

Appeal Decision

Site visit made on 13 September 2016

by J C Clarke BSc(Hons) BTP MRTPI

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

Decision date: 28 October 2016

Appeal Ref: APP/D2510/W/16/3153153

Land to north of High Street, North Thoresby, NE Lincolnshire DN36 5PL

- 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 Robin Dixon against the decision of East Lindsey District Council.
 - The application Ref N/133/01980/14, dated 30 October 2014, was refused by notice dated 15 February 2016.
 - The development proposed is described as 'Outline permission only to develop land for residential use – site layout and dwelling numbers not prescriptive or specified and new highway access to High Street'.
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Decision

1. The appeal is allowed and outline planning permission is granted to develop land for residential use – site layout and dwelling numbers not prescriptive or specified and new highway access to High Street at Land to north of High Street, North Thoresby, NE Lincolnshire DN36 5PL in accordance with the terms of the application, Ref N/133/01980/14, dated 30 October 2014, and the plans submitted with it, subject to the conditions listed in Appendix 1 to this decision.

Procedural Matters

2. Whilst the Council's decision described the proposal differently, in accordance with normal practice and as it is not clear that the proposal has changed my decision uses the description of development on the application form. Although this description refers to the location of the proposed access, the Council's officer report confirms that it determined the application on the basis that all details including access are reserved for future approval. I have dealt with the appeal on the same basis, and treated the submitted draft site layout (drawing number D001-04) as being only indicative in nature.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the site and the surrounding area.
 4. Whilst representations have been received concerning other matters, as these are not covered in the Council's reason for refusal I have addressed these in my 'other considerations' section.
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Reasons

Policy Context

5. The development plan for the area is the East Lindsey Local Plan Alteration 1999 (ELLPA), relevant policies of which were 'saved' by Government direction in 2007. Planning law requires my decision to be in accordance with these 'saved policies' unless material considerations indicate otherwise. The National Planning Policy Framework (the 'Framework') represents current national policy and is an important material consideration.
6. Policies A5 and H12 of the ELLPA both broadly support the emphasis on good design which is set out in paragraphs 17 and 56 of the Framework. In accordance with paragraph 215 of the Framework, I have given them due weight in my decision.
7. Paragraph 47 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years of new housing against their housing requirements. The Council officer report on the application (February 2016) states that the supply stood at 3.7 years and no evidence has been brought forward to suggest that a 5 year supply currently exists.
8. In these circumstances, paragraph 49 of the Framework requires that any relevant 'saved policies' for the supply of housing in the ELLPA must not be considered up to date, whilst paragraph 14 of the Framework requires that planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
9. The Council has indicated that the East Lindsey Local Plan – First Deposit Draft 2004 referred to by the Appellant was not formally adopted as part of the development plan. The Core Strategy Topic Paper 'The Proposed Housing Target and Preferred Option for Growth' and the 'East Lindsey Settlement Proposals Development Plan Document' April 2016 relate to a proposed new development plan, which is at an early stage in its preparation. In accordance with paragraph 216 of the Framework these documents carry very limited weight.

Character and appearance

10. The appeal site is located on the edge of the village of North Thoresby, which has developed over many years and is set within gently undulating countryside. The village has a clearly defined core which is of considerable architectural and historic character. Development in the western part of the village, on the edge of which the appeal site is situated, extends alongside High Street and the A16.
11. Whilst the appeal site includes the detached house of Willow Lodge, which fronts onto High Street, most of the site is located behind this and other houses in views from this highway frontage. There is existing development to the east, including houses at Knowles Garth which are served by a shared drive running alongside the eastern boundary of the appeal site. To the west, the site bounds a private garden whilst to the north it backs onto farmland and playing fields. The playing fields are bounded by a substantial line of trees, covered by Tree Preservation Order, which reduce the prominence of the site in views from the countryside.

