



Appeal Decision

Site visit made on 7 July 2020

by Edwin Maund BA (Hons) MSc Dip UP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th August 2020

Appeal Ref: APP/F4410/W/20/3250776

land Off Highfield Road, Askern, Doncaster DN6 0LG

- 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 Esh Construction Ltd against the decision of Doncaster Metropolitan Borough Council.
 - The application Ref 19/02264/FULM, dated 16 September 2019, was refused by notice dated 9 March 2020.
 - The development proposed is the erection of 56 affordable houses, 12 retirement living bungalows and a multi-storey retirement living building accommodating 58 units.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 56 affordable houses, 12 retirement living bungalows and a multi-storey retirement living building accommodating 58 units on land off Highfield Road, Askern, Doncaster DN6 0LG in accordance with the terms of the application Ref 19/02264/FULM, dated 16 September 2019, and subject to the conditions in the attached schedule and the S106 agreement.

Application for costs

2. An application for costs was made by Esh Construction Ltd against Doncaster Metropolitan Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. I have taken the description of development from the Council decision notice and appeal form as this accurately describes the proposal as considered by the Council, following amendments submitted during the processing of the application.
4. Following the submission of the appeal I have been provided with a completed legal agreement dated 07 July 2020 and made under section 106 of the Town and Country Planning Act 1990 (the S106 Agreement). I have taken this into account in the determination of this appeal.

Main Issues

5. The main issues are the effect of the proposed development on the character and appearance of the area; and whether the development would appropriately

safeguard trees and hedgerows on the site, particularly in respect of T1 a Poplar.

Reasons

Character and Appearance

6. The site is currently an area of rough grass interspersed with self-seeded trees and mixed foliage. The boundaries are formed by mixed hedgerows and trees which divide it from the housing area to the north and the recreation ground to the east. The railway line forms the western boundary and the southern extent of the site follows a ditch and public footpath which connects the recreation ground and links back into the town beyond the railway line.
7. Accessed off Highfield Road the area to the north of the site is a residential area made up predominantly of bungalows but is distinct from the appeal site by virtue of the significant barrier the boundary foliage creates. The current character is of a mixed residential development with the bungalows sited around courtyards and shared spaces with limited onsite parking. This character changes to the north with traditional two storey terraces fronting Highfield Road. A further character type is present off Marlborough Crescent with modern two storey houses being present. As such the area around the site has a mixed character and appearance.
8. The appeal development proposes a mix of houses, bungalows and a three-storey block of retirement living homes. This would be a further different style, but with the strong boundary features which are proposed to stay, the site will be read as a new development. It would not adversely affect the character or appearance of the existing area but add a different style and layout to the edge of the settlement.
9. The retirement block would be a sizeable building, around 30 metres into the site, but screened beyond the extensive hedge that defines the boundary. I agree that the introduction of the three storey block, will be a marked change from the current arrangements in the locality, but being set in its own gardens and ancillary parking area it will be read as a standalone building in this setting. Whilst it would form a significant structure, there is nothing in policy terms that advises that this would be inappropriate in itself.
10. The total density of development across the site is to an extent influenced by the retirement living homes, a discreet element of the proposal which overall lifts the density significantly. Elsewhere the layout is more traditional, with pairs of semidetached properties fronting the streets, and a courtyard of bungalows similar to the existing site to the north.
11. While the proposed development does not copy the character and appearance of the existing streets in the vicinity of the site, there is nothing which suggests it needs to. The adopted policy looks to achieve high quality developments that can contribute to the local distinctiveness and respond positively to the existing natural and built environment. I consider that the appeal scheme would be of a suitable quality and add positively to the character of the area. I conclude that it would not adversely affect the character of the area and would therefore comply with policy CS14 of the Doncaster Core Strategy (2011 - 2028).

