The Planning Inspectorate

Appeal Decision

Site visit made on 18 June 2019

by M Seaton DipTP MRTPI

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

Decision date: 10th September 2019

Appeal Ref: APP/N2535/W/19/3224721
Land North of Linwode Manor, Main Road, Linwood, Market Rasen, LN8 3QG

- 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 McCartney against the decision of West Lindsey District Council.
- The application Ref 138028, dated 4 July 2018, was refused by notice dated 3 October 2018.
- The development proposed is an outline planning application to erect 1no. dwelling with all matters reserved.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application has been submitted in outline with all matters related to appearance, landscaping, layout, access and scale reserved for later consideration. I have therefore dealt with the appeal on this basis and treated the submitted plans as an indication only of how the appeal site might potentially be developed.

Main Issues

3. The main issues are:

- whether the proposed development would accord with the housing policies of the Development Plan;
- the effect of the proposed development on highway safety, having regard to vehicular access to and from the site; and,
- the effect of the proposal on the biodiversity of the site.

Reasons

4. The appeal site occupies a parcel of grassed and overgrown paddock land set to the north of a large property identified as Lynwode Manor. The site boundary to the west is defined by a line of trees beyond which is located a further area of open land, as also appeared to be the case at the site visit with land to the south towards Lynwode Manor. To the east is a line of semi-detached and detached dwellings, with a short terrace and pair of semi-detached properties to the north on the opposite side of the B1202 from the appeal site.

Housing

5. The Development Plan is identified as comprising the Central Lincolnshire Local Plan (the Local Plan), which was adopted in April 2017. Policy LP2 of the Local Plan sets out the spatial strategy for Central Lincolnshire, with development to be directed in accordance with a settlement hierarchy.

6. For the purposes of the settlement hierarchy, it is agreed between the parties that Linwood is classified as a hamlet as it is not listed elsewhere in the various settlement classifications as set out in the policy. The settlement hierarchy defines a hamlet as possessing dwellings clearly clustered together to form a single developed footprint and as having a base of at least 15 units, and that single dwelling infill developments in appropriate locations would be supported in principle.

7. From my observations of Linwood, the development of the appeal site for a dwelling would inevitably extend the core shape of the settlement, but would not have an adverse impact on the overall form of the settlement which is clearly defined by the linear clusters of dwellings on both sides of the B1202 at this point. However, the policy also sets out that for infill development to be supported it must be both within the developed footprint of the village and within an otherwise continuous built up frontage.

8. The Council contends that the proposed development would be positioned within a clearly defined gap between No. 2 Manor Cottages and Birch Cottage to the south west. Whilst I have had careful regard to the appellant's submissions to the contrary, I would agree with the Council's contention and even allowing for the presence of the nearby cottages, the Manor House, and electricity poles, in the context of the current character of the appeal site and the adjacent field, it possesses an appearance which is more akin to the rural character of the surrounding countryside rather than the built-up character of the settlement.

9. Even if this conclusion had not been reached, the substantial gap between No. 2 Manor Cottages and Birch Cottage cannot be said to be a part of a continuous built up frontage. For this reason, rather than acting as an infill development within a continuous built up frontage, the proposal would in fact extend the existing adjacent built up frontage to the west on to open land. Contrary to the exclusions for development as set out in Policy LP2, this would result in the development of paddock land within the curtilage of a building on the edge of the settlement, where the character and appearance of the land clearly relates more to the open countryside than the settlement.

10. I have noted the reference made by the appellant to the existing mature planting on the boundaries to the appeal site, the visual mitigation of which it is contended would not result in a visual incursion into open countryside or harm to the rural character. However, even allowing for the absence of a detailed design and layout which would be provided at the reserved matters stage, the proposed development of the site would inevitably change the character of the land and vicinity through the introduction of built form, residential access and boundaries, and other paraphernalia associated with a residential development of the site.

11. I have also had regard to the appellant's reference to the Council's report as referring to the site appearing *large enough to accommodate an appropriately*

designed scheme for one detached dwelling. However, it is clear that this turn of phrase was employed in the context of the Council's assessment of the proposal and the impact on the living conditions of the neighbouring occupiers of No. 2 Manor Cottages, and I do not attach any weight to this reference in assessing the principle of the development.

12. For the above reasons, the proposed development would not accord with the spatial strategy and settlement hierarchy of the Development Plan, and I therefore find there to be conflict with policy LP2 of the Local Plan.

Highway safety

13. The means of access to the appeal site has been identified by the appellant as a reserved matter with the submitted proposed layout plan merely showing an indicative location and means of access on to the passing B1202 as a demonstration as to how the site might be developed.

14. Whilst access is a reserved matter, the Council has assessed the principle of the proposed development based on the indicative position of the access, as they are entitled to do. In this respect, I noted the 40 miles per hour (mph) speed limit on the B1202 passing the site as well as the proximity of the sharp bend to the west of the indicative access point.

