



Appeal Decision

Site visit made on 24 October 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 10 November 2017

Appeal Ref: APP/N2535/W/17/3178296

34 Ryland Road, Dunholme, Lincoln, Lincolnshire LN2 3NE

- 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 D Fox against the decision of West Lindsey District Council.
 - The application Ref 135546, dated 25 November 2016, was refused by notice dated 23 January 2017
 - The development proposed is described as the erection of a dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is in outline with all matters reserved for future consideration. Drawings showing an indicative site layout and position of a proposed access road were submitted with the application. I have had regard to these in the determination of this appeal.
3. The Council's decision notice referred to policies contained within the emerging Central Lincolnshire Local Plan (2017) (CLLP). This was adopted on 24 April 2017 and after the Council's decision on the planning application. This plan now forms part of the 'development plan' for planning decisions in the Borough and replaces all the existing or 'saved' policies in the West Lindsey Local Plan (2006). The Council and the appellant have drawn my attention to new policies contained within the recently adopted plan that may be relevant to the consideration of this appeal. Consequently, I have determined this appeal on the basis of the up to date policy position.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area.
 - Whether sufficient information has been submitted with the application in order to determine the extent to which the site is suitable for development without being at risk from flooding or causing a flood risk elsewhere.
 - The effect of the proposed development on mature trees on the site.

Reasons

Character and appearance

5. The appeal site comprises part of the large rear garden of No 34 Ryland Road which is bounded by mature planting and contains a small number of mature trees. Dunholme Beck forms the eastern boundary of the garden with open countryside beyond. A characteristic feature of this part of Ryland Road is that residential development on the eastern side of the road comprises of detached dwellings, with frontages positioned relatively uniformly to the road having long rear gardens with countryside beyond. As such existing development has a spacious character and a low density. There are no examples of backland development in the immediate vicinity.
6. The indicative layout shows a proposed detached dwelling to the east of the detached garage of No 34 with access via the existing driveway off Ryland Road. The proposed plot would occupy the full width of the existing garden thereby substantially reducing the extent of the rear garden at No 34. The plan also shows that the indicative proposed footprint of the dwelling would be larger than that of the host property and nearby dwellings.
7. The proposed development would introduce a form of backland development that would unacceptably erode the established spacious character of dwellings having long rear gardens on this part of Ryland Road. It would result in both the host property and the proposed dwelling having significantly smaller gardens in comparison to the existing adjacent residential development. As such, the proposed development, and the resultant reduced garden area of the host property, would appear as being unacceptably at odds with the distinctive character of adjacent development.
8. The proposal would result in a tandem form development in an area where currently none exists. The encroachment of backland development to the east of the properties on this part of Ryland Road would result in the incongruous protrusion of built development towards the open countryside that would unacceptably erode the distinctive linear pattern of development that runs approximately parallel to the road and to Dunholme Beck. It would also introduce a noticeable localised denser form of development than that of the surrounding area. Collectively, these factors would result in the proposal failing to respect the surrounding prevailing pattern of development.
9. Taking the above factors into account, the proposed development would have a materially harmful and unacceptable effect on the character and appearance of the surrounding area. As such, it would be contrary to Policy LP24 of the CLLP and Policy 4 of the adopted Dunholme Neighbourhood Development Plan (DNDP). These policies, amongst other things, require development proposals to reinforce the character and local distinctiveness of the area and relate well to their surroundings.
10. The Council also indicate that the appeal site helps to support the Green Wedge designation that separates the villages of Dunholme and Welton. However, the appellant has drawn my attention to Inset 24 of the CLLP which shows that the boundary of the Green Wedge in the vicinity of the host property is formed by the route of Dunholme Beck. As such, on the basis of the evidence provided, the appeal site does not lie within the Green Wedge. Furthermore, the indicative plan shows that the existing mature vegetation at the eastern end of

the garden in the vicinity of the beck would remain. Consequently, the proposed development would not have a demonstrable detrimental effect on the purpose of the Green Wedge and there would be no conflict with Policy LP22 of the CLLP. This policy, amongst other things, relates to development within Green Wedges and indicates the need to retain their open and undeveloped character.

