



Appeal Decision

Site visit made on 18 October 2022

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2022

Appeal Ref: APP/N2739/W/20/3265225

Land West of Broach Lane, Kellington, DN14 0ND, 455325, 424318

- 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 R & DD Developments against the decision of Selby District Council.
 - The application Ref 2019/0404/OUTM, dated 21 April 2019, was refused by notice dated 17 June 2020.
 - The development proposed described as "Outline planning permission (all matters reserved) for the erection of a residential development".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application from which this appeal results is in outline only and all matters are reserved for future consideration.
3. A number of plans accompanied the application and have been referred to in technical documents, including a layout plan. The appellant details that these are indicative only and show one potential layout of residential development on the site only. As such, the appellant is not tied to these indicative plans and there may be alternative ways of developing the site. I have taken this into account when considering the suitability of the proposal.

Main Issues

4. The main issues are:

The effect of the proposed development on the character and development of Kellington and its surroundings;

Whether the proposed development would provide satisfactory living conditions for residents with particular regards to the neighbouring businesses

Reasons

Character and appearance

5. Kellington is a pleasant village set in a flat agricultural landscape. The appeal site consists of an open agricultural field accessed off Broach Lane to the east. To the north is an open field that lies adjacent to the main part of the village and benefits from planning permission for residential development, which the appellant states has been lawfully implemented. To the west are a number of

industrial type buildings that, amongst other activities, appears to process vegetables in bulk. To the south is an open field.

6. The appeal site lies outside of the development limits of the village and is therefore in the open countryside, albeit bound on two sides by existing or consented development. While there is no guarantee that the residential development to the north will be completed, outline and reserved matters have been approved. The appellant details that the permission has been lawfully implemented and I have no substantive evidence before me that would lead me to conclude otherwise.
7. When approaching the village from the south, the appeal site is generally viewed in the context of the existing industrial buildings, the site that benefits from planning permission and the existing settlement beyond. However, the indicative plan shows only part of the site as being developed for housing with the remainder being undeveloped, save what the appellant describes as an acoustic bank.
8. It is acknowledged that this undeveloped land is necessary to create a buffer to the existing business operations to the west, the appellant has suggested that the extent of development could be controlled by a suitably worded condition.
9. Nonetheless, the indicative layout shows a residential development that, as a result of this separation to the development to the west, appears as an incongruous and somewhat contrived extension that would appear as being largely divorced from the existing built form of the settlement.
10. Furthermore, the indicative site layout plan shows a hard and inorganic edge of the proposed development to the agricultural field, to which the Hawthorne hedge and 1m high timber post and rail fence would only offer limited mitigation. While matters such as layout and landscaping are reserved for future consideration, any increase in the size of landscaping to the boundaries to the site would reduce the space available for the dwellings, potentially leading to a cramped form of development.
11. The decision notice also refers to the appeal scheme resulting in the coalescence of Kellington and Eggborough. I saw at the site visit that a substantial area of agricultural fields would remain between the two settlements even if the appeal scheme were to go ahead. As such it is my planning judgement that there would not be a coalescence of the two settlements as a result of the proposed development.
12. For the reasons detailed above I find that the appeal scheme would harm the character and appearance of Kellington and its surroundings and thus is contrary to Core Strategy Policies SP2, SP4 and SP19 and saved Policy ENV1 of the Selby District Local Plan that amongst other matters seeks to protect the local character, identity and the context of the area.

Living conditions

13. I understand that the industrial type buildings to the west of the appeal site house a commercial vegetable enterprise involved with washing, grading, packing and distribution. The appeal scheme would therefore introduce additional residential dwellings near to the operation of this enterprise which by its very nature generates some noise and odour. The Council details that complaints from residents have been made regarding the enterprise in 2011,

2014, 2016 and 2019. However no further details of the nature of the complaints or action taken have been provided.

14. In response, the submitted indicative plan refers to the introduction of a landscaped acoustic barrier along the western boundary of the site and the proposed housing being restricted to the eastern most part of the appeal site.
15. The appellant has submitted various noise assessments, the model detailed in the 2017 report by Clover Acoustics titled 'External Noise Survey at MH Poskitt and Noise Model Predictions' is based on an earlier scheme with housing located near to the western boundary of the site. Further noise evidence has been submitted, including supplementary noise monitoring but the model has not been updated to reflect the additional evidence or the new indicative layout.
16. The noise evidence generally concludes that mitigation in the form of improved double glazing is necessary to reduce internal noise levels to an acceptable level. Based on the evidence before me it is my planning judgment that the layout of the proposed dwellings would also have to be set out in such a way as to ensure that noise levels in external garden spaces would also be at acceptable levels so as not to result in an unacceptable detrimental impact on the living conditions of future occupiers.
17. With regards to odour, at the site visit I noticed odour of, I believe carrots, as I traversed the appeal site. On the basis of my site visit, it is my planning judgement that the location of the housing as shown on the would result in some residents being exposed to odours from the commercial enterprise.
18. While I note the presence of existing dwellings and the implemented consent for further dwellings near to the appeal site, as a result of the combination of existing complaints that are further reinforced by objections from local residents to the planning application and this appeal, the acknowledged need for mitigation but the absence of such mitigation being clearly demonstrated and the odour that I experienced on site, it is my planning judgement that there is a real risk of harm to the living conditions of future occupiers of the appeal scheme. Furthermore, complaints from future residents could impact on operation of adjacent enterprise.
19. Therefore, on the basis of the evidence before me I am therefore not satisfied that it has been demonstrated to an acceptable level that the appeal scheme would provide satisfactory living conditions for residents with particular regards to the neighbouring businesses.
20. As such I find that the appeal scheme is contrary to Policy ENV2, Core Strategy Policy SP19 and the National Planning Policy Framework which seek, amongst other matters to avoid development which would be affected by unacceptable levels of noise.

Other Matters

21. The appellant has made reference to the appeal site in preference to other sites currently or previously promoted though the local plan process. Whether or not the appeal site is a preferable location for housing than these other sites I have determined the appeal on its own merits. Furthermore, the appellant has made reference to various appeal decisions, including those that allowed

development outside of the defined development limits, I have had due regard to these appeals in reaching my decision.

22. The Appellant has provided a planning obligation pursuant to S106 of the 1990 Act. This deals with matters such as affordable housing and the provision of recreational open space. I am satisfied that such matters meet the tests set out in the Community Infrastructure Levy Regulations and I am therefore able to take the Undertaking into account. I give some weight to the fact that affordable housing would be of benefit to the local area.
23. Furthermore, I note that the appeal scheme would generate employment and would support the local building trade during its construction phase and if completed and occupied the new residents would support local services and facilities, including the public house and local bus services.
24. These are material considerations that weight in favour of the appeal scheme and I afford them some weight, but they do not outweigh the harm I have previously identified.

Conclusion

25. For the reasons given above I conclude that the appeal should be dismissed.

Mr M Brooker

INSPECTOR

Richborough Estates