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The Planning Inspectorate

Appeal Decision

Site visit made on 27 September 2016

by V Lucas-Gosnold LLB MCD MRTPI

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

Decision date: 5 October 2016

Appeal Ref: APP/W3005/W/16/3150467
Land between Pleasley Road and North of Mansfield Road, Skegby, Sutton in Ashfield, NG17 3BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr N Baines (Rippon Homes Ltd) against Ashfield District Council.
- The application Ref V/2015/0533, dated 27 August 2015, sought approval of details pursuant to condition No 1 of a planning permission Ref V/2012/0556 granted on 17 December 2013.
- The development proposed is residential development.
- The details for which approval is sought are: Access, appearance, landscaping, layout and scale.

Decision

1. The appeal is allowed and planning permission is granted for residential development at Land between Pleasley Road and North of Mansfield Road, Skegby, Sutton in Ashfield, NG17 3BS in accordance with the terms of the application, Ref V/2015/0533, dated 27 August 2015, subject to the conditions set out in the Schedule attached to this Decision.

Procedural Matters

2. Outline permission with all matters reserved for up to 37dwellings was granted on the appeal site following an appeal[1] in 2013. Following this, a reserved matters application was submitted in 2015. However, the Council failed to give notice of their decision within the prescribed period and this has resulted in the appeal before me which relates to the reserved matters application. During the course of the planning application amended plans were submitted to address concerns raised by the Council regarding design and layout and I have had regard to these.

3. In their submissions the Council have indicated that they would have refused permission for the scheme on the basis that they considered that the living conditions of future occupants would not be acceptable with regard to levels of private outdoor amenity space and internal space; the design of the development proposed and highway safety. As these issues are the main areas of dispute between the parties, I have framed the main issues accordingly.

[1] APP/W3005/A/13/2200723 Decision date: 17 December 2013

Main Issues

4. The main issues are:

   - Whether the development proposed would provide acceptable living conditions for future occupants, with particular regard to the levels of private outdoor amenity space and internal space;
   - The effect of the development proposed on the character and appearance of the area; and
   - The effect of the development proposed on highway safety.

Reasons

Living conditions

5. The appeal scheme proposes the erection of 36 dwellings. The extant outline consent is for up to 37 units. The Council's 'Residential Design Guide' Supplementary Planning Document (SPD) (Adopted 2014) sets out guidance regarding internal and external amenity space. Since then, National space standards have been published which set out minimum gross internal floor areas and storage. The Council accepts that regard should now be had to the National standards.

6. The Council has stated that of the units proposed, 15 of the 3 bedroom dwellings are below the space standards in the guidance by between 1.5m² and 7.25m². Five of those dwellings proposed fall short of the standard by the higher figure.

7. The Council has also stated that 14 of the proposed plots would not have sufficient rear gardens to meet the requirements of their design guide. Some plots are just below the standards, but 5 plots are 30% below the Council's standards. The National space standards relate only to internal floor areas.

8. Whilst some of the proposed plots may not meet the exact National standards for internal space or local standards for external amenity space, the majority of those plots referred to do not fall short of the space standards to a significant extent. Based on the submitted plans, the dwellings proposed would provide adequate space for future occupants to sleep, rest and undertake daily activities such as getting dressed. The rear gardens would be of sufficient size to plant flowers or small shrubs, hang out washing or sit out in and relax. Furthermore, there would be a centrally located area of public open space within the development that would provide an additional area for children to run around and play on.

9. For these reasons, notwithstanding that a small number of the plots proposed would not meet the relevant space standards, I am satisfied that the development proposed would provide acceptable living conditions for future occupants. Furthermore, the development proposed would see the delivery of a well-balanced scheme to suit a range of future occupants, with a mix of house types, the majority of which would be in excess of the relevant space standards.

10. Accordingly, I conclude on this main issue that the development proposed would provide acceptable living conditions for future occupants, with particular regard to the levels of private outdoor amenity space and internal space.

Whilst some of the plots proposed would fall short of the space standards set out Nationally and the Council's SPD with regard to external amenity space, overall the proposal would not conflict with policy HG5 of the Ashfield Local Plan Review (Adopted November 2002) (LP) which seeks to ensure that new development provides adequate garden space and that the design and layout are acceptable. The proposal would also not conflict with one of the National Planning Policy Framework's (Framework) core planning principles which seeks to ensure that planning should seek to secure a good standard of amenity for all future occupants of land and buildings.

