

Appeal Decision

Hearing held on 4 May 2017

Site visit made on 4 May 2017

by Beverley Doward BSc BTP MRTPI

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

Decision date: 31 May 2017

Appeal Ref: APP/N2535/W/16/3162281

Land North of Old Gallamore Lane, Middle Rasen, Lincolnshire

- 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 Charles Pickering (Zodiak Construction Limited) against the decision of West Lindsey District Council.
 - The application Ref 134578, dated 13 June 2016, was refused by notice dated 21 October 2016.
 - The development proposed is the erection of up to 47 dwellings together with public open space and associated access arrangements. All other matters are reserved.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was submitted in outline form with all matters other than access reserved for future consideration. I have considered the appeal on this basis treating the submitted masterplan indicating a possible layout for 47 dwellings, the provision of public open space and grazing paddocks as being for indicative purposes only.
 3. The Council's decision notice refers to policies of the West Lindsey Local Plan (First Review) 2006 (WLLP) and the submitted Central Lincolnshire Local Plan April 2016. The Central Lincolnshire Local Plan (CLLP) was adopted on 24 April 2017 and replaced the WLLP. The parties agree that the CLLP now forms the relevant development plan for the area and that the relevant policies should be given full weight. I have dealt with the appeal on this basis.
 4. Following the issue of the Inspectors' Report on the examination of the CLLP dated 10 April 2017 the appellant indicated that he accepted that the matter of housing land supply had been robustly tested through the CLLP examination and that the Inspectors' Report had concluded that there is a good prospect that there will be an up-to-date supply of deliverable sites sufficient enough to provide five years' worth of housing against the requirements of the plan upon adoption. At the Hearing the appellant confirmed that he did not seek to contest the matter of housing land supply albeit my attention was drawn to the fact that the CLLP does not allocate sites to meet the full housing requirement and that there was therefore a reliance on windfall sites coming forward over the plan period to meet housing needs. It was agreed that the calculations for
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the purposes of the five-year supply¹ include a windfall allowance of 748 dwellings which comprises 300 dwellings for the City of Lincoln and 448 dwellings for the rural area which includes Middle Rasen.

5. An application for costs by Mr Charles Pickering against West Lindsey District Council was submitted with the appeal documentation. However, this was subsequently withdrawn before the start of the Hearing.
6. My accompanied site visit included walking around the site, walking the public right of way across the site and some of those in the wider area. I also viewed the site from the rear garden of 6 Mayfield Crescent.
7. At the Hearing reference was made by an interested party to the number of housing sites with planning permission in Middle Rasen. The Council was unable to provide the detailed figures to substantiate the evidence provided at the Hearing therefore I gave the Council the opportunity to provide the details in writing after the Hearing session. The Council submitted the information within the timescales set and the appellant was provided the opportunity to comment upon it in writing.

Main Issues

8. The main issues in this case are:
 - whether the proposal would be acceptable with reference to the spatial strategy of the area, having particular regard to the scale of the proposed development;
 - the effect of the proposed development on the character and appearance of the area, with particular regard to the Green Wedge; and
 - the effect of the proposed development on the living conditions of the occupiers of neighbouring dwellings.

Reasons

Spatial strategy

9. Policy LP2 of the CLLP indicates that the spatial strategy will focus on delivering growth for Central Lincolnshire that meets the needs for homes and jobs, regenerates places and communities and supports necessary improvements to facilities, services and infrastructure. It also indicates that decisions on the location and scale of development will be assisted by a Central Lincolnshire Settlement Hierarchy.
10. The settlement hierarchy is set out in policy LP2 of the CLLP and Middle Rasen is identified as a large village. The policy indicates that to maintain and enhance their role as large villages which provide housing, employment, retail and key services and facilities for the local area the identified settlements will be a focus for accommodating an appropriate level of growth. It indicates that most of this growth will be via sites allocated in the plan or appropriate infill, intensification or renewal within the existing developed footprint. However, it also indicates that in exceptional circumstances additional growth on non-allocated sites in appropriate locations outside of, but immediately adjacent to, the developed footprint of these large villages might be considered

¹ Central Lincolnshire Five year Land Supply Report 1 April 2017 to 31 March 2022 (Published September 2016)

favourably, though these are unlikely to be of a scale over 25 dwellings /1 ha per site (whichever is the smaller).