Flood risk

11. The appeal site is located within an area identified by the Environment Agency as Flood Zone 1 and Zone 2 which indicates that there is a low to medium probability of the site flooding. The extreme eastern part of the site lies within Zone 3 which indicates a high probability of flooding.
12. The National Planning Policy Framework (paragraph 100) (the Framework) indicates that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas of highest risk but where development is necessary, making it safe without increasing flood risk elsewhere. The Framework advises that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.
13. Paragraph 101 of the Framework indicates that a Sequential Test should be applied to proposals for new development. This will involve a risk based sequential approach to determine the suitability of land for development that uses the principle of locating development, where possible, on land that has a lower flood risk, and relates land use to its vulnerability to flood. This approach does not mean that development should not be permitted within Flood Zones but that sites in areas with a lower risk of flooding should be development first.
14. A Flood Risk Assessment (FRA) was submitted with the planning application which demonstrates, subject to mitigation measures, that the development can be undertaken without being at unacceptable risk from flooding nor increasing the risk of offsite flooding. I have taken into account the comments of the Upper Witham Internal Drainage Board who raised no objections to the proposed development, subject to the imposition of relevant planning conditions, and confirm that appropriate mitigation is identified in the FRA.
15. The Council's concern is that the FRA does not contain an adequate sequential assessment and therefore fails to demonstrate that there are no alternative sites reasonably available to accommodate a single dwelling that are at a lower risk of flooding.
16. I have taken into account the appellant's comments that at the time the FRA was prepared the CLLP had not been adopted and that future residential allocations were not conclusively identified. As such, the appellant contends that the proposed site was considered to be acceptable under the provisions of the sequential test. However, the CLLP was adopted prior to the submission of the appeal and I have no evidence to indicate that any further revisions to the FRA have been made.
17. I have also taken into account the advice provided in the Government's Planning Practice Guidance (PPG) which indicates that the aim is to steer new development to Flood Zone 1 (areas with a low probability) and provides advice that the Sequential Test does not need to be applied for proposals in Flood

Zone 1 (unless the SFRA for the area indicates otherwise). In this case, the Council indicate that the site is located mainly within Flood Zone 2 with approximately 20% being within Zone 3.

18. I accept that the FRA suggests that the proposed dwelling would be safe from flood risk with finished floor levels above the predicted Higher Central 1 in 1000 year with climate change flood level and 600mm above the higher 1 in 100 year with climate change flood level for Dunholme Beck. In addition, the FRA suggests that the proposal would not increase flooding elsewhere.
19. Whilst I have little doubt that the development can be undertaken without being at unacceptable risk from flooding nor increasing the risk of offsite flooding, the fact remains that the site lies mainly within Flood Zone 2 and the FRA does not contain a Sequential Test. Although the FRA suggests that the Sequential Test is passed there is no objective analysis relevant to the adopted and up to date development plan.
20. I have attached considerable weight to the planning importance of the consideration of the issue of flood risk as identified in the Framework. The absence of a Sequential Test is contrary to the guidance provided in paragraphs 100 to 102 of the Framework.

Mature trees

21. None of the existing trees in the garden of No 34 are protected by a Tree Preservation Order. The indicative layout indicates that one tree which exists in the centre of the garden would be lost as a consequence of the proposed development. However, this tree is of medium size which, owing to its position within the context of the garden having mature boundary planting and being located to the rear of the host property, makes little contribution to the character of the surrounding area or the street scene. As such, the loss of this tree would not cause any demonstrable harm to the character of the area.
22. The Council suggest that the trees on the southern boundary of the site could suffer root damage due to the additional compaction that would be created by construction plant and other vehicles traversing over the extended driveway to access the proposed development. The Council also indicate that, due to their position to the south of the proposed dwelling, the existing trees are likely to cause a degree of shading to the proposed dwelling and cause leaf drop on the proposed drive and parking area. Consequently, there would be a possibility that the future occupants of the proposed dwelling would seek to remove trees or lop their branches.
23. Although the Council suggest that the proposed development may have the potential to cause some harm to trees, an appropriate planning condition could be imposed, were I minded to allow the appeal, requiring measures to protect the integrity of the roots from unacceptable compaction and supported by arboricultural surveys and advice.
24. The trees on the southern boundary that are visible from the street scene are those in the vicinity of the existing dwelling. Even if I were to be convinced that leaf drop would result in the felling of trees, those trees on the southern boundary in the vicinity of the proposed development are not readily visible from the road and, as such, make little contribution to the character of the street scene.

25. Given that the trees on the site are not protected; that the root zone can be protected by appropriate planning conditions; their limited contribution to the character of the street scene; and the absence of any other information to suggest that they are ancient trees, these are all factors which lead me to conclude that the Council's alleged impact on the trees is found mainly on supposition.
26. As such, I do not consider that it has been adequately demonstrated that the proposed development would cause harm to mature trees of an extent that would demonstrably harm the character of the street scene or the surrounding area. Consequently, there would be no conflict with Policy LP26 of the CLLP or Policy 4 of the DNDP. These policies, amongst other things, require that new development should protect the landscape and seek to retain mature or important trees.

Other matters

27. I have taken into account the modest contribution that the proposal would make to the supply of housing in the District and that Dunholme is identified as a 'Large Village' in the CLLP where appropriate infill residential development would be acceptable within the existing developed footprint. I have also found that the proposal would not cause harm to mature trees. However, whilst this modest benefit carries some limited weight in support of the appeal proposal it does not outweigh my findings that the development would result unacceptable harm to the character and appearance of the surrounding area and that in not providing a Sequential Test it fails to comply with the guidance provided in paragraphs 100 to 102 of the Framework.

Conclusion

28. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR