



Appeal Decision

Hearing held on 28 October 2015

Site visit made on 28 October 2015

by Claire Victory BA (Hons) BPI MRTPI

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

Decision date: 11 December 2015

Appeal Ref: APP/L2630/W/15/3039128

Land north of Heath Farm, Caistor Lane, Caistor St. Edmund, Norfolk NR14 8RB

- 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 Mrs Val Hope against the decision of South Norfolk District Council.
 - The application Ref 2014/1302/O, dated 24 June 2014, was refused by notice dated 17 December 2014.
 - The development proposed is the erection of 16 dwellings (5 affordable, 11 market) and proposed access to the south of Caistor Lane.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 16 dwellings (5 affordable, 11 market) and proposed access to the south of Caistor Lane at land north of Heath Farm, Caistor Lane, Caistor St. Edmund, Norfolk, NR14 8RB in accordance with the terms of the application, Ref 2014/1302/O, dated 24 June 2014, and subject to the conditions in the following schedule.

Application for Costs

2. A costs application was submitted at the hearing by the appellant. This is the subject of a separate decision.

Preliminary Matters

3. The appeal is made in outline with all matters except access reserved for future consideration. Drawing 4737 101 Rev C provides an indicative layout and accommodation schedule, and I have determined the appeal on that basis.
4. The Council submitted a statement at the hearing confirming that its Local Plan - Development Management (LPDM) and Local Plan - Site Allocations (LPSA) Development Plan Documents were adopted on 26 October 2015. The statement confirms that Policy ENV 8 of the South Norfolk Local Plan (2003), referred to on the Decision Notice has been superseded by LPDM Policy DM 1.3. For the avoidance of doubt I have determined the appeal in accordance with policies in the LPDM and LPSA.
5. A planning obligation was submitted at the hearing, to provide 5 affordable dwellings as part of the development, and for the provision and maintenance of the proposed children's play area. I shall deal with this matter in more detail below.

6. The Council withdrew its sole reason for refusal prior to the hearing. Notwithstanding the removal of all objections to the proposed development by the Council, it remains for the appeal to be determined afresh with regard to the planning issues arising.

Main Issue

7. Having regard to the representations received and my observations on site, the main issue in the appeal is whether the proposal would represent a sustainable form of development.

Reasons

8. The appeal site is formed of two grassed paddocks on either side of a farm track to the south of Caistor Lane. To the north, west and east of the site are the rear gardens of residential properties on Caistor Lane and St Edmund Close. A pond and copse of trees are located to the south of the western paddock, and the eastern paddock wraps around a bungalow at Heath Farm in an L-shape. The track continues to the south to service the various farm buildings, which are surrounded by open countryside.
9. Policy DM 1.3 of the LPDM applies the spatial strategy for the broad location and scale of new housing as set out in the Joint Core Strategy for Broadland, Norwich and South Norfolk (JCS) (2011, amended in 2014), to development management decisions in South Norfolk District. The policy directs new development to a hierarchy of settlements, including Key Service Centres, and advises that permission for development in the countryside outside of defined development settlement boundaries will only be granted either where specific LPDM policies allow, or where it would demonstrate overriding benefits in terms of economic, social and environmental dimensions. This latter criterion is framed in LPDM Policy DM 1.1 in terms of the presumption in favour of sustainable development as set out in the National Planning Policy Framework (the Framework).
10. The site lies outside the defined settlement boundary of Poringland/ Framingham Earl Key Service Centre as defined on map 009 of the LPSA. However, the parties are in agreement that the Council cannot demonstrate a five year supply of deliverable housing sites. Paragraph 49 of the Framework states that where the Council's policies for the supply of housing are out of date at the time of making the decision, proposals cannot be refused solely on the basis that a site is outside the development boundary. Further to the above, a presumption in favour of sustainable development applies in accordance with paragraph 14 of the Framework, and LPDM Policy DM 1.1 unless there would be adverse impacts of significant and demonstrable harm would outweigh the benefits of the scheme, when assessed against the development plan as a whole.
11. Section 4 of the LPSA describes the Key Service Centre of Poringland/ Framingham Earl as having a wide range of facilities, including a primary and secondary school; village hall and community centre; two GP surgeries, dentist; post office; library; and a variety of shops and services. The settlement boundary on map 009 is drawn along the rear of properties to the south of Caistor Lane and excludes No 4 St Edmund Lane so that it does not abut the appeal site. Nevertheless, the site is just a few metres outside the settlement and would therefore have ready access to the above mentioned

shops and services, including a post office and convenience store and secondary school on Norwich Road a short walk away. Furthermore, there are bus stops on Norwich Road close to the junction with Caistor Lane that are served by two regular bus services to Norwich and other centres. The appellant has also agreed to provide a footway between the site access road and Norwich Road along the southern side of Caistor Lane, where currently none exists.