Effect on trees/hedgerows

12. The site is bounded by significant hedgerows and has within it a range of trees which would be removed should the development commence. The principle concern identified by the Council, is the effect the development would have on the hedge and a poplar tree (identified as T1 on the arboricultural report submitted on behalf of the appellant) on the eastern boundary of the site.
13. The layout of the development was adjusted through the application process, to remove the hedge from the gardens of the properties along the eastern boundary. This would assist in safeguarding the hedge and subsequently allow it to retain the contribution it makes in providing a strong green boundary to this part of the development and the recreation ground beyond.
14. While it was not put as part of the reason for refusal by the Council, the subsequent evidence indicates the hedge is regarded as an important hedge in historical terms predating 1850. Since the hedge would be set outside the gardens of the neighbouring properties with a fence in between whose provision could be delivered through a suitable condition, I consider that it would be adequately safeguarded.
15. The hedge in its current condition is somewhat overgrown and would not appear to have been subject to recent pruning or other forms of maintenance. Its retention as part of this scheme would provide an opportunity to facilitate this. I regard this as a positive benefit that could arise from the development and which weighs in its favour. Again, I consider this could be secured through the imposition of a suitable condition.
16. The poplar is a large mature tree which has, according to the arboricultural report a height of about 12m and a crown spread of up to 13m. It was classed as a Grade B tree worthy of retention. It is located within the hedgerow boundary and beyond the proposed gardens. Being a mature specimen of such a considerable size it is visible from some distance and makes a positive contribution to the local landscape setting.
17. The arboricultural statement prepared by the appellant sets out a detailed assessment of the health of the tree, and the contribution it makes to the local landscape. It also sets out the methodology against which the development could take place to safeguard the tree during the construction of the proposed development. The Council do not dispute this approach.
18. The layout plans indicate that the dwellings would lie outside the Root Protection Areas (RPAs). Careful controls in terms of construction methods, level changes and protective measures, the details of which could be secured by condition, would safeguard the tree.
19. Nevertheless, it must be recognised that in the event the development goes ahead, the gardens of plots 63, 64 and 65 would be compromised to a degree. Plot 64 in particular would have a more limited useable garden space due to the extent of the garden being under the tree canopy. However, I do not consider that this would be so close as to create either safety or maintenance issues for the future.
20. The Council do not suggest the relationship would adversely affect the living conditions of future occupiers of these homes or refuse it on that basis. I therefore afford these arguments less weight in my deliberations.

21. The tree being located beyond the gardens of the proposed dwellings and the proposed boundary fence being set away from the trunk affords a further degree of protection and capacity for the tree to remain. It is not suggested by the Council that the development of the proposed dwellings themselves would result in direct damage to the tree or require its removal.
22. I conclude that the proposal would appropriately incorporate the trees and hedges into the scheme and be in compliance with policy CS16 of Doncaster's Core Strategy (2011 – 2028).

Other Matters

23. Third parties have objected to the proposal on the basis it would adversely affect ecology/biodiversity by developing a greenfield site which supports a range of different species. The Preliminary Ecological Appraisal and subsequent water vole report, both undertaken by qualified ecologists support the development, subject to the preparation of a Biodiversity Enhancement Plan and Construction Environmental Management Plan both of which could be secured by condition. The anecdotal evidence of other species being present can only be afforded limited weight in my consideration of this appeal, and I am satisfied that with conditions imposed as referred to above suitable arrangements could be made to safeguard those species present on the site and afford a suitable environment in compliance with policy CS16 of the Doncaster Local Development Framework (2012).
24. Third parties have raised concerns about the suitability of the access to the site in 2 respects, the limited width of the highway adjacent the site and off Highfield Road near to the junction with Moss Road and whether because of this a second access to the site should be provided. The application has been supported by a Transport Assessment and been assessed by the Highway Authority. Both main parties provide evidence that the roads to the site are suitable to accommodate the traffic that would be generated from the development, subject to adjustments to the width of the road near to the entrance to the site.
25. I saw at the time of my visit that Highfield Road was subject to on-street parking which reduces the available width of the highway. However, there is no technical evidence before me that the development would lead to an unacceptable impact on highway safety or have a severe cumulative impact on the highway network. Since there is no substantial evidence in support of this concern, I do not find that it weighs against the development.
26. The proposal has been supported by a Flood Risk Assessment (FRA) which confirms that the northern portion of the site is in Flood Zone 1 and the southern portion Flood Zone 2 bar the area following the line of the ditch which forms the southern boundary. That area falls within Flood Zone 3 of the Environment Agency's Flood Maps. The drainage of the site would utilise on-site surface water attenuation and would control runoff rates to the current agricultural rate which accords with the technical assessments provided. While I can understand the local concerns in respect of this issue, the evidence provided supports the assertion that the development would not increase the risk of flooding elsewhere and has been designed to current standards to achieve a suitable solution in this regard.