Character and appearance

11. The appeal site is a field that is relatively flat for the most part, except where it rises steeply to a grassed mound that runs along the boundary of the site and the back edge of the pavement along Mansfield Road. The field is used for grazing and is divided into a series of small paddocks. There are also outbuildings on it. There is a footpath which crosses the site, connecting Back Lane and Mansfield Road.

12. The appeal site is surrounded on all sides by housing development. There is a mixture of house types in the area, with no one style predominating. The site context is therefore defined by a mature residential area with a busy road passing through it.

13. The houses that surround the appeal site are clearly visible from within and across the site and the site is therefore seen within the existing context of the residential development that surrounds it. Whilst the house types proposed are of a modern design, given that there is some diversity in the appearance of houses in the area the submitted plans show that the proposed development could be visually assimilated into the existing streetscene successfully. This is particularly so given the layout which shows that the proposed dwellings close to Mansfield Road would be orientated to face towards the highway, thereby providing an active frontage.

14. Accordingly, I conclude on this main issue that the development proposed would not be harmful to the character and appearance of the area. The proposal would therefore not conflict with policies ST1 and HG5 of the LP which seek to ensure that development does not adversely affect the character, quality or amenity of the local environment; and that the design of new development is acceptable.

Highway safety

15. The proposed vehicular access to the appeal site would be off Mansfield Road. It would be approximately 5.5m with two 2m wide footways. Visibility splays would extend for approximately 2.4m x 59m in both directions along the highway. An internal road would lead off the proposed access which would serve the housing development.

16. During the Council's consideration of the application, further details were requested regarding vehicle tracking and traffic calming. Additional technical drawings were submitted by the appellant regarding these matters and these were the subject of further consultation.

17. The Highway Authority did not object to the proposal, subject to conditions. However, the Council and several third parties, including local residents, have raised concerns in this regard.

18. I did observe during the site visit that Mansfield Road is busy, with a steady stream of traffic travelling along it. There is a primary school opposite the appeal site and the timing of my site visit coincided with the end of the school day. I did observe parked cars along the highway, which partially obstructed the pavement. There was also a crossing patrol in operation which stopped the traffic flow in both directions momentarily to allow children and parents to cross the road. Whilst this no doubt caused some minor delay to motorists waiting, there were no more than a small handful of vehicles waiting at any one time. I also observed buses, coaches and a few small lorries able to pass side by side along the highway, even with parked cars present along the road. Whilst some vehicles may have entered the central area of the road demarcated with white hatched lines and a red surface, this was only briefly and it enabled the traffic to continue to flow along the road. There is a small bakery opposite the proposed site access but given the small scale nature of the business and the observations I was able to make during the site visit, customers visiting the bakery do not appear to generate a significant amount of vehicle movements. Additionally, whilst some third parties have referred to a proposed move of a post office to a petrol station this is further along the road from the proposed access and due to the distance involved will be unlikely to affect use of the proposed access significantly.

19. There are other minor roads leading off Mansfield Road close to the proposed site access but this is not an unusual feature in a built up area. There is a small Co-op at the junction with Pleasley Road, however it has a dedicated car park which appeared to have capacity available and the number of vehicles visiting the store appeared to be relatively small scale and commensurate with the size of the shop. The Council has also referred to a weight restriction being introduced on a road nearby which may have resulted in vehicles diverting down Mansfield Road. Whilst that may be so, there is no specific evidence before me to suggest that there are highway capacity concerns at this location and the Highway Authority have not identified this as an issue.

20. Drawing matters together, I have described several highway features close to the site that motorists using the proposed access would need to take account of when turning in to and out of the development. However, they are all fairly typical features that one would expect to find on a main road in a built up area. The speed limit along Mansfield Road at this point in 30mph, which drops to 20mph at the beginning and end of the school day. Motorists will therefore be travelling at a speed commensurate with being able to anticipate and react to cars turning in to and out of residential streets, parked cars and a school patrol person momentarily stopping the traffic to allow pedestrians to cross the road. Whilst third parties have referred to road traffic accidents occurring, there is no specific data before me and the Highway Authority have not identified any concerns in this respect.