12. The Council has stated that the site forms part of a sensitive landscape, and I also note that the area falls between the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB) and the coast. There are also separate considerations concerning the North Thoresby Conservation Area and the ridge and furrow features within the site on which I comment later. However, no national or local designations specifically concerning the landscape of the area within which the appeal site is located have been drawn to my attention. Whilst the area has a rural charm to which I have given due regard in my decision, the evidence before me does not demonstrate that it has sufficiently distinctive qualities to be identified as a 'valued landscape' as referred to in paragraph 109 of the Framework.
13. The Council has stated that the appeal proposal would cause harm to the linear character of the development pattern within the western part of North Thoresby. However, the northern boundary of the proposed development, which would represent its furthest point from the High Street frontage, would not be much further from this frontage than the rear boundaries of the gardens of the neighbouring houses at Knowles Garth and of developed areas further to the east are from the same frontage. The northern boundary of the site is also aligned with that of the garden to the west, which occupies much of the area between the site and the existing developed sites further west fronting the A16.
14. The Council also states that the appeal proposal would result in there being further development between the historic core of North Thoresby and the buildings fronting the A16. However, as the new houses would be behind existing development in views from High Street and the A16 they would not form prominent features in the street scene along either of these highways. Views towards the site from the playing fields to the north would be heavily filtered by the existing line of mature trees to the north west of the appeal site. In any other views from publicly accessible locations the development would be more distant or seen in the context of the existing neighbouring development. Additional landscaping could also be required by condition, including along the northern boundary of the site, to ensure that there is an effective visual interface between the developed area and the countryside.
15. Having regard to all these points, although the proposal would be a form of 'backland' development which would result in there being a greater depth of development than currently exists along this specific part of High Street, I do not consider that the proposal would have an unacceptable effect on the settlement pattern of the area or on the visual relationship between the historic core of North Thoresby and the existing development fronting the A16.
16. The appeal proposal would necessitate the demolition of Willow Lodge, the loss of existing shrubbery in its garden and construction of an access road from this location into the main part of the site. However, whilst Willow Lodge is a substantial and prominently located brick house set within a verdant garden, there is no evidence to suggest that it is of particular architectural or historic interest. The access corridor that would need to be formed into the site would also be sufficiently wide to allow landscaping to be provided along its sides. The new houses within the proposed development, being behind the line of existing houses fronting High Street, would not be prominent in views from or along High Street. Taking account of these points, the proposal would not have an unacceptable effect on the street scene on High Street.

17. Although the site is immediately next to the boundary of the North Thoresby Conservation Area (CA), which covers the historic heart of the village to the east of the site, the Council has not argued that the appeal proposal would harm the setting of the CA. Given the lack of prominence of most of the site in the street scene, and the scope which exists to install suitable hard and/or soft landscaping alongside the new access which would be required off High Street, I agree with this assessment.
18. Whilst the site was overgrown at the time of my visit, the parties are agreed that it displays remnant evidence of ridge and furrow earthworks. Although the proposal which is subject to appeal is in outline form only, it is likely that it would lead to the substantial or complete loss of these earthworks. The Lincolnshire County Council Historic Environment Officer has confirmed that such features are becoming rare in the area and the Appellant has not brought forward any evidence to refute this. Indeed, the site may be the only example of this type of landform within the area around North Thoresby.
19. Set against these points however, whilst the ridge and furrow earthworks can be discerned within the site they are not prominent in views from High Street or other publicly accessible points in the surrounding area. Despite their local rarity, they do not constitute a particularly clearly defined example of this type of landform or have any statutory protection. Whilst they may have some archaeological interest (which I deal with separately in my 'other considerations' section), their loss would not have a substantial effect on the character or appearance of the area, particularly insofar as this is perceived in the street scene.
20. Having regard to all the points set out above, I consider that, provided that any scheme which is brought forward at reserved matters stage is of a suitable quality, the proposal would not cause substantive harm to the character or appearance of the site or the surrounding area. The granting of outline permission would not lead to any material conflict with the provisions of Policies A5 or H12 of the ELLPA or of the Framework, including the paragraphs referred to in the Council decision notice, related to this matter.

