
Appeal Decision

Site visit made on 20 January 2015

by **B S Barnett BA MCD MRTPI**

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

Decision date: 23 January 2015

Appeal Ref: APP/Y2003/A/14/2221430

Land to the rear of 32 and 34 Low Street, and to the East of Haxey Lane, Haxey, DN9 2LE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Dennis Sowerby against North Lincolnshire Council.
 - The application Ref PA/2014/0308, is dated 17 March 2014.
 - The development proposed is the erection of 12 dwellings and associated hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. At my visit the appellant and the Council agreed that there is an inconsistency between the layout plan P493-P003E and detailed plans P493-P018 and P493-P118 for the dwelling on Plot 12. The layout plan is correct and the dwelling shown in the detailed plans would be 'handed' accordingly. I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - (a) whether development of this site is acceptable in principle;
 - (b) the effect of the proposed development on the character and appearance of the area;
 - (c) its effect on the living conditions of people living in neighbouring houses;
 - (d) its effect on drainage;
 - (e) its effect on road safety.

Reasons

The Principle of Development

4. The Development Plan consists for saved policies in the North Lincolnshire Local Plan (LP) adopted in 2003 and the Core Strategy (CS) adopted in 2011. Both were adopted before the production of the National Planning Policy Framework. A Housing and Employment Land Allocations DPD has been produced but as

this has only recently been the subject of an examination and has not yet been adopted I attach little weight to it.

5. Both the LP and the CS contain policies restricting development outside development boundaries defined around settlements. The CS indicates an intention to review the boundaries defined in the LP. The Council point out that the restrictive approach of this provision is inconsistent with the more positive approach towards development contained in the later Framework. For this reason, they accept that these Policies are inconsistent with the Framework and attract little weight insofar as they relate to the type of development appropriate outside development boundaries. I share that view.
6. I also consider that the exclusion of most of the appeal site from the LP development boundary is inconsistent with Policy CS3 of the Core Strategy which indicates that development limits should protect areas of open space or land with the characteristics of open countryside within and adjacent to settlements. This area is part of a large garden within the built-up area of the village. It is not connected functionally or visually with the open countryside and it does not have the characteristics of open countryside.
7. The acceptability in principle of development on the appeal site falls to be considered on the basis of policies in the Framework. A golden thread running through this is a presumption that sustainable development should be permitted. There are three dimensions to sustainable development – economic, social and environmental.
8. The site is in the middle of the largest village in the Isle of Axholme. It has good access to a range of local services and facilities and bus services link it to larger centres. Although there is no suggestion that they are under threat, the development would increase trade at local shops, pubs, etc. and during construction it would provide some employment. It would make a small, but significant, contribution to the local economy.
9. It would provide a useful addition to the housing stock, including two properties to be reserved for much-needed affordable housing, so it would produce social benefits.
10. I address its environmental impact in more detail below, but overall I consider that development of this site could take place in a manner which would be consistent with the aims of the Framework and would not harm the natural, built or historic environment.
11. The Council acknowledge that this is a sustainable location for development and I share that view. I conclude that its development is acceptable in principle.

Character and Appearance of the Area

12. The bulk of the site is to the rear of surrounding houses and bounded to the south by a large area of recreation land. It appears to be maintained as private garden, but this is not visible outside the site except from the surrounding houses. The proposed dwellings here would not extend the village into open countryside and would be largely screened from the view of people using roads in the area. They would have little effect on the character and appearance of the area.

13. Three houses would be built next to the junction of Low Street and Haxey Lane on land which has for some time been neglected. As with the dwellings elsewhere on the site, they would be different in appearance from the neighbouring buildings, but there is little consistency of design in the area. Their appearance would be satisfactory and in keeping with the surroundings. Although their gardens would be smaller than at some of the nearby houses, with some exceptions which I deal with below, they would provide amply for the needs of residents.
14. I do not share the Council's concern about the design of the road. Although elsewhere in the village some developments have roads shared by vehicles and pedestrians, the arrangement here, with two footways, would produce a quite acceptable environment for residents.
15. I am concerned however about the likely appearance of the open space next to the three houses at the junction. They would face the roads but would have no rear gardens, the space behind them being occupied by hard surfaced areas for vehicles. This is likely to result in domestic paraphernalia normally found in back gardens – washing lines, play equipment, garden furniture, etc. - being located at the front in full view from the roads. There would be pressure, which it would be difficult for the Council to resist, to erect screen fencing to form private areas of garden, as well as greenhouses, sheds and other garden structures. These areas would, in effect, have to perform the function normally taken by back gardens and this is likely to result in them having an unsatisfactory appearance in this area where most, if not all, other houses have private gardens to the rear and more ornamental front gardens.
16. This is a very prominent site at the heart of the village. Although, in themselves, the houses would have a satisfactory visual impact, I consider that the garden areas attached to them are likely to seriously detract from the character and appearance of the area.
17. I am also concerned about the likely appearance of the area of public open space proposed at the junction. The appellant states that this would be owned by those in the adjacent houses but maintained and made available to the public by a management company formed by them. No details have been provided of how this would be done or of the standard of maintenance which would be achieved in the long term. In my experience, in most cases where management companies look after open space within housing developments the space concerned is primarily of benefit to those living within the development. Here the space would be at a busy junction. The layout would make it of little value to occupants of the houses but they may be adversely affected by noise, disturbance and litter arising from its use. This is likely to limit their enthusiasm for maintaining the land and could lead to it being neglected or enclosed to prevent public access.
18. I consider that the proposed provision of gardens and open space next to the junction is likely to result in this area having an unattractive appearance not in keeping with the character of the locality. For this reason I conclude that the development would have a harmful effect on the character and appearance of the area inconsistent with the aims of LP Policy DS1.