11. The appeal site is not allocated for residential development in the CLLP and the proposed development would not comprise infill, intensification or renewal within the existing developed footprint. Having regard to my findings below in relation to the second main issue, the site, if developed, could be considered to be in an 'appropriate location' immediately adjacent to the developed footprint of Middle Rasen as defined by the policy. However, the scale of the development being proposed is significantly more than 25 dwellings and whilst I appreciate that the policy wording provides some flexibility by the use of the word 'unlikely', a development of up to 47 dwellings, as is the case here, would be almost double the scale of development indicated in the policy as appropriate for a large village such as Middle Rasen.
12. In any event I am not persuaded that in this particular case any exceptional circumstances exist to justify approval of the proposed development given that the absence of any residential allocations in the CLLP within Middle Rasen and the reliance on windfall sites coming forward over the plan period to contribute towards meeting the overall housing requirement were clearly factors known to the Inspectors that examined the CLLP and found it to be sound on this basis as recently as 10 April 2017.
13. Accordingly, I consider that the appeal proposal would not be acceptable with reference to the spatial strategy of the area, having particular regard to the scale of the proposed development and would be contrary to policy LP2 of the CLLP.

Character and Appearance/Green Wedge

14. The appeal site forms part of an area defined as a 'Green Wedge' in the CLLP. Policy LP22 of the CLLP indicates that the Green Wedges have been identified to fulfil one or more functions and policy aims. It goes on to indicate that within Green Wedges planning permission will not be granted for any form of development including changes of use, unless it can be demonstrated that the development is not contrary or detrimental to their identified functions and aims or that it is essential for the proposed development to be located within the Green Wedge, and the benefits of which override the potential impact on the Green Wedge.
15. It is no part of the appellant's case that it is essential for the proposed development to be located within the Green Wedge. The Council refers to the supporting text to policy CLLP and indicates that residential development is not included within the types of development that the supporting text indicates may be acceptable, so long as they are not detrimental to the character, role and function of the Green Wedge within which they are situated. Whilst this may be the case, from my reading of the supporting text it seems to me that the list of acceptable types of development is not exclusive but rather specifies some examples that may be included in this category. Accordingly, it is necessary to consider whether the proposed development would be contrary or detrimental to the relevant functions and aims of the Green Wedge which, having regard to the Central Lincolnshire Green Wedge and Settlement Breaks Review April 2016, in this case seem to me to be primarily to prevent the merging of Market Rasen and Middle Rasen and preserve their separate identity and character.

