



Appeal Decision

Site visit made on 10 January 2022

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 January 2022

Appeal Ref: APP/G2815/W/21/3277823

Land rear of Hillside, Brick Kiln Road, Raunds, Northamptonshire NN9 6HY

- 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 Harvey Smith against the decision of East Northamptonshire District Council.
 - The application Ref 20/00347/OUT, dated 6 March 2020, was refused by notice dated 24 February 2021.
 - The development proposed is Outline: Residential development for up to 21 dwellings and access (with all matters reserved except Access).
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Decision

1. The appeal is allowed, and outline planning permission is granted for residential development for up to 21 dwellings and access (with all matters reserved except Access) at Land rear of Hillside, Raunds NN9 6HY in accordance with the terms of the application, Ref 20/00347/OUT, dated 11 March 2020, and the plans submitted with it, subject to the conditions within the attached schedule.

Applications for costs

2. An application for costs has been made by Mr Harvey Smith against East Northamptonshire District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The proposal is made in outline form with all matters reserved for later consideration except from access. An indicative layout plan has been submitted to show how 21 dwellings might be arranged on site. This shows the retention of the existing house on the frontage and new housing located behind. Due to its indicative status and the nature of the proposal, I shall consider this as a supporting document of limited weight.
4. An amended plan was submitted to the Council during the application process¹. This slightly relocated the access to the east of its former location. The amended plan would result in improved vision splays and would not materially change the substance of the proposal. Consequently, I have taken this into account without prejudice to any party.
5. A s106 Legal Agreement² has been submitted in support of the appeal. This would secure the delivery of affordable housing and financial contributions towards health, open space, libraries and education. This also makes provision

¹ Proposed site access layout plan reference: F19106/01 rev F

² Legal Agreement, dated 21 December 2021

for a financial payment toward a Strategic Access Management and Monitoring (SAMM) sum. I will return to this matter later.

Main Issues

6. The site is within the zone of influence of the Upper Nene Valley Gravel Pits Special Protection Area (SPA) protected under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Although not forming part of the Council's reason for refusal, it is incumbent upon me as competent authority to consider whether the proposal would be likely to have a significant effect on the integrity of the protected site. Consequently, it is necessary to consider this matter as a main issue.
7. In light of the above, the main issues are:
 - whether the proposed access would result in adverse highway safety impacts, and
 - Whether the proposal would have a significant effect on the integrity of the SPA.

Reasons

Highway safety

8. Brick Kiln Road is a B-classified Road. It provides a route around the northern edge of the village. The highway, in front of the site, is largely straight and level with the junctions of Kelmarsh Avenue and Mallows Drive nearby. The front boundary of the site is behind a hedge line, with a bus stop within the adjacent grass verge. A footway is on the opposite side of the carriageway and the highway is subject to a 40mph speed limit. The appeal site consists of a dwelling on its frontage with various industrial buildings and sheds found to its rear.
9. Manual for Streets 2 (MfS2) states that vision splay distances should be calculated using specific local factors relating to gradients, vehicle composition, and overall speed readings. The Appellant's Highway Impact Statement (HIS)³ notes that traffic speeds of some vehicles exceed the speed limit and therefore has adjusted the MfS2 required visibility splays accordingly. The Appellant calculates that the originally proposed access could achieve these required vision splays. The Design Manual for Roads and Bridges, at CD123, establishes the geometric design requirements of an at grade priority junction and a requirement for a greater visibility splay of 2.4 metres by 120 metres. Although this appears to relate more to trunk roads and the motorways, the amended access plan would also achieve these requirements. Accordingly, I am satisfied that visibility from the proposed access would be clear and unobstructed in both directions.
10. Furthermore, the HIS illustrates that the proposed use would result in fewer and more dispersed traffic movements in and out of the site than its current unrestricted commercial use. It would also replace the existing access with a new junction with enhanced geometry. As a result, the proposed access and its intensity of use, would represent betterment in comparison to the existing situation.

³ Highway Impact Statement, by Bancroft Consulting, dated February 2020

11. The proposed scheme would connect to a section of highway found to have a low risk of accidents. In addition, the proposal would include an extension to the footway in front of the site, connecting to Kelmarsh Avenue and incorporating the existing bus stop. As a result of these measures, the highway improvements would create a safer environment for both new and existing local residents.
12. Consequently, taking the above points together, the proposed access would not result in an adverse impact on highway safety. Accordingly, the proposal would comply with policy 8 of the North Northamptonshire Joint Core Strategy (2016)(JCS) and policy R10 of the Raunds Neighbourhood Plan (2017)(NP). These policies seek, among other matters, for development to include a satisfactory means of access and to not prejudice highway safety.

