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## Appeal Decision

Site visit made on 1 December 2020

**by Diane Cragg DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 03 February 2021**

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**Appeal Ref: APP/Y2003/W/20/3246247**

**Land to the East of High Burgage, Winteringham.**

- 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 KCS Developments Ltd against the decision of North Lincolnshire Council.
  - The application Ref PA/2019/861, dated 3 May 2019, was refused by notice dated 24 October 2019.
  - The development proposed is outline planning application including means of access and layout for the construction of 55 dwellings, drainage infrastructure, public open space and associated landscaping.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application was made in outline with access, landscaping and layout included and appearance and scale reserved for future consideration. Although the application drawing no BM02 revision F is titled as an 'illustrative layout and mix' the application form indicates that layout is submitted as part of the application proposals and is not a reserved matter. In addition, the appellant statement states that landscaping is a reserved matter<sup>1</sup>, however, the application form indicates that it is not. I have taken the appeal proposals to include details of landscaping and layout and considered the appeal accordingly.
3. A subsequent application for a similar proposal has been refused by the Council<sup>2</sup>. The appellant proposes the substitution of the original layout plan with the layout plan of the later application. The appellant indicates that the amendments are largely related to the proposed landscape structure. I have decided that accepting the amended layout may prejudice interested parties whose comments in relation to the later proposal are not before me. I have therefore considered the appeal based on the original proposed layout.
4. A signed and sealed agreement dated 17 September 2020 pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) (S106 agreement) has been submitted during the appeal process. I provide further comment on this agreement later in this decision.

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<sup>1</sup> Paragraph 3.1 on page 3 of the Planning Statement dated March 2019 attached as appendix B to the appellant's Statement of Case - January 2020

<sup>2</sup> Application ref PA/2020/103

## **Main Issues**

5. The main issues are:

- whether the appeal site is a suitable location for housing having regard to the development plan,
- the effect of the development on the landscape character and appearance of the area,
- the effect of the development on Winteringham Conservation Area (CA), and
- the effect on the overall planning balance of other considerations including housing land supply.

## **Reasons**

### *Background*

6. The appeal site is approximately 3.22ha of land on the south-eastern edge of the settlement of Winteringham, to the south of Silver Street and to the east of Winterton Road.
7. A small woodland occupies the site's north west corner with the remainder of the appeal site comprising arable farmland. The appellant's Geo Tech survey<sup>3</sup> identifies that the appeal site is gently undulating with the lowest point at the south east of the land. A Public Right of Way (no.318) crosses the land west to east providing pedestrian access from High Burgage to Silver Street. Part of the appeal site to the north of the public footpath is within the CA.
8. The appeal site is within the Zone of Influence of the nationally and internationally designated Humber Estuary Special Protection Area (SPA)/Special Area of Conservation (SAC)/Ramsar site.

### *Location*

9. The appeal site is outside of the defined development limits for Winteringham and in the open countryside for the purposes of the development plan. The North Lincolnshire Local Development Framework Core Strategy June 2011 (Core Strategy) identifies Winteringham as a rural settlement.
10. To provide a planned approach to the spatial distribution of housing for North Lincolnshire Policy CS8 of the Core Strategy provides an overarching spatial strategy for the plan area. The broad aim is to focus housing development in Scunthorpe and specific market towns. New housing in rural settlements will create the opportunity for small scale infill development. However, in rural settlements in the countryside and in the open countryside outside development limits, housing development will be strictly limited.
11. Policies CS2 and CS3 of the Core Strategy and Policy RD2 of the North Lincolnshire Local Plan (adopted May 2003) (the Local Plan) set out the types of development which could, as an exception, be permitted on sites outside of development limits. The appeal scheme does not fall into any of these categories.

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<sup>3</sup> Desk Study Report - Betts Geo Consulting Engineers May 2018

12. Consequently, the proposed development would not be a suitable location for housing having regard to development plan policy and would conflict with Policies C2, C3 and C8 of the Core Strategy and RD2 of the Local Plan where these policies seek to control the type of development in the open countryside.