Other Considerations

21. Although the number of dwellings to be provided by the appeal proposal is unspecified, due to the size of the site (about 1.1 hectares) it could make a notable contribution to meeting the need for housing in the area. It could also deliver affordable housing for rent and/or shared ownership, which would increase the range of housing available.
22. Given the aim, set out in paragraph 47 of the Framework, of boosting significantly the supply of new housing the contribution that the proposal could make in this regard represents an important benefit. This is particularly so given the lack of a 5 year land supply and as the site is within easy reach of services and facilities in North Thoresby, which the ELLPA identifies as a 'Main Village' in which new housing is required to consolidate its role as a secondary service, employment and commuter centre¹, and in which evidence indicates there is only a limited amount of land available for housing development within the current village boundaries².

¹ Council officer report, 11 February 2016 – paragraph 8.6

² Appellant's statement – appendix 10

23. North Thoresby Parish Council and a considerable number of other interested parties have raised concerns about flooding and drainage issues, and it is clear that these matters are of considerable concern within the local community.
24. The Environment Agency has confirmed that the site is within Flood Zone 1, which is defined by the Framework as having a low probability of flooding. However, the evidence before me indicates that there is a history of surface water flooding in the area. The representations from interested parties express concerns for example about the Appellant's proposal for surface water to drain towards Church Lane via the Bond Croft Drain. Whilst works have been undertaken to address the causes of recent substantial flood events in the area the effectiveness of these is still being monitored. The concerns also relate for example to claimed inaccuracies in the submitted information regarding site levels and whether these may need to be increased, existing surface water drainage issues affecting nearby properties, the potential presence of a spring within the site fed by artesian water pressure, and fears that the proposal would, particularly when considered in conjunction with other approved proposals for housing development, place an excessive strain on the surface water drainage system in the area. I also note that a recent study commissioned by the Council has identified constraints concerning surface water and foul drainage infrastructure in relation to potential sites for housing development in North Thoresby.
25. Set against these points, however, the Appellant's indicative Flood Risk Assessment and Drainage Strategy proposes steps to achieve a maximum run off rate from the site, once developed, of 3.3 litres per second, which it identifies as equating to the existing 'greenfield' run off rate. A condition can be attached to any outline planning permission which is granted to ensure that a subsequent detailed proposal falls within this maximum rate of run off. In this context, I must assess the proposal in relation to the impacts that a suitably designed housing development would have in principle, rather than solely or primarily in relation to the history of previous flooding events in the area.
26. Furthermore, whilst the Environment Agency objected to the appeal proposal in November 2014, this was on the grounds that it did not consider that an acceptable Flood Risk Assessment (FRA) had at that point been submitted³³. Its subsequent letter dated 21 May 2015, which post-dated the submission of further information and referred for example to Multi Agency Group meetings which had taken place, acknowledged that the village is very sensitive in flood risk terms and identified matters which should be covered in a planning condition, but did not identify any objection to the principle of housing development within the site. As the Environment Agency is a statutory body with a remit covering surface water and flooding issues its views must be attributed substantial weight.
27. Anglian Water, which is identified as being responsible for a surface water sewer in the area of Church Lane, has also, whilst commenting on the technical requirements that any drainage proposal would need to satisfy, not raised any objections in principle to the proposal. The Council has also not included surface water drainage issues as a reason for refusal.