21. Furthermore, there is no specific technical evidence before me to suggest that traffic resulting from the additional 36 dwellings proposed would result in significant harm to highway safety and I note that the Highway Authority did not object to the proposal in this regard, subject to conditions. Whilst cars parked close to the site may cause some conflict regarding the operational use

of the proposed junction and potential safety concerns regarding pedestrians accessing the school close by, this is a matter that could be mitigated via enforceable double yellow lines as suggested by the Highway Authority.

22. I am also mindful that the appeal scheme is a reserved matters application and that the principle of the development proposed has been accepted in line with the outline consent. The previous Inspector observed that they were satisfied that local traffic conditions would mean that a safe and suitable new access from Mansfield Road into the appeal site could be provided and they concluded that the proposal would not have a material harmful effect on highway safety.

23. Although the Council have referred to the proximity of a blind bend and an adverse camber close to the proposed access, these features are some distance away from the appeal site and at the location where the access is proposed the alignment of the highway is relatively straight with good sightlines extending along it in both directions. Furthermore, the visibility splays that would be provided would be in excess of the relevant Highway Design Guide.

24. The plans show that the internal road serving development would be provided to adoptable standards. Raised sections of road would also be provided within the development that would serve as traffic calming measures.

25. The Highway Authority have confirmed that they are content with both the vehicle tracking plan and the proposed traffic calming features, subject to conditions. I note the concerns of third parties regarding whether a large refuse vehicle or similar could access the development. However, a condition requiring a scheme to be submitted for the provision of double yellow lines around the junction to the proposed access could be flexibly worded to enable parking restrictions to be in place along this section of the road to mitigate this should the Highway Authority deem it necessary. Although a refuse vehicle would need to reverse approximately 25m along an internal access road to serve a part of the development, this complies with guidance contained within the Manual for Streets and given that it would be a once a week occurrence and at low speed I am satisfied there would be no undue highway safety concerns.

26. Whilst the Council and other third parties have referred to a possible alternative access, including off Back Lane, that does not form part of the proposal before me.

27. Accordingly, I conclude on this main issue that the development proposed would not be harmful to highway safety. The proposal would therefore not conflict with policy ST1 of the LP, which seeks to ensure that development will not adversely affect highway safety. Nor would there be any conflict with paragraph 32 of the Framework, which requires decisions to take account of whether a safe and suitable access for all people can be provided.

Other Matters

28. Whilst I note that the Council states that they are now able to demonstrate a five year supply of housing land, the proposal would result in the delivery of an additional 36 dwellings, including 4 affordable units, and this is a matter that weighs in favour of the appeal scheme.

29. In addition to the issues I have addressed above, a number of third parties have raised additional concerns. Whilst I have read all the submissions

thoroughly, as the appeal site already benefits from an extant outline planning permission for the construction of up to 37 dwellings, the principle of the development proposed is not a matter before me. Based on the information before me, including that acceptable separation distances would be maintained, I am satisfied that the proposal would not be harmful to the living conditions of neighbouring occupants. Any noise or disturbance resulting from the use of a private driveway by two cars will be likely to have a very minimal effect on the living conditions of neighbouring occupants. Other concerns, including noise, drainage, lighting, the retention of trees and hedgerows on the site and diversion of the existing footpath are all matters that could be addressed via planning conditions. There is no specific evidence before me to suggest that the proposal would have a significantly adverse effect on air quality, particularly given the relatively small scale of development proposed.

30. The previous Inspector considered the effect of the proposal on the setting of the Grade II Listed Manor House Farm in their appeal Decision. The Inspector noted that the Farmhouse is separated from the appeal site by Back Lane, and because of the tall walls on the boundary of the site there are only limited views from Back Lane of the listed building itself and that the listed building can barely be seen from Mansfield Road across the appeal site. On that basis, the previous Inspector concluded that there would be at the most only minimal harm to the setting of the listed building. Consequently, the harm to the significance of the listed building as a heritage asset would be much less than substantial, if any. Based on the information before me, including the submitted plans showing the proposed layout, scale and materials of the proposed development, I see no reason to reach a different conclusion. The precise nature of the boundary treatments proposed is a matter that could be dealt with via a planning condition to ensure there would be no harm in this regard. The provision of an additional 36 dwellings would also add to the supply of housing in the area and this is therefore a public benefit for the purposes of paragraph 134 of the Framework.

31. The application was screened and it was concluded that the appeal proposal is not EIA development as defined in the relevant Regulations.