27. A neighbouring resident has expressed concern that they would be adversely affected due to the loss of light. Being a bungalow near the boundary this is of great importance. The layout proposed has the three-storey element of the development around 30m from the boundary. With the retention of the hedgerows which already affect outlook and light to a degree, I do not consider there would be an adverse effect on living conditions of neighbours in this respect.

Section 106 Agreement

28. I consider the agreement in accord with the criteria of Regulation 122 of the Community Infrastructure Levy Regulations and with paragraph 56 of the Framework. I can therefore reasonably take it into account.

Conditions

29. The Council have suggested a series of conditions in the event the appeal is successful, and I have considered these and amended them where necessary in light of the National Planning Practice Guidance. I deal with these in the same order listed by the Council. To provide certainty a condition is necessary requiring that the development is carried out in accordance with the approved plans. Requiring the submission and agreement of the external materials is appropriate to ensure the quality of the external appearance of the development. A landscaping scheme is necessary to ensure the scheme satisfactorily compliments the local environment and safeguards the hedgerows and trees indicated should remain.
30. A Construction Environmental Management Plan is necessary to protect the ecology interests on site. A Biodiversity Enhancement Master Plan is also necessary to protect the long-term interests of ecology. Providing appropriate noise attenuation to ensure suitable living conditions for properties near to the railway line is necessary. Provision of surface and foul water drainage is necessary and for them to be installed prior to occupation is appropriate.
31. Prevention of overloading the public sewer network will be necessary and the provision of electric charging points for vehicles to contribute towards reduced emissions and choice of travel is reasonable and necessary. The highway improvements are necessary to achieve a safe access and egress to and from the site and raised floor levels to minimise the risk of flooding is appropriate. Fencing of the trees to be retained is necessary to ensure their protection.
32. A Construction Method Statement is necessary to safeguard the amenity of existing residents. Appropriate provision of surfaced and drained roads is necessary for highway safety and drainage of the site. Adequate turning facilities for vehicles is necessary for the safe use of the highway. The provision of car parking is necessary to meet the needs for future residents and visitors. Achieving suitable visibility at the junction to the site is necessary to achieve safe access. Suitable fencing along the ditch is necessary to safeguard ecology.
33. Bearing in mind the PPG's advice that such conditions should only be used in exceptional circumstances, I have not been provided with sufficient evidence as to why it would be reasonable or necessary to require screening of any materials to be imported onto the site, or why an air quality mitigation plan would be reasonably required on this basis I do not propose to require these conditions.