12. The appeal scheme would also provide 16 dwellings within a District which has an acknowledged undersupply of housing, 33% of which would be affordable housing, secured by a planning obligation. In addition, the obligation would enable the provision and ongoing maintenance of an equipped children's play space in the south west corner of the site. Accordingly I consider that the social dimension of sustainable development would be met.
13. With regard to the economic dimension, there would be a modest benefit to the local economy in the short term from the construction of the appeal scheme, and in the longer term the new occupants of the dwellings would support shops and services in Porlingland, Framingham Earl and other nearby centres.
14. Turning to the environmental strand, the Council asserts that there would be harm by virtue of the site being outside defined development boundaries, but the appeal site is enclosed on three sides by residential properties, and by the farm to the south and thus the immediate context of the site is of built development rather than open countryside. The nature of the location to the rear of existing dwellings means that views of the development would be very limited from Caistor Lane, and woodland to the east provides substantial screening of the site when travelling along Caistor Lane west of the access road. As such, there would be no harm to the character and appearance of the area. Furthermore, the detailed design of the dwellings and boundary treatment would be dealt with as reserved matters, and for reasons that follow, concerns regarding the environmental impacts of the proposal can be overcome by suitable conditions. Consequently, the proposal would satisfy the environmental dimension of sustainable development.
15. I conclude therefore conclude that the development would constitute sustainable development, when assessed against the policies in the Framework as a whole, in accordance with LPDM Policy DM 1.1 and paragraph 14 of the Framework. Thus it would accord with national policy.

Other Matters

16. The Council requires planning contributions for affordable housing and children's play space, in accordance with JCS Policy 4, which requires 33% of the dwellings in schemes of 16 or more dwellings to be affordable housing, and LPDM Policy DM 3.15¹, which requires new housing development to provide for outdoor play facilities and recreational open space. This is supported by *Recreational Open Space Requirements for Residential Areas Supplementary Planning Guidance (1994)*, which requires a minimum of 400sqm of children's play space to be provided for proposals of 15-24 dwellings, and for the space to relate well to the dwellings.

¹ LPDM Policy DM 3.15 supersedes Policy LE17 of the South Norfolk Local Plan (2003) but the requirements for children's play space insofar as they relate to the appeal remain unchanged.

17. Although only indicative, the submitted layout and accommodation schedule suggests that most of the dwellings within the scheme would be houses of 2 or more bedrooms able to accommodate families. As such I consider there would be likely to be a demand for children's play space generated by the development. I am therefore satisfied that the contributions sought would be necessary to make the development acceptable in planning terms, are directly related to the development and fairly and reasonably related in scale and kind. A planning obligation was submitted at the hearing, which provides for an on-site local play space (LAP) of at least 400 sqm and a commuted sum towards maintenance of the open space for a period of ten years. The Council has also confirmed that the proposal would meet the Council's requirements for affordable housing. Accordingly, I consider the development would make adequate provision for affordable housing and infrastructure and would comply with the Community Infrastructure Levy Regulations 2010 and paragraph 204 of the Framework.
18. The planning obligation does not include provision of the proposed off-site access improvements to provide a footway along the southern side of Caistor Lane, but agree that this could be secured by condition. The Planning Practice Guidance (the Guidance) advises that negatively worded 'Grampian style' conditions should not be used other than in exceptional circumstances, such as for major, complex schemes, but the appeal proposal is for major housing development where there is a need to significantly boost supply, and thus I consider that such a condition (condition 7 of the attached schedule) would be appropriate in this particular instance, in the interests of highway safety.
19. Concerns have been raised about potential for conflict between pedestrians and domestic and/or farm vehicles along the access track if the appeal were allowed, but the Council confirmed that the proposal would not result in any adverse impact on highway safety in the vicinity of the site and there is no objection from the Highways Authority. Furthermore, the site layout is indicative and can be refined at reserved matters stage so as to minimise potential risks through design.
20. Despite some locally expressed concerns regarding the adequacy of surface water drainage in the locality, there is no technical objection raised by the Environment Agency or the Council subject to a condition requiring full details of the proposed surface water drainage, as shown on drawing 04A of the Flood Risk Assessment submitted, to prevent increased surface water run-off over neighbouring properties or an increase in flood risk elsewhere (condition 8).
21. Finally, there are concerns from the occupiers of neighbouring properties that the development may lead to overlooking, in particular to habitable windows in the eastern elevation of No 4 St Edmund Close, but the proposal is in outline and I am satisfied that this matter can be overcome by consideration of the layout and appearance at reserved matters stage, to safeguard the residential amenity of neighbouring occupiers.

Conditions

22. I have found that the development would be acceptable subject to the imposition of certain conditions, imposed with regard to the Guidance. In addition to the conditions already referred to above, other conditions are imposed generally in accordance with those suggested by the Council and agreed by the appellant, with minor editing to reduce repetition and for clarity.