16. The appeal site comprises a number of fields, largely grazed by horses on the north-east edge of the built-up area of Middle Rasen. There is also a small garden centre/nursery on part of the site. The Inspector in a recent appeal decision² for residential development on the site described the site as not unattractive, being part of the open countryside setting of Middle Rasen, but also unremarkable in, and indistinct from, both its local and wider rural landscape context. From what I observed on my site visit I agree with this description.
17. The character of the appeal site is defined by the land use, largely grazed paddocks and a small garden centre/nursery, and its association with the settlement edge and the River Rase. The western half of the site has a semi-rural character with urban influence to the west and south from the adjacent properties. The urban influence gradually reduces towards the eastern end of the site giving it a more rural character with the river corridor being more evident and views being afforded towards the Lincolnshire Wolds.
18. In relation to this main issue, although the Council acknowledges the findings of the Inspector on the previous appeal proposal for residential development on the site it specifically contends that the proposed development would encroach into the countryside having an urbanising and harmful impact on the character of Old Gallamore Lane and on the footpath running through the site.
19. Whilst there would be some views of the development from Old Gallamore Lane, I saw from my site visit that there are already houses visible along the lane. Furthermore, having regard to the Landscape and Visual Assessment submitted with the planning application and the indicative masterplan, it would be possible to achieve a layout for the proposed development which, with the retention of much of the existing hedge along Old Gallamore Lane, would not lead to a stark change to its character.
20. In relation to the effect of the proposed development on the footpath running through the site I am particularly mindful of the findings of the previous Inspector on this matter. The footpath is relatively short, being a link between two lanes, rather than traversing the full width of the countryside within the Green Wedge between Middle Rasen and Market Rasen. The footpath would be retained on its original alignment and whilst there would inevitably be views of the development from the footpath it would run through the retained paddock at the western end and maintain an open and semi-rural outlook with views to the Lincolnshire Wolds Area of Outstanding Natural Beauty in the distance. Accordingly, I am not persuaded that the proposed development would unduly urbanise the footpath.
21. As with the previous Inspector who considered a similar, albeit slightly larger scale, residential development proposal on the site, I consider that, in so far as the proposed development would be situated in the Green Wedge it could not fail to reduce physically the gap between Middle Rasen and Market Rasen. However, its impact on the character and appearance of the Green Wedge would be limited and there would not be any actual or perceived sense of coalescence between the two settlements. Accordingly, the separate identity and character of the settlements would be preserved. The proposed development therefore would not be detrimental to the function and policy aims of this particular Green Wedge.

² APP/N2535/W/15/3139041

22. To conclude on this main issue therefore, the proposed development would not materially harm the character and appearance of the area, with particular regard to the Green Wedge. Accordingly, it would comply with policy LP22 of the CLLP.

Living conditions

23. As indicated above the planning application subject to this appeal was accompanied by a masterplan indicating how 47 dwellings could be accommodated on the site. The appellant indicates that the masterplan seeks to address the concerns raised by the previous Inspector in relation to this main issue in his consideration of the earlier appeal proposal on the site which was for the erection of up to 53 dwellings.
24. A number of the existing dwellings in Mayfield Crescent and Meadowfield on the western/south western boundary of the site have open or sparse, low boundaries with the appeal site and the rear gardens to the dwellings are, in some cases, very short. In addition, in the case of No 6 Mayfield Crescent and Nos 4 and 5 Meadowfield, the dwellings are in close proximity to the site boundary. However, from the evidence I am satisfied that it would be possible at the reserved matters stage to achieve a layout for the proposed development that would provide a suitable separation distance between these existing dwellings on the site's western/south western boundary and the proposed dwellings to prevent overlooking and ensure that their outlook, both actual and perceived, was not significantly compromised or that there was no significant adverse loss of light. The appellant has indicated that he would be agreeable to a condition limiting the dwellings on the western/south western boundary of the site to a single storey in height and given that the dwellings on Mayfield Crescent and Meadowfield are bungalows the imposition of such a condition would further mitigate against the development having any adverse impact in these respects.
25. In relation to the other properties on the western boundary of the site, namely The Old Vicarage and Nintirri, I am satisfied from the evidence that it would be possible in the consideration of the reserved matters of layout and landscaping to achieve a scheme which was reflective of that indicated in the masterplan and that such a scheme would ensure that satisfactory living conditions would be provided for the occupiers of these neighbouring dwellings with particular regard to privacy, outlook and light. In this respect the masterplan indicates that the field adjacent to Nintirri and The Old Vicarage would be retained as a private paddock and that additional planting, albeit set away from the boundary, would provide screening from the public footpath across the paddock.
26. In the case of the existing dwellings, known as Bel Mar and The Cherries on the southern boundary of the site these properties are set well back from the boundary with the site and have lengthy rear gardens. Therefore, I am satisfied that given the intervening distance the proposed development would not compromise the living conditions of the occupiers of these properties with respect to privacy, outlook and light.
27. The daily activities of the occupiers of the proposed residential development would be likely to generate some noise. However, I see no reason why the noise levels associated with these activities should be such as to be so intrusive

so as to cause material harm to the living conditions of the occupiers of neighbouring dwellings with regard to noise and disturbance.