Special Protection Area

13. The Council's SPA Supplementary Planning Document (2015)(SPD) identifies that recreational pressure is having a detrimental effect on the wintering birds including the Golden plover, Gadwall and Mute swan within the SPA. The Habitat Regulations set out the approach to be taken in considering a development proposal that might affect a SPA in order to fulfil its requirements. The appeal proposal is not directly connected with nature conservation. However, I have no evidence to assure me that resident's visiting the SPA, would not have a significant effect on the internationally important features of the site. In such circumstances, the Regulations require that I undertake an Appropriate Assessment (AA) to consider the implications of the proposal in view of its conservation objectives.
14. The conservation objectives associated with the protected site are to ensure that its integrity is maintained or restored as appropriate. It also requires for the site to contribute to achieving the aims of the Wild Birds Directive, by maintaining or restoring its habitats. It is likely that an effect of the proposed development would be to attract visitors to the SPA. This would have a harmful effect on the quality of the area and wildlife through, for example, the recreational pressure of visitor's and dog walking. I therefore concur with the Council that in the absence of mitigation measures, there is the potential for residents of the proposal to visit the SPA, affecting its integrity.
15. The regulations require me to consider whether compliance with conditions or other restrictions, such as a planning obligation, would enable the proposal to not adversely affect the integrity of the SPA. Paragraph 3.43 of the JCS explains that a residential scheme, can mitigate its adverse effects through developer contributions. The Council has identified that appropriate financial contributions can be directed towards a SAMM contribution, to provide for suitable mitigation. The sum could contribute towards a range of measures outlined within policy 4(d). I am satisfied that these measures would provide the necessary mitigation to ensure that the development would have no adverse effect on the integrity of the SPA. Accordingly, the proposal would satisfy policy 4 of the JCS, which includes the requirement for development to safeguard existing biodiversity.

Other Matters

16. Paragraph 57 of the National Planning Policy Framework (The Framework) and the CIL Regulations⁴ require planning obligations to be necessary, directly related to the development and fairly and reasonably related to it in scale and kind. The submitted Legal Agreement provides for a range of measures. The requirement for 30% affordable housing, health and education contributions are required by policies 30 and 7, of the JCS, respectively. The SAMM contribution would satisfy policy 20 of the JCS. Furthermore, the provision of public open space is required by policy R5 of the NP and the Council's Public Open Space SPD. The affordable housing requirement and financial sums are both necessary and reasonable in satisfaction of paragraph 57 of the Framework. These measures have been suitably secured by the submitted Legal Agreement. Accordingly, I am satisfied that the Legal Agreement, as a signed and executable legal document, binds the appellant and their successors in title to its obligations.
17. Paragraph 4.9 of the NP states that as Raunds has met its housing requirement there is no need to allocate additional land for housing. Nevertheless, housing figures set a minimum requirement. As such, this would not preclude the delivery of further sites for housing that accord with the objectives of the Framework. In this case, the scheme would make efficient use of previously developed land and would be within the existing pattern of built form of the settlement. It therefore offers a suitable site, in principle, for residential development.
18. The submitted layout plan is indicative and accordingly is attributed limited weight in my consideration of the merits of the proposal. As such, comments raised by interested parties with respect to the proximity of dwellings to boundaries, the on-site parking configuration and its quantity and the on-site turning capability within the site are reserved matters and of limited weight in the consideration of the main issue.
19. Due to the relatively small scale of the proposal, the effect of the development on local infrastructure would be limited. However, the submitted Legal Agreement provides suitable and required contributions towards education, health and libraries that would meet policy requirements and be of benefit to future occupiers and the existing local community.
20. Furthermore, as the proposal would result in a net reduction of traffic associated with the site, the noise and pollution effects associated with the proposed development would be limited.
21. The Appellant's Ecological Assessment⁵ has identified that no protected or notable species would be adversely affected by the proposal provided that appropriate mitigation was employed. As a result, the impact of the scheme on wildlife would be limited and could be adequately addressed through the imposition of a suitable condition for an environmental management plan.
22. The site is within flood zone 1 and is therefore not liable to flooding. Whilst some surface water flooding may be evident on or close to the site, the proposed drainage strategy would adequately resolve this effect. This matter could be adequately secured by the imposition of a condition.

