



Appeal Decision

Site visit made on 28 October 2013

by Ms T L Dow BA, Dip TP, Dip UD, MRTPI

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

Decision date: 18 February 2014

Appeal Ref: APP/E2001/A/13/2198474

Land adjacent to 41 Hilda Street, Goole, North Humberside, DN14 6DS

- 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 RHB Developments against the decision of the East Riding of Yorkshire Council.
 - The application Ref. DC/12/01442/PLF, dated 26 March 2012, was refused by notice dated 29 November 2012.
 - The development proposed is; Erection of 11 dwellings with associated road and car parking spaces.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 11 dwellings with associated road and car parking spaces, at Land west of 41 Hilda Street, Goole, North Humberside, DN14 6DS, in accordance with the terms of the application Ref DC/12/01442/PLF, dated 26 March 2012, subject to the conditions in the attached Schedule.

Procedural matters

2. The location of the appeal site is more accurately described in the Council's decision notice and on the appeal form than it is on the application form. I have therefore used the amended location in my formal decision.
3. The description of development originally referred to the erection of twelve dwellings but the plans were amended during the processing of the planning application to reduce the number to eleven. I have dealt with the appeal on this basis and amended the description in the formal decision accordingly.
4. On 25 October 2013 the Council wrote to the Planning Inspectorate stating that if the appeal is allowed, a section 106 Obligation to provide a financial contribution towards the provision of outdoor play space, as well as the provision of affordable housing, would be required. This request was confirmed at the site visit. The appellant has provided a Unilateral Undertaking in respect of both these requirements and I have taken this into account in my decision.

Main issues

5. The main issues in this case are:

- the effect of the development on the living conditions of residents of Hilda Street, having particular regard to vehicle movements; and
- whether the proposed development would be at risk of flooding or would increase flood risk elsewhere.

Reasons

Living conditions

6. Hilda Street is characterised by terraced properties sited close to the footpath with front doors opening directly on to the street. The footways are around 2 metres wide on either side. The end of the street forms the entrance to the site. There is no existing manoeuvring area for vehicles to turn on Hilda Street. There are no parking restrictions other than close to the junction with Pasture Road where there are double-yellow lines. Residents use both sides of the street for parking.
7. The modelling in the Transport Statement which is based on 12 dwellings, not 11 as now proposed, indicates that the development could be expected to generate 68 vehicle trips over a 12 hour period. The Council has estimated the number of likely movements to be closer to 80-90 a day. However, there is no evidence before me to substantiate the assumptions on which the Council's figures are based. Neither has the Council stated why the appellant's evidence, which is based upon a recognised database for making such calculations, is inaccurate. The site is relatively close to the town centre and railway station, and there is a bus stop at the end of Hilda Street, all of which may determine the ultimate level of car usage. In the circumstances, I favour the appellant's estimate of the likely traffic generation.
8. Although the development would increase the number of dwellings accessed from Hilda Street by eleven, given the existing number of dwellings served by Hilda Street, the additional 70 or so trips over a 12 hour period would not be so significant as to cause unacceptable noise and disturbance to existing residents. In addition, the provision of a proper turning head within the development site would ease turning movements on Hilda Street, potentially reducing noise and disturbance created by existing vehicle manoeuvres.
9. With regard to the width of the road, there is no evidence before me to indicate that it would not be possible for two cars to pass, even with parked cars on both sides of the street. Neither has the Council's Highway Control Officer objected to the development or raised issues in respect of the width of the existing access road or its adequacy for the purpose of serving Hilda Street and the proposed development. Therefore, it is unlikely that undue noise and disturbance would be caused by congestion.
10. I conclude that the development would not harm the living conditions of residents of Hilda Street, having particular regard to vehicle movements and the level of noise this would create. As such there would be no conflict with saved Policy EN2 of the Boothferry Borough Local Plan, 1999 (Local Plan). This policy, amongst other things, seeks to ensure that development does not

significantly adversely affect the amenity of local residents. Likewise there would be no conflict with paragraph 17 of the National Planning Policy Framework (the Framework), which seeks to ensure that development secures a good standard of amenity for existing and future occupants.