Living Conditions

19. People in the houses adjoining the site have got used to looking out over an extensive area of open land and the development would change that. However it is a well established planning principle that there is no right to a view. Most of the houses adjoining the site have quite large rear gardens and the distances involved are such that the proposed dwellings would not be oppressive or dominate the neighbours' outlook.
20. The rear garden at No 21 Hopgarth is shorter than others. A garage would be close to it, but the houses would be further away and its rear windows would have a relatively open view down the proposed access road. Here too I consider that the impact of the development on the neighbour's outlook would be acceptable.
21. The perimeter of the site is marked by hedges and fences which vary considerably in their nature and height. In some cases people in the gardens of the proposed dwellings would be able see into the surrounding gardens and this would have an unacceptable effect on the neighbours' privacy. This could be addressed, however, by a condition requiring suitable boundary treatment to be implemented as part of the development. Such treatment would also limit the extent to which the lights of cars using the access road would be able to shine into properties adjoining the site. Although boundary treatment would not prevent overlooking of the surrounding properties from upper windows in the proposed dwellings, the design and siting of the dwellings is such that any impact on neighbours' privacy would be limited and acceptable.
22. Activity in and around the proposed dwellings and along the access road would generate noise and disturbance but in most cases the distances involved are such that this is unlikely to affect the living conditions of those in houses next to the site. The greatest impact is likely to be on the dwellings flanking the site entrance but even here appropriate boundary treatment should reduce the impact to an acceptable level.
23. Because of the orientation, there would be no significant impact on daylight or sunlight.
24. Having regard to the above factors and to all other relevant matters raised I conclude that, subject to the imposition of appropriate conditions on any permission, the development would not cause significant harm to the living conditions of people living on adjoining land. It would, in this respect, be consistent with the aims of LP Policy DS1.

Drainage

25. Detailed plans of how foul and surface water from the site would be dealt with have not been provided and neighbouring residents are concerned that the development may cause or aggravate flooding problems. However Severn Trent Water, the body responsible for drainage, has raised no objection. A Flood Risk Assessment provided by the appellant concludes that the development can be achieved safely without increasing the flood risk elsewhere. I have no reason to doubt that it would be possible to design a drainage scheme which would ensure that the development has no adverse effect on the adjoining land and properties. A condition attached to any

planning permission could ensure that the development does not start unless and until such a scheme is agreed.

26. I conclude that, subject to an appropriate condition on any permission, the development would not give rise to an increased risk of flooding or drainage problems affecting neighbouring properties and land.

Road Safety

27. Access to the site would be off the A161, a busy road. Where it passes through the village the road bends twice and there are several road junctions and private accesses along it. Drivers would normally be proceeding relatively slowly and with due care. Nonetheless, it seems to me that the development would significantly increase the risk of accidents occurring.
28. The footway alongside the main road on either side of where the access joins it is only about a metre wide and the front gardens of the adjacent houses are enclosed by low walls. A driver emerging from the proposed access would have restricted visibility in both directions.
29. To the left this would be barely acceptable in present conditions as approaching traffic would be on the opposite side of the road. However, the growth of vegetation or the introduction of higher walls or other obstructions could easily reduce the visibility to a dangerous level.
30. To the right the situation is worse. A telephone pole in the footway provides an additional obstruction. Approaching traffic would be closer and drivers would not see vehicles emerging from the access until relatively late. Drivers emerging would have a very restricted view of approaching traffic. At my visit a refuse bin in the adjacent garden partially blocked the view of approaching traffic and the introduction of additional obstructions such as this, higher boundary walls, or the growth of vegetation could not be prevented as the land appears to be outside the appellant's control.
31. I consider that because of the restricted visibility the development would significantly increase the risk of accidents occurring involving vehicles on the main road and ones emerging from the site.

Conclusions

32. I have found that this is a sustainable location for residential development and that, subject to the imposition of appropriate conditions on any planning permission, what is proposed would have an acceptable effect on the living conditions of neighbours and on drainage. However, it would cause harm to the character and appearance of the area, particularly next to the road junction, and it would also cause harm in respect of road safety by significantly increasing the risk of accidents.
33. Although the development would produce some wider economic and social benefits, these would be limited and in my view outweighed by the harm which would be caused. I conclude, therefore, that the development is unacceptable.

B Barnett

INSPECTOR