15. In accordance with the technical advice on stopping distances and visibility requirements set out in the Manual for Streets, a 2.4m x 65m clear visibility for a 40mph road would need to be provided. However, given the position of existing mature planting and trees and the proximity of the access to the bend in the road, it appears evident that the visibility splay cannot be achieved towards the west for vehicles turning right out of the development and that adequate visibility in this regard would not be available to the detriment of highway safety.

16. In response to the reason for refusal the appellant has reiterated that the means of access is a reserved matter and that alternative options for access across land from the south or the acquisition of land to the west to improve visibility remain available. However, in the absence of any indicative plan demonstrating how an access to the south may be achieved or any certainty over the feasibility of acquiring land to the west, I am not persuaded on the basis of the evidence submitted that there would necessarily be a viable alternative, and I have not been able to attach any more than limited weight in support of the proposal to this contention.

17. In the submitted evidence, the appellant has also cited the decision by Lincolnshire County Council in June 2018 to investigate the reduction of the speed limit in Linwood from 40mph to 30mph. However, no realistic timescale has been adduced as to the potential delivery of the reduction in the speed limit or indeed a confirmation that the process has been commenced or is without objection to the required consultation. Furthermore, the appellant has not provided any further evidence in response to the reason for refusal to suggest that a reduction in the speed limit would be sufficient to allow the provision of a suitable visibility splay. I therefore attach only very limited weight to this matter in support of the proposed development.

18. Whilst recognising that access is a reserved matter in this instance, for these reasons I am not persuaded that an appropriate means of access would be able

to be provided without there being resultant harm to highway safety. I find the proposal therefore fails to accord with Policy LP13 of the Local Plan, which in addressing accessibility and transport seeks to ensure that all development should demonstrate the provision of a well designed, safe and convenient access for all. This is consistent with the requirement of paragraph 108 of the National Planning Policy Framework (the Framework).

Biodiversity

19. Great Crested Newts are protected by law and their presence is a material consideration in a proposal where there is a reasonable likelihood of a protected species being present and affected. Further to the submissions of an interested party regarding the potential presence of Great Crested Newts, the Council has identified the absence of sufficient information to ascertain the presence or otherwise of the protected species as being contrary to the provisions of Policy LP21 of the Local Plan, and the natural environment chapter of the Framework.

20. Paragraph 99 of Circular 06/2005 Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System advises that it is essential that the presence or otherwise of protected species and the extent to which they might be affected by the proposed development, is established before planning permission is granted, otherwise all relevant material considerations will not have been addressed on making the decision. Circular 06/2005 advises that the need to ensure that ecological surveys are carried out should only be left to conditions in exceptional circumstances. The Circular continues at Paragraph 99 that "bearing in mind the delay and costs that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development".

21. The appellant states that the Council did not request that an ecological survey was undertaken during the application process, even though the application was ultimately refused on the basis that insufficient information had been provided. However, whilst this may be the case, the delegated report makes it clear that this is a matter which any further planning application or appeal would need to grapple with in order to ascertain the presence or not of the protected species. The appellant has opted not to do so.

22. Whilst I have had regard to the appellant's contention regarding the absence of any evidence of protected species on the site over the years, I am of the view that the appeal site and surrounding land may provide suitable habitat for Great Crested Newts and therefore the determination of the decision by the local planning authority without the presence of an ecological survey is a significant matter.

23. I have had regard to the appellants' suggestion that this is a matter which could be adequately addressed by a pre-commencement planning condition. However, such an approach would be clearly contrary to the advice to establish the extent to which protected species might be affected before planning permission is granted, as set out within Circular 06/2005. I have therefore discounted this suggestion.

24. I therefore conclude that the proposal would have the potential to result in significant harm to protected species and would be contrary to Policy LP21 of

the Local Plan, which amongst other things seeks to minimise impacts on biodiversity and protect protected species in development proposals.

Planning Balance

25. The appellant has referred me to the three dimensions to sustainable development as set out in the Framework.

26. In respect of the environmental strand, I have already concluded that the proposed development would result in harm to the spatial objectives of the Local Plan, and also that in the absence of an assessment to ascertain the presence of protected species there would be the potential for significant harm in this regard. However, I note that Linwood has some limited access to public transport and that the distance from Market Rasen combined with a pedestrian environment, would support the potential for the use of means of travel other than the private motor car. This would provide some limited weight in support of the proposal.

27. Turning to the social dimension, the potential provision of an additional dwelling to the local housing market would be an undoubted benefit of the proposed development and would provide some limited support to the existing community of Linwood. However, the quantum of development would limit the weight to be attached in these respects.

28. The local economy would also have the potential to have some limited benefit during the construction period and from any expenditure from future occupiers going forward, as well as the financial benefits of the New Homes Bonus and from the additional generation of Council Tax payments. These are also factors which would provide some limited weight in support of the proposal.

29. Nevertheless, despite the benefits which I have summarised above, I am satisfied that they would not be sufficient to outweigh the harm which I have identified in the main issues.

Conclusion

30. For the reasons set out above, the appeal is dismissed.

Martin Seaton

INSPECTOR