Flooding

11. Local residents have raised concerns that the development would be itself at risk of flooding and that it would exacerbate flooding in its vicinity. Such concerns often attend such development proposals and should be acknowledged. However, the site lies within Flood Zone 3 which reflects the probability of river and sea flooding: this is land with a 100 to 1 (or 1%) chance or greater of flooding each year from rivers, or with a 200 to 1 (0.5%) chance or greater of flooding each year from the sea, without the presence of any defences. Goole is protected from flooding by defences. The Council has produced a Level 2 Strategic Flood Risk Assessment, part of which involved hazard mapping. This site does not lie within a hazard zone as defined by the Level 2 Assessment. Flood risk measures have therefore been informed by the site specific Flood Risk Assessment (FRA) submitted by the appellant. The Council has confirmed that the site has passed the Sequential Test as required by the Framework and that there is a lack of housing sites within Goole that lie within a lower flood risk level. There is also an acknowledged shortfall in housing supply and a requirement to provide additional housing to meet the needs of the town. The Council has also confirmed that the specific FRA meets the Exceptions Test. The Environment Agency (EA) has confirmed that it does not object to the proposals, subject to conditions securing the implementation of the FRA, as well as a scheme for surface water drainage.
12. The Council's case that the outcome of the study into recent flooding incidents should be awaited is not supported by the bulk of the evidence. Yorkshire Water has said that the appellant's Drainage Assessment is satisfactory and has not objected to the proposals. I note that the Council anticipated that the outcome of the modelling work might be known by the end of 2013, however, no further information has been provided. Neither is there any specific evidence which might indicate that the FRA is inadequate. Although the Lower Aire and Don Consortia of Drainage Boards has stated that the lack of detailed knowledge of existing surface water drainage systems is critical for the development, they did not object to the proposals initially.
13. The imposition of conditions as suggested by the Environment Agency would ensure no increase in surface water run-off from the site, restricting it to the existing green field run-off rate, as well as requiring compliance with the approved FRA. The FRA states that surface water run-off to sewers may need to be attenuated by means of below-ground storage with a throttled outlet. A Grampian style condition requiring the submission, approval and implementation of a drainage scheme, would ensure that the development could not commence until the Council is satisfied that the scheme meets its requirements and those of the statutory bodies. I am therefore satisfied on the basis of the evidence, that the concerns regarding flooding have been appropriately assessed in accordance with the requirements of the Framework, and that the FRA, in conjunction with a condition in respect of the drainage scheme, includes adequate mitigation measures.

14. I conclude on this issue that the risk of flooding to the proposed development and the potential increased risk of flooding elsewhere, can be adequately mitigated. As such there would be no conflict with saved Policy EN65 of the Local Plan which requires that planning permission will only be granted where adequate means and disposal of foul and surface water have been demonstrated. Likewise, I am satisfied that the requirements of the Framework have been met.

Other matters

15. The Council, at a very late stage in the appeal process, requested a contribution to outdoor play space in accordance with Policy LT3 of the adopted Local Plan, as well as a contribution to affordable housing. In respect of the requirement for outdoor play space, the Council states that this is supported by its Special Planning Guidance on the provision of public open space and adopted policy. I have not been provided with this document and therefore have no basis for understanding how the figure has been calculated, whether it is proportionate to the development, where provision will be made and thus whether it is directly related to the development. In the circumstances I am unable to confirm that the request meets the tests in Regulation 122 of the Community Infrastructure Levy (CIL).

16. The request for a contribution to affordable housing is based upon Policy H2 of the East Riding Local Plan Draft Strategy Document, 2013 (Strategy). The Strategy is still emerging and has yet to be judged sound. Although the reasoned justification of draft Policy H2 makes reference to the 'Affordable Housing Viability Assessment' and its Addendum (2011), the Council has not referred to this as justification for the percentage of affordable housing allocated to Goole and neither has a copy of that document been provided to me. In the circumstances, and given the draft status of the policy, I can only attach very limited weight to it. The prevailing saved policy of the development plan sets a threshold for contributions above that proposed in this case. As such, the development is not in conflict with that policy. In any event, it has not been substantiated by any evidence that there is a need for affordable housing in the borough.