³³ Letter from Environment Agency dated 12 November 2014

28. In addition, it should be stressed that the proposal subject to appeal was submitted in outline, with all details including the number and type of dwellings, design and layout, all of which would influence the rate of surface water run-off, being subject to future approval. If a detailed scheme were to be proposed within which it is not demonstrated that the surface water management arrangements would be adequate for the scale and nature of development proposed, the Council would be able to refuse to grant the necessary approval.
29. In the meantime, a condition can be attached to an outline permission to ensure that any detailed proposal which may come forward contains a suitable surface water management scheme. Such a scheme would need to: be designed to prevent any increased risk of surface water flooding of neighbouring properties and address the implications of any spring which may exist on the site; ensure that suitable drainage can be provided without there being an unacceptable increase in site levels; include satisfactory arrangements concerning future maintenance and to address any future failures in the drainage system; and impose a suitable maximum limit on the rate of permitted surface water discharge. With the use of a suitable Sustainable Drainage System it can be reasonably expected that the peak rates of surface water discharge from the site would, as proposed by the Appellant, not exceed those from a greenfield site. Having regard to these points, dismissal of the appeal on the basis of the concerns related to surface water drainage would not be justified.
30. Concerns have also been expressed that there may not be adequate capacity in the foul water drainage system to accommodate the needs of the proposal and that the site levels may not permit gravity fed flow into the foul sewer in High Street. Anglian Water has however confirmed that it has no objections in relation to foul water drainage provision, and that a gravity connection is acceptable in principle⁴. The Council has not included this matter in its reason for refusal, and I have no evidence before me to justify coming to a different conclusion. There is no technical evidence before me which clearly demonstrates that a substantial change in ground levels would be needed to achieve the proposed gravity fed connection, and a condition can in any event be imposed to ensure that any change in ground levels would be subject to future approval by the Council.
31. Concerns have also been raised regarding for example: whether there is sufficient highway capacity in the area to safely accommodate additional traffic flows from the development; the effects on the junction of the A16 and High Street; parking issues associated with the bowling club, cricket club, primary school and some dwellings on High Street with resultant congestion; the numbers of entrances off High Street; the numbers of accidents in the area; physical constraints on the scope to widen local highways in the future; and footway provision on the south side of High Street.
32. Paragraph 32 of the Framework states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. In this context the proposed development would not be of a scale which is likely to result in a substantial proportionate increase in the level of traffic in the area. The Highway Authority did not object

⁴ Letter from Anglian Water dated 2 November 2015

to the application subject to appeal. Its consultation response confirms that: adequate visibility would be provided at the sole location where access could be provided to the site off High Street; this new access would be an adequate distance (85 metres) from the entrance to the North Thoresby Primary Academy; and the extra traffic from the proposed development would not be sufficient to have a significant impact on the operation of the junction of the A16 and B1201. Whilst I acknowledge that some parking is likely to take place associated with existing uses on High Street, there is no evidence before me to indicate that this is sufficiently prevalent to justify permission being withheld.

33. Having regard to these points, I do not consider that the proposal would result in severe residual cumulative impacts as referred to in paragraph 32 of the Framework.
34. I acknowledge the concerns which have been raised concerning local bus service provision for North Thoresby. However, as there is some bus service provision, and a primary school and other facilities exist within easy walking distance, I consider that the proposed dwellings would be served by an adequate choice of walking, cycling and other forms of transport.
35. The Historic Environment Officer has identified that the remnant ridge and furrow earthworks within the site, which would be lost or substantially lost as a result of the appeal proposal, could have some archaeological interest. Once heritage assets are lost they cannot be replaced. However, the site is not a designated heritage asset in the context of paragraph 132 of the Framework, and the Historic Environment Officer has requested that a condition be imposed to require adequate recording of any features of interest within the site before they are lost. As there is no evidence that the site has substantial archaeological interest, I consider this to be an appropriate approach which is consistent with that set out in paragraph 141 of the Framework. In the context of paragraph 135 of the Framework, the likely loss or substantial loss of the ridge and furrow landform as a heritage asset does not weigh heavily against the appeal proposal in the overall planning balance.
36. Whilst I note that a large number of objections has been submitted regarding the appeal proposal and the comments which have been made regarding localism, these points do not justify the refusal of permission in the absence of firm evidence that this is necessary having regard to the development plan and other material considerations. This is particularly so given the advice in Paragraph 187 of the Framework that decision makers should seek to approve applications for sustainable development where possible.
37. Although the Appellant's 'Draft Sketch Layout' plan shows access routes into the land to the north through the appeal site, any proposal for future development on that land would need to be assessed separately on its own merits.