28. To conclude on this main issue therefore, I am satisfied that the appeal proposal would not cause material harm to the living conditions of the occupiers of neighbouring dwellings. It would therefore comply with policy LP26 of the CLLP which sets out, amongst other things the amenity considerations which all development proposals should demonstrate. This policy is the most relevant of the CLLP policies indicated by the Council as having replaced the previous WLLP policies referred to on the decision notice in relation to this issue. Policy LP1 of the CLLP relates to the presumption in favour of sustainable development as set out in the National Planning Policy Framework (the Framework).

Other matters

29. There are three listed buildings in proximity to the site, the Grade II listed Watermill, Grade II listed Old Vicarage (formerly Laretto) and Grade II* listed Church of St Peter and St Paul. The Council has not raised any objections to the effect of the proposed development on the designated heritage assets and from my observations on site I consider that the appeal proposal would preserve the setting of the listed buildings. Accordingly, it would comply with the principle of the Framework of conserving and enhancing the historic environment.
30. Interested parties raised a number of concerns in relation to highway safety, flooding and human rights. However, as I am dismissing the appeal for other reasons. It is not necessary for me to address these matters further.
31. A certified copy of a section 106 Agreement relating to the provision of open space and contributions towards the maintenance of the open space, affordable housing, education facilities, and health care facilities was submitted with the appeal documentation. Whilst the obligation in relation to affordable housing would have benefits the provisions of the section 106 Agreement would not overcome the harm that I have found arising from the proposal. Therefore, they have not had a significant bearing on my decision.

Conclusion

32. To conclude therefore, I have found that the appeal proposal would not materially harm the character and appearance of the area, with particular regard to the Green Wedge and would not cause material harm to the living conditions of the occupiers of neighbouring dwellings. In these respects therefore, it would comply with policies LP22 and LP26 of the CLLP. However, it would not be acceptable with reference to the spatial strategy of the area, having particular regard to the scale of the proposed development and would therefore be contrary to policy LP2 of the CLLP. Overall therefore, the appeal proposal would be contrary to the development plan as a whole.
33. I have found no material considerations which would warrant making a decision other than in accordance with the development plan. Therefore, for the reasons set out above and having regard to all other matters raised, the appeal should be dismissed.

Beverley Doward INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Thomas Smith MRTPI
Brian Duckett MLA

Hankinson Duckett Associates

FOR THE LOCAL PLANNING AUTHORITY:

Cllr Thomas Smith
George Backovic

West Lindsey District Council
West Lindsey District Council

INTERESTED PERSONS:

Mrs Lesley Bailey
Mrs Marie Feetham
Mr John Williamson
Mrs Christine Williamson
Mrs Sharon Law
Mrs Wendy Codd

DOCUMENTS SUBMITTED AT THE HEARING SESSION

Email from West Lindsey District Council dated 3 May 2017 confirming that policies LP1 and LP26 of the CLLP have replaced policies STRAT1 and RES1 of the WLLP and detailing text of policies LP1 and LP26 of the CLLP.

List of suggested conditions

Additional statement of West Lindsey District Council in respect of CIL Regulation compliance of S106 agreement

Extracts from Policies Map for CLLP relating to Middle Rasen and Market Rasen

DOCUMENTS SUBMITTED AFTER THE HEARING SESSION

Email from West Lindsey District Council dated 5 May 2017 attaching details of the housing sites referred to by an interested party.

Email from Appellant's Agent providing comments on details provided by West Lindsey District Council the housing sites referred to by an interested party.

Email from West Lindsey District Council dated 8 May 2017 confirming the number of dwelling units permitted on site 133601 in Middle Rasen.