⁴ Community Infrastructure Levy Regulations 2010, Regulation 122(2)

⁵ Ecological Assessment, by BMD dated February 2020

Conditions

23. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). The Council has suggested the imposition of 22 conditions. I shall impose most of these with some minor amendments and adjustments for clarity. I have imposed the standard conditions with respect to timeframes and approved plans as advised by the PPG for clarity and certainty [conditions 1, 2, 3 and 4].
24. A condition is also necessary to limit the number of dwellings to limit the impact of highway activity on the local infrastructure and ensure the development and access would function well [5 and 7]. A condition is necessary with respect to details of materials in the interests of the character and appearance of the area [6], to protect flood related matters and ensure the proper drainage of the site [8, 9, 10 and 11] and to protect the living conditions of existing residential neighbours [13, 14 and 15].
25. The Appellant's ecological report identified the potential presence of great crested newts and the presence of cotoneaster, a non-native invasive species. A condition is therefore required to secure method statements to mitigate the effect of development on these ecological interests [12]. Furthermore, conditions are required to secure a contamination assessment and remediation in the interests of future occupiers of the site [16 and 17]. It is also necessary for the proposed dwellings to manage water usage to comply with policy 9 of the JCS [18]. Also, it is necessary to ensure that public open space is provided on site in accordance with the Council's Public Open Space SPD and the agreed balance of distribution established within the Legal Agreement [19].
26. However, the Council's suggested condition, with respect to archaeological interests, has been supported with insufficient evidence to illustrate that the condition is necessary. This has therefore not been shown to be required.

Conclusion

27. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be allowed, and planning permission is granted subject to the appended conditions and the associated s106 Legal Agreement.

B Plenty

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 before any development takes place and the development shall be carried out as approved.

- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development shall be implemented in accordance with the approved site location plan 6944/00 and access details F19106/01 rev E.
- 5) The outline permission hereby approved grants consent for a maximum of 21 dwellings on the area outlined in red on the submitted Site Location Plan (ref: 6944 00).
- 6) The details required to be submitted in accordance with Condition 1 above shall include full details of materials to be used in the construction of the external surfaces, hard and soft landscaping, boundary treatment and finished floor levels of all buildings and associated external ground levels. The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of the first dwelling hereby approved and shall thereafter be retained and maintained in perpetuity.
- 7) Notwithstanding the submitted access details as identified on drawing F19106/01 rev E full technical details are to be submitted, as part of a Section 278 agreement (including, but not limited to, off site works in relation to footways, pedestrian crossings and relocation of the bus stop), to be agreed in writing by the Local Planning Authority prior to the commencement of development hereby permitted. Development shall thereafter be implemented in accordance with the approved details prior to the occupation of the first dwelling hereby permitted.
- 8) Before any above ground works commence full details of the surface water drainage scheme for the site, based on the Reports on Drainage Strategy rev B (7 May 2020) and Flood Risk Assessment rev A (1 March 2020) ref 62863 Prepared by PRP UK Ltd shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
- 9) No development shall take place until a detailed scheme for the ownership and maintenance for every element of the surface water drainage system proposed on the site has been submitted to and approved in writing by the Local Planning Authority and the maintenance plan shall be carried out in full thereafter.
- 10) No occupation of any dwelling shall take place until the Verification Report for the installed surface water drainage system for the site based on the Reports on Drainage Strategy rev B (7 May 2020) and Flood Risk Assessment rev A (1 March 2020) ref 62863 Prepared by PRP UK Ltd has been submitted in writing by a suitably qualified drainage engineer and approved by the Local Planning Authority.
- 11) No hard-standing areas shall be constructed until the works have been carried out in accordance with the surface water strategy so approved.

- 12) No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority.
- 13) No demolition or construction work (including deliveries to or from the site) shall take place on the site outside the hours of 0800 and 1800 Mondays to Fridays and 0800 and 1300 on Saturdays, and at no times on Sundays or Bank Holidays.
- 14) There shall be no burning of any material during construction, demolition or site preparation works.
- 15) During the demolition and construction phases the developer shall provide, maintain and use a supply of water and means of dispensing it, to dampen dust in order to minimise its emission from the development site. The developer shall not permit the processing or sweeping of any dust or dusty material without effectively treating it with water or other substance in order to minimise dust emission from the development site. The developer shall provide and use suitably covered skips and enclosed chutes, or take other suitable measures in order to minimise dust emission to the atmosphere when materials and waste are removed from the development site.
- 16) The development hereby permitted shall not be commenced until an appraisal of remedial options and proposal of the preferred option to deal with land contamination and/or pollution of controlled waters affecting the site has been submitted to and approved by the LPA. No works, other than investigative works, shall be carried out on the site prior to receipt and written approval of the preferred remedial option by the LPA. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model procedures for the Management of Land Contamination, CLR11'. Remediation of the site shall be carried out in accordance with the approved remedial option.
- 17) On completion of remediation, two copies of a closure report shall be submitted to the LPA. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post remediation sampling and monitoring results shall be included in the closure report. If, during development, contamination not previously considered is identified, then the LPA shall be notified immediately, and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing with the LPA.
- 18) Prior to the first occupation of the residential units hereby permitted, measures shall be implemented to limit water use to no more than 105 litres / person / day (plus 5 litres / person / day external water use).
- 19) The layout of the development shall include an on-site provision of 0.11ha (1100sqm) of open space.

End of conditions