Conditions

38. The Council submitted a list of suggested conditions to be imposed in the event of the appeal being allowed. My list of conditions in Appendix 1 to this decision is based upon this albeit with some alterations to wording to meet the tests set out in paragraph 206 of the Framework, mainly in relation to precision.

39. Condition 1, 2 and 3 on my list are standard conditions which confirm which matters are reserved for future approval, for the avoidance of doubt, and the timescales for submission of any application for the approval of reserved matters and for completion of the development. As the Council's list combined the timescales into a single condition the numbering of suggested conditions 3 to 10 inclusive on this list corresponds with that of conditions 4 to 11 on my list.
40. Condition 4 on my list, requiring the retention and safeguarding of trees and other landscaping, is required to protect the character and appearance of the area. My condition 5, covering surface water drainage and flooding matters, is needed to ensure that any effects of the development in relation to these issues are adequately controlled. My condition 6 would control foul water drainage provision in the interests of pollution control and to prevent risk of flooding.
41. My condition 7, concerning the provision of affordable housing, is needed to ensure that the development helps to meet local housing needs in accordance with Policy H6 of the ELLPA. I have added the words '*unless evidence is brought forward to show that this level of provision is not viable*' in relation to the Council's suggested minimum level of affordable housing provision of 30%, as this figure appears (from paragraph 8.54 of the Council's Committee report on the application) to be based on a recent Economic Viability Assessment which has yet to be subject to independent examination.
42. My condition 8 is included to ensure that the proposed development makes appropriate provision for open space and children's play facilities to meet the needs of its occupiers. My condition 9 is required to ensure that the proposal makes adequate provision for the protection and management of biodiversity interests within the site. My condition 10 is required to ensure that an adequate record is kept of the ridge and furrow earthworks which would be affected by the proposed development. My condition 11 is required to ensure that any change of ground levels within the proposed development would not harm the character and appearance of the area or the living conditions of occupiers of neighbouring dwellings in relation to overlooking.

Conclusion

43. In support of the appeal proposal, I have found that it would deliver market housing units in a district which currently has a shortfall in its supply of land for housing development. It would also be likely to deliver some affordable housing. Although the number of dwellings to be provided has yet to be confirmed, in the light of the Government's objectives of significantly boosting the supply of housing and delivering a wide choice of homes these would constitute notable benefits from the proposal.
44. I have found that the proposal would not, if suitably designed, cause substantive harm to the character or appearance of the site or the surrounding area. I have also found that the concerns raised by interested parties regarding drainage and highways matters can be addressed by imposing conditions and by using suitable design measures within a detailed scheme, and that there are no other matters which weigh heavily against the proposal in the planning balance.

45. I conclude that the benefits of the proposal would outweigh any harmful effects. Furthermore, mainly due to its contribution to the delivery of new housing the proposal would contribute to the economic and social dimensions of sustainable development set out in paragraph 7 of the Framework, and I consider that the proposal would, if suitable designed, jointly and simultaneously contribute to the aims of sustainable development as a whole.
46. I therefore allow the appeal and grant outline planning permission subject to conditions.