I have also omitted reference to consideration of amendments to approved details to avoid uncertainty. All the conditions are required to ensure the implementation of the development without unacceptable planning impacts and meet the tests in paragraph 206 of the Framework.

23. I have attached conditions limiting the life of the planning permission (1) and setting out requirements for the reserved matters in accordance with the requirements of the Act (2). For the avoidance of doubt and in the interest of proper planning I shall also require compliance with the approved plans (3).
24. Details of proposed roads, footpaths, parking provision and turning areas (4), along with provision for on-site parking for construction workers (5) and on-site wheel cleaning (6) are all required in the interests of highway safety.
25. A scheme requiring details of ecological mitigation measures is necessary to protect biodiversity interests, and details of hard and soft landscaping (9) and tree protection (12),(13), are required to be submitted to and approved by the local planning authority in the interests of visual amenity. Details of boundary treatment (10) and existing and proposed site levels (17) are necessary to safeguard the residential amenity of neighbouring occupiers.
26. Details of water (14) and energy efficiency (15) measures are required to ensure an energy efficient and sustainable development in accordance with JCS Policy 3. The Historic Environment Service has stated that there are historic crop marks and a projected line of a Roman road running through the site, indicating that there may be heritage assets with archaeological interest buried in the locality. I shall therefore require a Written Scheme of Investigation for archaeological works to be submitted and approved to safeguard these heritage assets (16). Provision and retention of a water hydrant within the site is required, as specified by the Norfolk Fire and Rescue Service, due to the distance from existing infrastructure (18).
27. Finally, due to the proximity to the farm, it is necessary to impose a condition requiring investigation of any contaminated land not previously identified (19).

Conclusion

28. For the above reasons and with due regard to all other matters raised, I conclude that the appeal should succeed.

Claire Victory

INSPECTOR

APPEARANCES

For the Council:

Mrs Tracy Lincoln Planning Officer
Mr Simon Marjoram Planning Policy Officer

For the Appellant:

Mr Jason Parker Parker Planning Services

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Application for costs, including Costs Decision (APP/L2630/W/15/3005707), submitted by the Appellant
- 2 Statement on the status of the development plan (LPA Doc 1), submitted by the Council
- 3 Extracts from LPDM and LPSA, adopted on 26 October 2015, submitted by the Council
- 4 Planning Obligation, signed and executed on 26 October 2015, submitted by the Council
- 5 Housing Land Supply Joint Position Statement (Cringleford Appeal), submitted by the Council
- 6 Appeal Decision and Costs Decision (APP/L2630/W/15/3003743), submitted by the Council

Richborough Estates

Schedule of Conditions

1. Application for the approval of the reserved matters must be made before the expiration of three years from the date of this permission. The development hereby permitted should be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
2. No development shall take place until the plans and descriptions giving details of the reserved matters referred to above shall have been submitted to and approved in writing by the local planning authority. These plans and descriptions shall relate to the appearance, scale, landscaping and layout of any building to be erected together with the precise details of the type and colour of the materials to be used in their construction.
3. The development shall be constructed in accordance with the approved drawings: site location plan drawing 100 Rev B; proposed site plan 101 Rev C; and land ownership site plan 102.
4. Prior to the commencement of the development hereby permitted full details (in the form of scaled plans and/or written specifications) shall be submitted to and approved in writing by the local planning authority in consultation with the highway authority in respect of roads, footways, cycleways, foul and on-site water drainage, parking provision and turning areas.
5. Development shall not commence until a scheme detailing provision for 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 in consultation with the highway authority. The scheme shall be implemented throughout the construction period.
6. No works shall commence on site until the details of wheel cleaning facilities for construction vehicles have been submitted to and approved in writing by the local planning authority in consultation with the highway authority. For the duration of the construction period all traffic associated with the construction of the development hereby permitted will use the approved wheel cleaning facilities.
7. Notwithstanding the details indicated on the submitted drawings no works shall commence on site until a detailed scheme for the off-site highway improvement works as indicated on drawing number 4737-101-RevC have been submitted to and approved in writing by the local planning authority in consultation with the highway authority. The off-site highway improvements shall be completed to the written satisfaction of the local planning authority in consultation with the highway authority prior to the first occupation of the development hereby permitted.
8. Prior to the commencement of work on site, full details of the means of surface water drainage shall be submitted to and agreed in writing with the local planning authority. The details should follow the Flood Risk Assessment (FRA, dated 18 June 2014 Rev 0, produced by Amazi), letter from Amazi dated 15 October 2014, additional supporting calculations, drawing figure 04A, and the following mitigation measures detailed within the FRA:

- i. Limiting the surface water run-off generated by the critical storm in all rainfall events up to and including the 1 in 100 year return period event including allowance for climate change so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
- ii. Provision of surface water storage on site (as shown by drawing Fig 04A) to accommodate the volume of surface water produced by the contributing areas in all events up to and including the 1 in 100 year return period rainfall event, including allowances for climate change when working to the restricted discharge rates detailed in Amazi letter dated 15 October 2014.
- iii. Details shall be provided of how the scheme shall be maintained and managed after completion to ensure it operates as designed for the lifetime of the development.
- iv. Proposed site levels and slab levels shall be carefully designed following flood routing investigations to ensure that the proposed development does not flood and the flood risk to the surrounding area is not increased.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme. The development shall be carried out in accordance with the approved details prior to the first occupation and shall be retained as such thereafter. It should be noted that it is the landowner's responsibility to ensure adequate drainage of the site so as to not adversely affect surrounding land, property or highway.

9. No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These works shall include proposed finished levels or contours; means of enclosure; car parking layouts, other vehicles and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse storage/collection areas, lighting etc.); proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines etc.); retained historical landscape features and proposals for restoration where relevant. Soft landscaping shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme. If within a period of five years from the date of planting, any tree or plant is removed, uprooted or is destroyed or dies, or becomes in the opinion of the local planning authority seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place. These works shall all be carried out as approved.
10. No development shall take place until a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the local planning authority. The boundary treatment shall be completed before the buildings are first occupied.

Development shall be carried out in accordance with the approved details and retained as such thereafter.

11. The development hereby permitted shall be carried out in accordance with the mitigation measures in the submitted ecological report dated June 2014.
12. No trees or hedges shall be cut down, uprooted, destroyed, lopped or topped, other than in accordance with the approved plans and particulars. Any trees or hedges removed without consent shall be replaced during the next planting season November to March with trees of such size and species as agreed in writing with the local planning authority.
13. No works or development shall take place until a Tree Protection Plan (and accompanying Method Statements if appropriate) have been submitted to and approved by the local planning authority, with reference to BS5837 Trees in Relation to Construction. All approved tree protection measures are to be installed prior to the commencement of the development hereby permitted. The approved tree protection measures are to be maintained in good condition and observed throughout the construction period. The following activities may not be undertaken at any time within the identified Construction Exclusion Zones and fenced areas: storage and/or siting of vehicles, fuel, materials, site huts or other buildings or ancillary equipment; raising or lowering of ground levels; installation of underground services, drains etc.
14. The development hereby approved shall be designed and built to achieve a water consumption rate of no more than 105 litres per person per day. No occupation of any dwellings shall take place until an assessment which relates to that dwelling and which confirms that the development has been constructed in accordance with the above requirement for water usage has been submitted to and agreed in writing by the local planning authority. All completed water conservation measures identified shall be installed in accordance with the approved details prior to the first occupation of any dwelling hereby permitted and retained as such thereafter.
15. No development shall take place until a scheme for generating a minimum of 10% of the predicted energy requirement of the development from decentralised renewable and/or low carbon sources (as defined in the National Planning Policy Framework or successor document) has been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the approved scheme has been implemented and made operational. The approved scheme shall remain operational thereafter.
16. No development shall take place until a Written Scheme of Investigation (WSI) for a programme of archaeological works has been submitted to and approved by the local planning authority in writing. The scheme shall include: an assessment of the significance of heritage assets present; a programme and methodology of site investigation and recording; a programme for post investigation assessment of recovered material; provision to be made for analysis of the site investigation and recording; provision for the publication and dissemination of the analysis and records of the site investigation; provision for archive deposition of the analysis and records of the site investigation; nomination of a competent person or persons/organisation to undertake the works set out in the WSI. No

demolition/development shall take place other than in accordance with the WSI. The development shall not be occupied until the WSI scheme has been implemented as set out above.

17. No development shall take place until details of the existing site levels, proposed finished floor levels of the dwellings, and the proposed finished ground levels of the site, relative to a datum point which is to remain undisturbed during the development have been submitted to and agreed in writing by the local planning authority. The details shall also provide comparative levels of eaves and ridge heights of adjoining properties and details of the levels of any existing or boundary treatments. The development shall be carried out in accordance with the approved details.
18. No development shall commence on site until a scheme has been submitted to and agreed by the Council for the provision of a hydrant (served by mains water supply on a minimum 90mm main). No dwelling shall be occupied until the hydrant serving the properties has been provided to the satisfaction of the local planning authority. It shall be retained as such thereafter.
19. In the event that contamination that was not previously identified is found at any time when carrying out the development hereby permitted, it must be reported in writing immediately to the local planning authority. All development shall cease and shall not recommence until a report is submitted to and approved by the local planning authority that includes results of an investigation and risk assessment together with proposed remediation scheme to deal with the risk identified; and the agreed remediation scheme has been carried out and a validation report demonstrating its effectiveness has been approved in writing by the local planning authority.

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