

Appeal Decision

Site visit made on 26 September 2016

by Janine Townsley LLB (Hons)

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

Decision date: 4 November 2016

Appeal Ref: APP/N2535/W/16/3150309

Land on the North Side of Waterford Lane, Lincolnshire, LN3 4AN

- 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 PCC Consultants Ltd against the decision of West Lindsey District Council.
 - The application Ref 133957, dated 25 January 2016, was refused by notice dated 24 April 2016.
 - The development proposed is new residential development with a mixture of three and four bedrooms with associated parking, private gardens and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for new residential development with a mixture of three and four bedrooms with associated parking, private gardens and landscaping at land on the north side of Waterford Lane, Lincolnshire LN3 4AN in accordance with the terms of the application, Ref 133957, dated 25 January 2016, and the plans submitted with it, subject to the following conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by PCC Consultants against West Lindsey District Council. This application is the subject of a separate Decision.

Procedural and Background Matters

3. The application is for outline planning permission with all matters reserved.
4. The application for planning permission was reported to the planning committee with a recommendation of approval. Members of the planning committee resolved to refuse permission for reasons related to the effect of the development on the character and appearance of the area and the potential noise nuisance from the adjacent railway line on future occupiers of the proposed dwellings.
5. The Council has submitted The Central Lincolnshire Local Plan for examination but the examination process is not yet complete. As such, the saved policies of the West Lindsay Local Plan First Review 2006 (WLLP) comprise the statutory development plan for the district. It is common ground between the parties that since the proposal falls outside of the settlement boundaries that it would represent development in the countryside and that none of the exceptions set

out within policy STRAT12 would apply. Therefore the development would be contrary to policies STRAT 9 and STRAT12.

6. The Council's position is that policy STRAT12 is consistent with the core principles of the National Planning Policy Framework (the Framework) and in this particular paragraph 17 which requires that development "*take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.* Whilst the policies of the WLLP may be time expired, they remain to be the statutory development plan and given there is no dispute that the relevant policies are consistent with the Framework, I have determined this appeal by reference to the current local and national planning policies.
7. Furthermore, the Framework post-dates the WLLP and places a requirement on Councils to "identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements", the position of the Council is that the latest Housing Land Availability Assessment (April 2016) identifies a need of 11,531 dwellings across five years, which includes a 20% buffer and previous undersupply. The assessment identifies a land supply of 5.33 years (12,283 dwellings) in the five year period 2016/17 to 2020/21.
8. The figures (and updated figure within an updated report published in September 2016) show the Council is able to demonstrate a supply of housing land to meet the need over a five year period, at 5.26 years according to the September 2016 figures. However this includes a windfall allowance and is dependent upon departures from the extant plan. The Framework states that housing supply policies should not be considered up-to-date where a five year supply cannot be demonstrated. Whilst the LLP has been submitted for examination, it is still liable to change. As such, I attribute limited weight to its policies and its housing land availability figures. The Council also accept that the spatial strategy of the WLLP is out of date and does not have sufficient allocations remaining in the plan to meet the objectively assessed five year supply. Therefore it is inevitable that departures from the WLLP will be necessary to make up that shortfall. Consequently, the Council accepts that the housing supply policies are considered to be out of date, and therefore presumption in favour of sustainable development as set out within the Framework is a material factor.
9. The facilities and services within Cherry Willingham include a doctor's surgery, public library, a public house and a number of shops and food outlets. There is also a primary school and community school. There is a bus stop adjacent to the site with a regular bus service to Lincoln. There is no dispute as to the sustainable nature of the location of the site.

Main Issues

10. Taking into account the above areas of consensus, the main issues to be determined are the effect of the development on the character and appearance of the area and the effect on the living conditions of future occupiers with particular reference to noise.

Reasons

Character and Appearance

11. The appeal site lies adjacent to the village of Cherry Willingham. The linear site is situated between by Waterford Road and a raised bank which supports the railway. Mature trees and shrubs divide the site and highway and these generally screen views into the site.
12. The site is currently unoccupied by any permanent buildings and therefore the development of up to 9 dwellings would inevitably result in a change to the character and appearance of the site. However, the character of the general area is derived from the dwelling houses within the adjacent village and the open fields beyond the railway line.
13. The site is generally enclosed by the trees and railway line and this contrasts with the open character of the fields beyond. Furthermore, the presence of the railway line acts as a physical boundary feature, this reinforces the relationship between the site and the dwellings within the village and acts as a visible point for the transition to countryside beyond. Therefore, whilst in policy terms the site falls outside of the settlement, the proximity of the dwellings, the enclosed nature of the site and the presence of the railway line define the character of the site. Consequently the character and appearance of the appeal site relates more closely to the settlement than the fields beyond. I consider this to be a significant factor since it means that the development of the site would not detract from the rural character of the settlement edge and the countryside beyond and in this regard would accord with policy NBE 20.