Conclusion and Conditions

32. For the reasons given above, I conclude that the appeal should be allowed.

33. I have considered the Council's suggested conditions in line with the advice in the Framework and the Planning Practice Guidance (PPG).

34. I have attached a commencement condition and a condition requiring the development to be carried out in accordance with the submitted plans, to define the terms of this permission and for the avoidance of doubt.

35. I have also attached a condition requiring the submission of samples to be used in the construction of the external surfaces of the building to ensure there will be no harm to the character or appearance of the area. For the same reason, and to ensure there will be no harm to the living conditions of neighbouring occupants, conditions requiring landscaping and boundary treatment schemes to be submitted and agreed in writing with the Council are required.

36. Conditions are also required to ensure the development is constructed to adoptable standards and to maintain the visibility splays, including a scheme

for double yellow lines around the development access to be submitted, in the interest of highway safety. A condition has also been attached to protect the existing right of way that crosses the site. I have amended the wording of the suggested conditions to ensure these schemes are submitted to the local planning authority for approval rather than the third party suggested (the Highway Authority) as it is the Council who is responsible for the implementation of planning schemes.

37. A condition requiring a drainage scheme is also required to ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating flood problem and to minimise the risk of pollution.

38. For the avoidance of doubt I have also attached the condition requested regarding noise mitigation measures to ensure the amenity of neighbouring residents will be safeguarded regarding noise pollution.

39. A condition is also attached requiring the submission of details of existing hedgerows and trees on the site to ensure they will be retained where necessary, in the interests of the visual amenity of the area and ecological benefits.

V Lucas-Gosnold

INSPECTOR

SCHEDULE OF CONDITIONS

1) The development to which this approval relates shall be begun not later than whichever is the later of the following dates:

(a) The expiration of 5 years from the date of the outline planning permission;

(b) The expiration of 2 years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.

2) The development hereby approved shall only be carried out in accordance with the details and specifications shown on the following plans: Drawing numbers: 181.06.01 D, MRS/SL/1, MRS/SS/1, MRS/LP/1, 181.06.30; House types: 3D6, 3D7, 3S6 Semi, 3S6-3S27, 3S22 Semi, 3S24-3S25 Terrace, 3S27 Detached, 4BL Spec, 4D29, 4D32, 4D36 Standard, 4D36 - Special, 4D44X, L2; Garages: GS5F, GD7F AND GD8H

3) No development shall take place until samples of the materials and finishes to be used for the external elevations and roofs of the development have been agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out with those materials, unless the Local Planning Authority gives written approval to any variation.

4) No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping. All planting, seeding or turfing indicated on the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the first occupation of the development or the

completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

5) No development shall take place until the following matters have been submitted to and agreed in writing by the Local Planning Authority:

(a) Full details of the proposed treatment of the site's boundaries.

(b) A phasing scheme for the implementation of the agreed boundary treatment.

The boundary treatment shall be undertaken in accordance with the agreed details.

6) No part of the development hereby permitted shall be brought into use until details of the new internal roads and associated infrastructure have been submitted to and approved in writing by the Local Planning Authority including longitudinal and cross sectional gradients, parking provision, turning facilities, access widths, visibility splays (including pedestrian, junction and forward visibilities), street lighting, drainage and outfall proposals, construction specification, provision of and diversion of utilities services and any proposed structural works. All details submitted to the Local Planning Authority shall comply with the County Council's current Highway Design & Parking Guides and shall be implemented as approved. Any visibility splays shall be kept clear of any obstruction to visibility over 0.6m high for the life of the development.

7) Before the development is brought into use the off-site traffic management works comprising a Traffic Regulation Order to provide enforceable double yellow lines on the junction of the site access with Mansfield Road will be provided in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

8) The development will require the diversion of a public right of way and no part of the development hereby permitted or any temporary works or structures shall obstruct the right of way until approval has been secured and the diversion has been constructed in accordance with a detailed design and specification first submitted to and approved by the Local Planning Authority.

9) The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

10) No part of the development shall be occupied until all noise mitigation measures shown to be necessary with the Noise Impact Assessment by Kirby Charles Associates Ltd Reference KCA261112/2400 have been installed and a validation report submitted to and approved in writing by the local planning authority.

11) No development shall take place until there has been submitted to and approved by the Local Planning Authority a landscaping scheme which

should include details of all trees and hedgerows on the site to be retained together with measures for their protection during the course of the development.