Conclusions

34. The appeal is allowed.

Edwin Maund

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Drawing number 012-100-01 dated July 2019 (Location plan)
 - Drawing number 003/100/03 Rev F dated July 2019 (Planning layout)
 - Drawing number 003/100/05 Rev F dated July 2019 (Boundary treatments layout)
 - Drawing number 003/100/06 Rev A dated July 2019 (Boundary details)
 - Drawing number 003/100/07 Rev F dated July 2019 (Block layout)
 - Drawing number 003/100/10 forward visibility
 - Drawing number 012-200-01 Rev A dated June 2019 (2B3P House type)
 - Drawing number 012-200-02 Rev A dated June 2019 (3B4P House type)
 - Drawing number 012-200-03 Rev A dated June 2019 (4B5P House type)
 - Drawing number 012-200-04 Rev A dated June 2019 (3B4P and 3B4Pa House type)
 - Drawing number 012-200-05 dated June 2019 (2B3P Bungalow)
 - Drawing number 012-200-06 dated June 2019 (2B3P Bungalow 4 block)
 - Drawing number 417/08 (02) 002 F proposed Site Plan in context
 - Drawing number 417/08 (02) 003 H Proposed Site Plan
 - Drawing number 417/08 (02) 004 D (Retirement living boundary plan)
 - Drawing number 417/08 (02) 005 E (Site roof plan)
 - Drawing number 417/08 (02) 14 A (Bungalow Floor Plan)
 - Drawing number 417/08 (02) 010 A dated April 2019 (Ground floor plan)
 - Drawing number 417/08 (02) 011 A (First floor plan)
 - Drawing number 417/08 (02) 012 A (Second floor plan)
 - Drawing number 417/08 (02) 020 B (Retirement Living Block Elevations)
 - Drawing number 417/08 (02) 021 A (Retirement Living Block Elevations)
 - Drawing number 417/08 (02) 022 A (Bungalow Elevations).
- 3) Prior to the erection of any buildings on site, details of the proposed external windows, balcony enclosures, cladding, brickwork and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved materials and details.
- 4) No development on any buildings shall take place on the site until a detailed hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority. The hard landscape scheme shall include details of all external hard surfacing materials. The soft landscape plan shall include a schedule providing plant and tree numbers and details of the species, which shall comply with section 8 Landscape, Trees and Hedgerows of the Council's Development Guidance

and Requirements Supplementary Planning Document, nursery stock specification in accordance with British Standard 3936: 1992 Nursery Stock Part One and planting distances of trees and shrubs, a specification of planting and staking/guying, a timescale of implementation, a detailed specification for tree pit construction for the trees within the highway that utilises a professionally recognised method of construction to provide the minimum rooting volume set out in the Council's Development Guidance and Requirements supplementary planning document and a load-bearing capacity equivalent to BS EN 124 2015 Class C250 for any paved surface above, a specification for planting including details of tree support, tree pit surfacing, aeration and irrigation and details of management and maintenance for a minimum of 5 years following practical completion of the landscape works. Thereafter the landscape scheme shall be implemented in full accordance with the approved details and the Local Planning Authority notified in writing within 7 working days to approve practical completion of any planting within public areas or adoptable highway within the site. Soft landscaping for any individual housing plot must be implemented in full accordance with the approved scheme prior to occupation of the home. Any part of the scheme which fails to achieve independence in the landscape or is damaged or removed within five years of planting shall be replaced during the next available planting season in full accordance with the approved scheme.

- 5) Prior to the commencement of development, a Construction Environmental Management Plan shall be submitted to and approved in writing by the local planning authority and then implemented in accordance with the approved details. The Construction Environmental Management Plan shall include:
- i) A risk assessment of the potentially damaging construction activities in relation to wildlife and habitats.
 - ii) A method statement for the protection of terrestrial fauna that may be encountered on site.
 - iii) The use of protective fencing, exclusion barriers and wildlife safety measures.

All of these are to be based on measures detailed in Section 5 of the ecological report JCA Ltd Ref.15127c/JE REV1.

- 6) Prior to the erection of any buildings on site, a Biodiversity Enhancement Master Plan shall be submitted to and approved in writing by the Local Planning Authority and then implemented in accordance with the approved details. The content of the plan shall include:
- i) Identification of the mitigation and/or compensation areas within the development site, including SUDS features.
 - ii) Measures to protect and enhance the adjacent drain with its population of water voles.
 - iii) Baseline specifications for biodiversity creation and enhancement works and other ecological features specific to mitigation proposals for habitats, faunal groups and species (these are to be based on site survey data and Local Biodiversity Action plan priorities).
 - iv) Provision of roosting and nesting opportunities in woodland and new dwellings.

All of these are to be based on measures detailed in Section 5 of the ecological report JCA Ltd Ref.15127c/JE REV1.

- 7) Prior to the occupation of those dwellings identified in Appendix 3 of the submitted noise report by ENS dated 4 February 2020, the mitigation measures including enhanced double glazing and 1.8m high close

- boarded acoustic fencing as identified in Section 4 of that report shall be installed and operational prior to those dwellings being occupied.
- 8) Prior to occupation of the site separate systems of drainage for foul and surface water on and off site shall have been installed and be fully operational.
 - 9) No piped discharge of surface water from the application site shall take place until works to provide a satisfactory outfall, other than the existing local public sewerage, for surface water have been completed in accordance with details submitted to and approved by the Local Planning Authority.
 - 10) Details of electric vehicle charging provision shall be submitted to and approved in writing by the local planning authority. No dwellings shall be occupied until the approved electric vehicle charging provision has been installed and is operational. Following installation, the electric vehicle charging provision shall be retained for the lifetime of the development.
 - 11) No dwellings shall be occupied unless and until the offsite highway improvement works to Highfield Road have been carried out and are operational in accordance with a scheme previously submitted to and approved in writing by the local planning authority.
 - 12) Floor levels of the dwellings within the development shall be constructed 300mm above existing ground levels.
 - 13) The development hereby granted shall not be commenced nor materials or machinery brought onto the site until the trees which it has been agreed shall be retained are fenced off to the satisfaction of the Local Planning Authority. A scheme of fencing shall be submitted to the Local Planning Authority which shall comply with B.S. Specification No. 5837 'Trees in relation to Construction (1991)', with the Council's 'Code of Practice in Relation to Trees on Development Sites' and with the Council's illustrated guidelines 'Protection of Trees on Development Sites'. The satisfactory implementation of the scheme on the site shall be confirmed in writing by the Local Planning Authority before any works are begun. The approved scheme shall be adhered to throughout the construction period.
 - 14) 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 approved statement shall be adhered to throughout the construction period. The statement shall provide for:
 - i) - the parking of vehicles of site operatives and visitors
 - ii) - loading and unloading of plant and materials
 - iii) - storage of plant and materials used in constructing the development
 - iv) - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v) - wheel washing facilities
 - vi) - measures to control noise and the emission of dust and dirt during construction
 - vii) - a scheme for recycling/disposing of waste resulting from demolition and construction works.
 - 15) Before the development is brought into use, that part of the site to be used by vehicles shall be surfaced, drained and where necessary marked out in a manner to be approved in writing by the local planning authority.

- 16) The vehicle turning space as shown on the approved plans shall be constructed before the development is brought into use and shall thereafter be maintained as such.
- 17) Before the development hereby permitted is brought into use, the parking as shown on the approved plans shall be provided. The parking area shall not be used otherwise than for the parking of private motor vehicles belonging to the occupants of and visitors to the development hereby approved.
- 18) Before the development is brought into use, the sight lines as shown on the approved plan (Reference Forward Visibility Layout Drawing number 003/100/10) shall be rendered effective by removing or reducing the height of anything existing on the land hatched black on the said plan which obstructs visibility at any height greater than 900mm above the level of the near side channel line of the public highway. The visibility thus provided shall thereafter be maintained as such, unless otherwise approved in writing with the local planning authority.
- 19) Prior to the commencement of development details including the position and height of the temporary heras fencing along the ditch shall be submitted and approved in writing by the Local Planning Authority. The fencing shall be erected prior to the commencement of development and shall be removed following agreement with the Local Planning Authority.