
Appeal Decision

Site visit made on 25 January 2017

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 20th March 2017

Appeal Ref: APP/Y2003/W/16/3160399

Grayingham Road, Kirton Lindsey, Lincolnshire DN21 4EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Gelder Ltd and Mr Barnard against the decision of North Lincolnshire Council.
 - The application Ref PA/2015/1520, dated 10 December 2015, was refused by notice dated 27 July 2016.
 - The development proposed is a proposed new development of 16 No. 3/2 bed houses along with associated hard and soft landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I note that the site address above refers to Kirton Lindsey, which is taken from the planning application form. The settlement is however named on other documents, and the Council's submissions, as Kirton in Lindsey. I have referred to the latter in my findings below.

Main Issue

3. The main issue is whether or not the appeal site is a suitable site for affordable housing with specific regard to its location.

Reasons

4. The appeal site is an irregular shaped parcel of land located on the edge of the settlement, directly abutting its built extremities. It is outside of the settlement limit as defined by the development plan and is therefore, in planning terms, within the countryside. The Core Strategy¹ makes clear that new housing should be directed to those areas within the defined settlement limits. This is in the interests of, amongst other things, the promotion of sustainable patterns of development and is one of the guiding principles of the Framework².
5. Saved Policy RD2 of the Local Plan³ sets out exceptions for development that may be permissible in the countryside. One of these is affordable housing to

¹ North Lincolnshire Local Development Framework Core Strategy 2011 – Policy CS3

² The National Planning Policy Framework 2012

³ North Lincolnshire Local Plan Including Policies for Minerals and Waste 2003

meet a proven local need. It is common ground between the Council and the appellant that, following a parish survey in 2009, there was a need identified for 31 affordable dwellings. Further evidence in the Council's officer report to planning committee sets out that a further 44 households are active on the Council's waiting list for accommodation in Kirton in Lindsey. Whilst I do not have evidence before me pertaining to the status of these other 44 households, it seems clear to me that there is an identified, and evidenced need for affordable housing in Kirton in Lindsey.

6. With this in mind, the Council state that the need that has been identified could be met by three housing sites that have been allocated in their adopted DPD⁴. Specifically, these are Station Road (KIRH-1) Beechcroft (KIRH-2) and the former RAF Kirton in Lindsey (KIRH-3). These are all strategic level sites that have the potential to deliver significant levels of new housing. The Council further state that as a result, the appeal site is not required for affordable housing; is in the countryside and as such contrary to established planning policy.
7. As per Policy CS9 of the Core Strategy, a proportion of the dwellings on the above mentioned sites would have to provide affordable housing. Indeed, the Council state that there are live planning applications for 41 dwellings on the site at Beechcroft and 27 on the site at Station Road. These would have the potential to provide, between them, a total of 13 affordable dwellings according to the Council's evidence and the requirements of Policy CS9.
8. However, 13 falls considerably short of 31. The aforementioned two developments are still effectively at proposal stage and do not yet have the benefit of planning permission. In addition, I have not been provided with any further details of whether or not they are deliverable in the context of any financial or physical constraints. Furthermore, the granting of a planning permission is in any event no guarantee that the site will be developed and thus the affordable housing brought forward.
9. For these reasons, I consider that they cannot be relied upon, at this moment in time, to deliver the affordable housing for which there is an evidenced local need. The appeal site before me is open and undeveloped, has no clear development constraints and is being proposed wholly for affordable housing. The principle of the proposed development, in these circumstances, under the exceptions of saved Policy RD2, would therefore be acceptable.
10. However, I have no sufficiently robust mechanism before me to identify and secure the proposed development as one for affordable housing. I note the Council's suggested list of planning conditions and specifically condition 14 which requires the agreement of a scheme for the provision of affordable housing prior to the commencement of development. Such a scheme would normally be through an agreement under Section 106⁵.
11. Planning Practice Guidance states that, in exceptional circumstances, a negatively worded condition requiring a planning obligation or other agreement to be entered into before certain development can commence may be appropriate in the case of more complex and strategically important

⁴ North Lincolnshire Local Development Framework Housing and Employment Land Allocations Development Plan Document 2016

⁵ Section 106 of the Town and Country Planning Act 1990

development where there is clear evidence that the delivery of the development would otherwise be at serious risk.

12. In my view, the proposed development cannot be considered to be a complex or strategically important development. It follows that the use of a negatively worded condition would be inappropriate in this case.
13. Given that the proposed development would only be acceptable under saved Policy RD2 if it consisted purely of affordable housing, and taking into account that I have no mechanism before me to ensure such an eventuality, I have no option other than to dismiss the appeal.

Other Matters

14. The appellant has submitted three copies of an executed agreement, each one signed by the relevant parties. Whilst not an ideal situation, in certain circumstances counterpart obligations are the only practical option and provided they are identical can be accepted. On my reading of the agreements that have been submitted however, they appear to deal with a contribution for recreation only. There is no provision in the schedules to secure the dwellings concerned as affordable. As such, the submission of the agreements does not alter my conclusions on the appeal before me.

Conclusions

15. For the above reasons and having regard to all other matters raised, including those by third parties, the appeal is dismissed.

John Morrison

INSPECTOR