Living Conditions

14. The linear nature of the site adjacent to the railway track means that much of the site is in close proximity to the track. The railway line is served by both passenger trains and freight trains and is in regular use both day and night. Whilst on site I observed a freight train passing. As such I consider the setting of the site gives rise to the risk of future occupants being exposed to noise nuisance.
15. In recognition of this, the appellant has commissioned a report on sound measurements and recommendations. The report recommends a scheme of sound insulation for the dwellings including acoustic double glazing, specialist plasterboard ceilings and ventilators, together with the installation of a 2 metre acoustic boundary treatment to mitigate sound levels within private gardens.
16. I have taken into account Planning Policy Guidance "Noise" which advises that sound mitigation measures can be utilised to ensure no significant adverse effect on receptors. Whilst I note the concern of the Council that future occupiers of the dwellings may be exposed to unacceptable noise levels due to the proximity of the railway line, there is nothing before me to suggest that the programme of mitigation suggested by the appellant would not be able to secure a good standard of amenity for future residents. Accordingly, this is a matter which could adequately be addressed by means of a condition. Furthermore, matters such as the optimal siting and orientation of the dwellings to avoid noise disturbance from the train line and adjacent road are matters which can be addressed further at the reserved stage when site layout would be considered.

17. I note that no objection was recorded by the Council's Environmental Protection Officer in relation to the potential impact of noise from the railway line and this adds further weight to my conclusions.
18. Overall therefore, I conclude that through the use of appropriately worded conditions, future occupants would not be exposed to unacceptable levels of noise from the adjacent railway line.

Conditions

19. Other than the standard conditions relevant to a grant of outline planning permission for the submission of reserved matters and the standard time limit condition, conditions requiring the submission of a construction method statement and requiring the construction of a pedestrian footway along the frontage of the site are necessary in the interests of amenity and in the interests of highway safety and. Conditions requiring appropriate foul and surface drainage to facilitate satisfactory drainage of the site and to prevent the risk of pollution. A condition requiring an adherence with the ecological report submitted with the planning application is necessary in the interests of nature conservation. Conditions relating to potential works near the railway operators boundary and exterior lighting are necessary to ensure the safety of the railway network and a condition dealing with the required sound insulation measures for the proposed dwellings is required in the interests of the living conditions of future occupants of the appeal site.
20. I have considered requested conditions to ensure motor vehicles can egress the site in forward gear and relating to the loss of existing trees and hedgerows, however, these are matters which can be dealt with at the reserved matters stage.

Conclusion

21. Whilst I have concluded that the development would fail to accord with policies STRAT9 and STRAT12 of the WLLP, I consider that for the aforementioned reasons, there are significant factors which weigh in favour of the development. Accordingly, the appeal should be allowed.

Janine Townsley

Inspector

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2) 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 begins and the development shall be carried out as approved.
- 3) An 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.
- 4) No building hereby permitted shall be occupied until the sustainable drainage scheme for the site has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
- 5) No building hereby permitted shall be occupied until the sustainable drainage scheme for the site has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
- 6) No development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
 - i) a timetable for its implementation, and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.
- 7) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - iii) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

- iv) include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 8) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - v) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - vi) include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 9) None of the dwellings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the local planning authority.
- 10) No development shall take place until a scheme has been agreed in writing by the local planning authority for the construction of a 1.8 metre wide footway, together with arrangements for the disposal of surface water run-off from the highway along the frontage of the site. The agreed works shall be fully implemented before any of the dwellings are occupied unless otherwise agreed with the local planning authority.
- 11) No development shall take place until full details of any excavations and earthworks to be carried out on or near the railway undertaker's boundary fence have been submitted to and approved by the Local Planning Authority acting in consultation with the railway undertaker. Any works shall only be carried out in accordance with the approved details.
- 12) The development shall be carried out in accordance with the ecological report submitted (Ecology and Protected Species Survey: Land off Waterford Lane, Cherry Willingham, Lincolnshire dated December 2015) with the application, including provision of any proposed details of habitat protection.
- 13) The dwellings shall be constructed to provide sound insulation from the railway and shall include the following mitigation methods unless otherwise agreed in writing by the local planning authority -

- vii) Double glazing comprising 8mm and 16.8mm acoustic glass separated by a 16mm air gap
 - viii) Plasterboard ceiling consisting of two layers of 12.5mm acoustic plasterboard (eg. Soundbloc or similar) with mineral wool above
 - ix) Passive ventilation provided by Greenwood MA3051 acoustic ventilators or their acoustical equivalent
 - x) External walls constructed using cavity block work or brickwork
 - xi) Garden boundary fence constructed to an acoustical standard (ie, imperforate with no air gaps or sightlines between boards or under the fence.)
- 14) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- xii) the parking of vehicles of site operatives and visitors
 - xiii) loading and unloading of plant and materials
 - xiv) storage of plant and materials used in constructing the development
 - xv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - xvi) wheel washing facilities
 - xvii) measures to control the emission of dust and dirt during construction
 - xviii) a scheme for recycling/disposing of waste resulting from demolition and construction works
 - xix) details of noise reduction measures;
 - xx) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - xxi) the hours during which machinery may be operated, vehicles may enter and leave, and works may be carried out on the site;
 - xxii) details of the use of any vibro-compaction machinery to be used in development
- 15) Details of any proposed exterior lighting shall be submitted to and approved in writing by the local planning authority in consultation with railway undertaker before the dwellings are first occupied. The development shall be carried out in accordance with the approved details.