Jonathan Clarke

INSPECTOR

APPENDIX 1 – CONDITIONS

- 1) Details of the access, 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 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Any application for approval of reserved matters relating to landscaping must make provision for the retention and safeguarding of trees along the Bond Croft Drain as detailed in the Tree Report undertaken by Tree Lincolnshire Tree Services and submitted with the application. The submission must also include measures to protect all trees or other planting to be retained.
- 5) Any application for approval of reserved matters relating to layout must include a proposed surface water drainage strategy for the whole site including an assessment of the hydrological and hydrogeological context of the development. The strategy must be based on the principles outlined in the Flood Risk Assessment and Drainage Strategy Rev B prepared by BSP Consulting dated March 2015 and received by the local planning authority on 21 April 2015. The strategy must also include:
 - (a) evidence to show that surface water run-off generated up to and including a 1 in 100 year plus climate change critical storm rainfall event will not exceed the run-off from the undeveloped site following the corresponding rainfall event;
 - (b) details of attenuation measures which must be sufficient to ensure that maximum discharge rates shall not exceed 3.3 litres per second;
 - (c) details of the timeline for, and any phasing of, implementation of the drainage strategy;
 - (d) details of how the drainage within the site shall be maintained and managed over the lifetime of the development;
 - (e) details, based on the results of any further investigation that is needed, of any spring or other ground water source which may exist within the site and of how this will be either removed or managed within the proposed development;
 - (f) details to ensure that occupiers of neighbouring properties would not be affected by surface water from the site, and to manage overland flood flow paths; and
 - (g) details of intrusive ground investigations of sufficient quantity and location to ensure that the proposed surface water scheme, and flood risk mitigation measures, are suited to the needs of the final design and layout of the development.

- The development must be carried out in accordance with the approved drainage strategy and no dwelling shall be occupied until the approved drainage strategy has been implemented in accordance with the approved phasing. The approved drainage provision must be retained and maintained in full in accordance with the approved details.
- 6) All foul water waste from each dwelling within the development must be connected to the existing public sewerage system in High Street before occupation of the respective dwelling. Connection must be retained at all times thereafter.
 - 7) The development shall not begin until a scheme for the provision of affordable housing on the site has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - (a) The numbers, type, tenure and location on the site of the affordable housing provision to be made which shall be distributed throughout the development and which shall consist of not less than 30% of the total number of proposed dwellings in the site if this would equal 15 or more (unless evidence is brought forward to show that this level of provision is not viable);
 - (b) The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing. No more than 80% of the market housing shall be occupied before the affordable housing is completed ready for occupation;
 - (c) The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no registered social landlord is involved);
 - (d) The arrangements to ensure that such provision is affordable for both first and all subsequent occupiers of the affordable housing; and
 - (e) The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
 - 8) Notwithstanding the submitted details an Open Space Strategy, covering all forms of formal and informal open space proposed within the development must be submitted to and approved in writing by the local planning authority. This must include a children's play/amenity space and be integral to the layout of the site indicated within any application for approval of reserved matters related to this matter. The strategy shall include specifications, timing of completion within the development and the on-going management arrangements for each of its elements. The development must be implemented in accordance with the approved strategy and each element of the strategy thereafter retained at all times that the development is in use.
 - 9) Notwithstanding the submitted details no part of the development shall be implemented unless a habitat and biodiversity enhancement plan for

the whole site has been submitted to and approved in writing by the local planning authority. The submission must implement the recommendations of the Ecology and Protected Species Survey undertaken by Scarborough Nixon Associates Ltd dated April 2014. Particular regard must be given to the need for an additional walkover survey for reptiles, retention of vegetation, additional nesting boxes and relocation of cowslips. The submission must show how the proposed development would take these measures into account and include a timetable for implementation. The development must be implemented in accordance with the approved details.

- 10) No development shall take place until a scheme specifying the proposed method of recording the ridge and furrow earthworks within the site has been submitted to and been approved in writing by the local planning authority. The recording of the earthworks must be fully implemented in accordance with the agreed scheme prior to the start of development.
- 11) Any application for approval of reserved matters in relation to access, layout, appearance, landscaping, or scale must be accompanied by details of existing and proposed land levels, including cross sections of the site in both a north-south and east-west direction. The cross sections must show the relationship of the levels within the site to those within neighbouring land and dwellings.