities for the national health service (NHS) should I conclude that this is necessary.

Main Issues

5. From the evidence and all representations submitted, and my inspection of the site and its surrounding roads and paths, I find that the main issues are the effects of the proposals on:
 - a) flooding;
 - b) an area identified as protected open space (POS) in the East Lindsey Local Plan Alteration 1999 (LP).

Reasons

6. Partney is a medium sized village with good road connections from its bypass. It lies within an area of great landscape value (AGLV). The appeal site is close to its centre and to village facilities which include a primary school, shop, petrol station, public house, church and village hall. The Council has acknowledged that it cannot currently demonstrate a five year supply of housing land. In these circumstances, as recognised in the officer's report, the NPPF states that sustainable development should be granted permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits (paragraph 14). The Council also accepts that the location would make effective and efficient use of existing infrastructure and would be acceptable in terms of sustainability and provision of services, and I agree.

Flooding

7. There was no objection from Anglian Water to a previous application for 10 houses, ref. N/136/01372/13. The Council has raised concerns that there might not be space for 15 dwellings as well as the land that would be necessary for drainage features, which might include balancing ponds. I am informed, with supporting photographs, that last winter part of the village beyond the appeal site flooded, causing raw sewage to enter the gardens of two properties in Dalby Road. Apparently it then took the water authority an excessive amount of time to locate the blockage and clear it.
8. Conditions could require detailed schemes for both foul and surface water to be submitted and approved before any work begins. New drives and areas of hardstanding could be required to be constructed from permeable materials and retained as such. The application is for up to 15 houses so it would be for the appellant to demonstrate that adequate drainage provision could be made and to adjust the final number of proposed dwellings accordingly. Adjoining land is within the appellant's ownership and so offers alternatives.
9. While I most certainly understand the concerns the recent flooding has raised, and the consequential lack of confidence in the authority responsible, in my experience a blockage is at least as likely when a drain is under-used, as solid material can built up, as when it is running at full bore which tends to keep it clear. Subject to conditions, there is no persuasive evidence before me to show that the development would cause any more frequent or intense flooding than might happen otherwise, or that it would lead to increased incidence of sewer blockage. On this issue, the scheme would therefore accord with saved LP Policy ENV3 of the which allows development where it can be shown that foul sewers and surface water drainage would be adequate; and satisfy paragraphs 100 and 103 of the NPPF which aim to avoid development in areas at risk of flooding and ensure that flood risk is not increased elsewhere.

Protected Open Space

10. The appeal site is within the settlement boundary of Partney and, as above, an area identified as POS in the LP. Relevant LP Policy ENV24 only permits development on such spaces provided significant harm would be avoided to their appearance, character or role with reference to criteria including: c) the street scene and f) the settings of historic features. LP paragraph 3.86 clarifies that: *In exceptional circumstances, where a strong case can be made, an open space or frontage may be so significant as to prevent development of a site.* The Council argued that the POS is important due to its role in the character and appearance of the village, the setting of the listed church and the role of the village in the AGLV. There are views of the site within the village and from the nearest footpath. The delegated report expressed significant doubts that a scheme could be other than a suburban style development at odds with the form or characteristics of the village.
11. There would be a single point of vehicular access to the proposals and that this would limit permeability through the site. However, this is not unreasonable for a maximum of 15 dwellings and the scheme would include a footpath on the opposite side from the vehicular access so that it would enjoy connectivity for pedestrians. Notwithstanding the Council's criticisms of the DAS, in all other regards control over details would be left to the reserved matters stage and so would be in the hands of the Council. The site is slightly elevated compared with surrounding areas but the heights of any houses could be controlled to reflect those which are characteristic of the village. As the appellant owns the remainder of the field, there is space for the provision of a recreational use for most of the year. Given that I have found the design would be acceptable with regard to the implications of the access arrangements, and taking account of neighbouring developments, there is no reason why reserved matters conditions could not sufficiently control all remaining design matters to achieve a high standard.
12. From the above, I find no reason in principle why conditions could not achieve a scheme of a high enough quality that it would complement the existing character of the village and so amount to good design. It would then accord with the requirements of LP Policy ENV24, as above, and LP Policy A5 which only permits development where the design would not detract from the distinctive character of the locality. Given the location of the site at the heart of the village, a suitably designed scheme would accord with LP Policy C11 and protect the landscape features, historic character, role, significance and distinctive character of the AGLV. It would accord with LP Policy H12 which sets criteria for the design of new housing. The proposals would also comply with the NPPF which requires good design.
13. The proposed houses would stand within the setting of the Grade II* listed Church of St. Nicholas. This is a 14th and 15th Century building, with fine windows and carvings, which was largely rebuilt in the 19th Century. There is residential development on all sides of the church and the village hall and several houses stand between the church and the appeal site. As a result, its setting is already characterised by development. The Council's concern that a dense arrangement of dwellings could have a negative effect on this part of the church's setting. However, subject to reserved matters, there is no reason why a design could not complement the positive aspects of existing developments. Given that the additional dwellings would be further away from the church than

existing houses, the scheme would have a neutral effect on the setting, which would therefore be preserved. Similarly, the contribution this setting makes to the significance of the church as a designated heritage asset would be unharmed.

14. The scheme would therefore accord with LP Policy C2, which only permits development within the setting of a listed building where it would be preserved or enhance, satisfy advice on the historic environment in the NPPF, and comply with the statutory tests for listed buildings and their settings.

Conditions

15. Conditions should be imposed which accord with paragraph 206 of the NPPF including the standard conditions for time limits, drawing numbers and reserved matters. As the application is for up to 15 dwellings, the standard condition for reserved matters is sufficient to allow design considerations to control the number and size of the buildings without a further condition. In the interests of highway safety, full details of the access and footpath are required together with control over their provision. To protect neighbouring residents from increased risk, details of foul and surface water drainage are needed. To protect likely remains of human activity, further archaeological investigation should be required.

Unilateral obligation

16. The provisions summarised above would maintain the informal village hall car park, help to avoid increased traffic congestion opposite the school and allow children living in the proposed houses to walk there directly. The provision of a recreation ground would provide generous play space and perhaps even allow a fair to return. I have been sent evidence that the nearest GP's surgery is struggling in its present accommodation and new dwellings would be likely to make this worse. While I understand the appellant's reluctance to contribute to NHS facilities when the local surgery is a private business, to my mind this is not so very different to a developer providing a bus subsidy. From the evidence before me, the contribution: is necessary to avoid an inadequate service; would be required as direct consequence of the development and; from the calculations supplied, would be reasonably related in scale and kind. I therefore find that all the provisions would meet the tests in paragraph 204 of the NPPF.

Conclusions

17. For the reasons given above, and having regard to all other matters raised, including a petition with 88 signatures, I conclude that the appeal should be allowed subject to conditions.

David Nicholson

INSPECTOR

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 (LPA) before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the LPA not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) No dwelling shall be occupied until the proposed vehicular and pedestrian accesses have been constructed in accordance with details to be submitted to and approved in writing by the LPA.
- 5) Development shall not begin until details of foul and surface water drainage works have been submitted to and approved in writing by the LPA; the works shall be carried out in accordance with the approved details before any dwelling is occupied.
- 6) No dwelling shall be occupied until works for the disposal of sewage have been provided to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the LPA.
- 7) The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing no. LDC0932-PL-02.
- 8) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation, to include notification, monitoring, reporting and archiving, which has been submitted to and approved in writing by the LPA.
- 9) No more than a maximum of 15 dwellings shall be constructed.