



Appeal Decision

Site visit made on 16 November 2017

by D Guiver LLB(Hons) Solicitor

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

Decision date: 20th December 2017

Appeal Ref: APP/N2535/W/17/3181556

Land south of Caistor Road, Swallow, Market Rasen, Lincolnshire LN7 6AT

- 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 HJW Developments Limited and Bellview Homes against the decision of West Lindsey District Council.
 - The application Ref 135704, dated 19 January 2017, was refused by notice dated 9 June 2017.
 - The development proposed is the erection of 4no. dwellings with integral garages.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues is whether the proposed development is in an appropriate location with particular regard to the effect of the scheme on:
 - the character and appearance of the village of Swallow and the surrounding countryside; and
 - protected species with particular regard to great crested newts (GCN).

Reasons

Character and Appearance

3. Policies LP17 and LP26 of the Central Lincolnshire Local Plan 2017 (the Local Plan) together seek to ensure that developments contribute positively to the local character and landscape and do not result in ribbon development. Policies LP2 and LP55 of the Local Plan together seek to restrict residential development in the countryside to dwellings necessarily required for rural operations such as agriculture and forestry, or for sport and recreation, transport or utilities.
4. Policies LP2 and LP4 of the Local Plan identify Swallow as a tier 6 settlement meaning that in principle developments of up to four dwellings could be permitted within the village.
5. The village is located within the northern boundary of the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB) which has the highest status of protection. In accordance with paragraph 115 of the National Planning Policy Framework (the Framework), the conservation of the landscape and scenic beauty is a material consideration to which I attach great weight.

6. The appeal site is located to the west of the village of Swallow, which is a small settlement east of Caistor with housing mainly clustered around two roads travelling roughly east to west and one road running roughly north to south.
7. The appeal site is outside the existing developed footprint of the village and comprises a green-field site of rough pasture fronting Caistor Road. Beyond the appeal site, the ground slopes away south towards two ponds and a shallow watercourse. The land north, south and west of Caistor Road largely comprises open countryside and following my site visit I consider the appeal site to be in the countryside.
8. The village sits comfortably within the AONB, with properties in the main built form, including the most recent developments, sitting in relatively large plots set back from the road and tending to face or back onto other dwellings. However, other than more recent construction the size of properties varies considerably reflecting historical *ad hoc* development. The main built form of the village sits to the south-east of the appeal site.
9. The proposal is to construct four large dwellings with detached double garages on the appeal site, although these garages are described as integral in the application. Each dwelling would sit in a relatively large plot with a separate access off Caistor Road. The proposal would introduce a ribbon development to the edge of the village that would penetrate intrusively into the AONB and the open countryside to the west.
10. The proposed dwellings would reflect the design of some of the more recent additions to the village. However, in their design and layout they would also introduce an element of uniformity to the edge of the village, which is otherwise largely eclectic in character and appearance. I consider that the proposal would cause localised harm to the character and appearance of the AONB and to the shape of the village.
11. The appellant refers to a lack of brownfield sites and constraints arising from a risk of flooding in many areas in the village. The appellant also recognises the character of the village means that back-land development would not be appropriate. These considerations are relevant to Policies LP2 and LP4 of the Local Plan. However, I have concluded that the appeal site is outside the village and in any event the application of those Policies would be insufficient to overcome the harm to the character and appearance of the AONB and the village.
12. Therefore, I conclude that the proposal would not accord with Policies LP17 and LP26 of the Local Plan. The proposal would also not accord with Policies LP2 and LP55 of the Local Plan.

Protected Species

13. Policy LP21 of the Local Plan, which is consistent with paragraph 118 of the National Planning Policy Framework (the Framework), seeks to ensure that developments protect habitats and species, and minimise impacts on biodiversity. Both the Policy and the Framework are clear that developments that cannot avoid, mitigate or, as a last resort, compensate for significant harm to biodiversity should be refused.
14. Policy LP21 also states that planning permission should be refused for development resulting in the loss, deterioration or fragmentation of irreplaceable habitats, unless

the need for, and benefits of, the development in that location clearly outweigh the loss or harm.

15. An Ecology and Protected Species Survey (EPSS) was provided of the two ponds to the south of the site, the watercourse and surrounding vegetation. The EPSS concluded that there was potential for protected species on the site, including common reptiles such as grass snakes, and evidence of possible badger activity. Bat foraging was also considered likely. In addition, the EPSS concluded that there was high potential for surrounding trees and hedges to be used for nesting birds, and high potential for the ponds and watercourse to be used for nesting waterfowl.
16. The appeal site itself was found to provide a good terrestrial habitat, and the adjacent ponds to have excellent suitability with high potential to support breeding GCN. The EPSS recommended further survey work to confirm the presence of GCN and to estimate population size.
17. The reasonable likelihood of GCN on the site is a material consideration to which I attach great weight. Whilst I have had regard to the Planning Practice Guidance cited by the appellant in respect of protected species, I consider the appellants' suggestion that the development could be made acceptable by imposing a condition requiring an additional survey and a plan to mitigate any harm to biodiversity to be inappropriate.
18. Circular 06/2005 states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted. Conditions should only be used in exceptional circumstances.
19. Therefore, having identified a reasonable likelihood of GCN on the site, detailed survey evidence should be provided. In the absence of a further survey, there was no possibility of determining whether any harm arising from the proposed development could be avoided or mitigated. The appellant's evidence provides clear justification for the surveys to have been undertaken.
20. The proposal would provide for the construction of four additional houses. There is no argument before me to suggest that the Council is unable to demonstrate a five-year housing land supply. Therefore, I conclude that the need for the proposed development in the location identified has not been demonstrated and any benefits arising do not clearly outweigh the loss or harm to the habitat. Therefore, I conclude that the proposed development would not accord with Policy LP21 of the Local Plan or paragraph 118 of the Framework.

Other Matters

21. The appellants' comments regarding the Councils handling of the planning application are matters for local government accountability.

Conclusion

22. For the reasons given above, and taking into account all other matters, I therefore conclude that the appeal should be dismissed.

D Guiver

INSPECTOR