17. Nonetheless, the appellant is agreeable to paying both contributions and a Unilateral Undertaking, dated 12 December 2013, which has been signed and executed by the owners of the land, has been provided. However, since I have not been provided with the evidence to demonstrate that the contributions comply with either the criteria in the Framework or the CIL Regulations, I can only conclude that the contributions should not apply. The appeal should therefore be allowed without the need for the contributions.

18. Apart from concerns about flooding, noise, disturbance and congestion, residents have also raised concerns that the development could exacerbate parking issues on Hilda Street. However, I note that parking provision on the development is to the Council's satisfaction and that, in addition, the proposals include three parking spaces for Hilda street residents. The Pastures Residents' Association has said, amongst other things, that the deeds of the Hilda Street dwellings state that the street is a cul-de-sac. However, this is a private matter which has no bearing on an application for planning permission. None of these points are therefore decisive in relation to the appeal.

Conditions

19. I have imposed the standard conditions regarding the time limit for implementation and for the development to be constructed in accordance with the approved plans. The appellant should submit samples of the materials to be used to the Council for approval, to ensure a satisfactory appearance to the development. I have also imposed conditions in respect of the FRA and drainage as referred to above to ensure the site and environs are safeguarded from flooding. The Council suggested lengthy wording for the condition relating to the FRA. However, the scheme and recommendations are clearly set out in the FRA and I do not, therefore, consider it is necessary to repeat that detail in the condition.
20. The Council has suggested a number of conditions to ensure that the access road, access and parking for individual properties, as well as temporary parking and manoeuvring arrangements for contractors during the construction phase, are also provided at the appropriate time. I consider these conditions are necessary in the interests of highway safety, living conditions and convenience. The Council has also proposed conditions in respect of the hard and soft landscaping of the site which, in the interests of securing a visually acceptable development, are also necessary. However, the Council's proposed condition 10 in respect of landscaping, is repetitive of condition 9, so I have not included it.

Conclusion

21. For the reasons set out above I conclude the appeal should succeed.

T L Dow

INSPECTOR

Schedule of 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: 11.1078-01B and 11.1078-05A dated March 2011, 11.1078-13B dated April 2012, and 11.1078-14A, 11.1078-15A, 11.1078-16A, 11.1078-17A and 11.1078-18A, all dated June 2012.
- 3) No development shall take place until details of the materials to be used in the construction of the external surfaces 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) Development shall not begin until details of the drainage, construction, services and lighting of the proposed service road, including the connection with the existing publicly maintainable highway, have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.

- 5) Unless otherwise agreed in writing by the local planning authority, no dwelling shall be occupied until that part of the service road which provides access to it has been constructed in accordance with the approved plans.
- 6) No dwelling shall be occupied until a means of vehicular access has been provided and space has been laid out for motor cars to be parked in accordance with the approved plans.
- 7) Prior to the commencement of development, details showing the provision of temporary vehicle parking, loading and unloading, and manoeuvring facilities for contractors carrying out building and construction works on the development, shall be submitted to and approved in writing by the local planning authority. No other construction work on the development shall begin until the facilities have been provided in accordance with the agreed details. The facilities shall be retained during the construction of the buildings on the development.
- 8) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment, reference J750-01, dated February 2012 and with the mitigation measures set out in Section 8 of the Flood Risk Assessment. The mitigation measures set out in the Flood Risk Assessment shall be fully implemented prior to occupation of the dwellings unless otherwise stated in the Flood Risk Assessment, or first agreed in writing by the local planning authority.
- 9) No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate that the surface water run-off generated up to and including the 1 in 100 year (including an allowance for climate change) critical storm, will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall be implemented in accordance with the approved details before the development is completed.
- 10) No development shall take place until full details of both hard and soft landscape works for the whole site, together with a programme for implementation, has been submitted to and approved in writing by the local planning authority. These details shall include means of enclosure, hard surfacing materials and planting plans. All hard and soft landscape works shall be carried out in accordance with the approved details and prior to the occupation of any part of the development or in accordance with the programme agreed by the local planning authority.
- 11) If within a period of five years from the date of planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, (or becomes in the opinion of the local planning authority, seriously damaged or defective), another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.