*Landscape character and appearance*

13. The expectation of Core Strategy Policy CS5 is that development will be well designed and appropriate to its context. Policy CS8 expects that all development outside the development limits should not have an adverse impact on the environment or landscape. Similarly, Policies DS1, RD2 and H5 of the local plan require housing development to be in keeping with the scale and character of the settlement and minimise the impact of development on adjoining agricultural land and other countryside interests.
14. The planning application was accompanied by a landscape and visual appraisal (LVA). Several viewpoints were agreed with the Council. I undertook an extensive site visit and viewed the appeal site from the relevant locations.
15. The appeal site is within the National Character Area (NCA) Northern Lincolnshire Edge with Coversands and locally it is within the elevated open farmland character type of the Lincolnshire Edge Regional Character Area defined in the North Lincolnshire Character Assessment 1999. It is also within the Clay Vale Historic Character Area in the Historic Character of the County of Lincolnshire 2011.
16. The NCA characteristics include an elevated arable landscape, productive soils, semi natural habitats, grassland, and small and fragmented broadleaved woodland, limited woodland cover, long straight roads with wide verges and nucleated medieval settlement patterns. Locally, characteristics include exposed open landscapes, extensive views emphasised by the open character of the farmland, lack of field boundaries, limited tree cover and local settlements containing a mix of local building materials.
17. The appeal site displays some of the key characteristics of the national character type and local area. It is part of an elevated and open landscape with extensive views across it to the Humber Estuary and the wider countryside. There is small area of woodland in the appeal site. Winterringham is a settlement of medieval origins accessed via long straight roads with wide verges.
18. In general terms I agree with the LVA that in long range views, such as from viewpoints 4 and 7, existing vegetation in the middle ground would provide partial screening of the development.
19. However, from Winterton Road (viewpoint 6) whilst existing trees and hedgerows in the foreground filter views, the appeal site is on higher ground and is clearly separate from the settlement and part of the rural landscape.
20. The appeal site's southern boundary does not pick up on any recognisable existing boundary. It cuts across the middle of a larger agricultural field. The access from the Winterton Road frontage would follow the line of the side boundary of the adjacent residential dwelling, with a new landscaped boundary proposed to the field side. The location of the access point would extend the developed edge of the settlement and would, due to its siting between existing

and proposed boundary treatment, appear disconnected from its surroundings and at odds with the form and layout of the settlement.

21. Further, the proposed layout indicates that development would be sited beyond the line of the existing frontage development facing Winterton Road. The siting of the proposed dwellings, which may be up to 2.5 storeys high<sup>4</sup>, would be prominent because of the relatively low-lying frontage dwellings and would appear incongruous in the way it extends the built form beyond the established edge of the settlement. When viewed from Winterton Road the new development would dominate the edge of the village and detract from the form and layout of the settlement and its landscape setting. Further, long range views towards the Estuary would be disrupted by the development's likely scale and its form.
22. Proposed landscaping to the southern boundary, even if it were to be more densely planted, would not mitigate the prominence of the built form, rather it would draw attention to it. The development would not 'marry-in' with the fringe of the settlement. In addition, the existing arable field would be fragmented and consequently the development would alter the established field pattern. The remaining arable field would be at odds with the larger scale arable landscape.
23. From High Burgage (viewpoint 1) views through the landscape along the line of the public footpath are framed by the woodland and the boundaries of residential properties. Views are also restricted by the location of the bus shelter. Glimpses of buildings would be visible from the road frontage above the existing properties and the depth of the development would be noticeable from here but limited in effect.
24. The footpath runs through the appeal site and at the eastern end it drops down to a lower level between the hedged field boundary. It is a rural footpath passing through a rural landscape for most of its length. From the footpath there are extensive views across the appeal site towards the Humber Estuary and the farms and open fields at the lower level. There are also views towards the village and the clearly defined mature boundaries of properties that border it. The footpaths open and undeveloped setting contributes to the character and appearance of the area.
25. The layout proposes an area of open space with equipped play area adjacent to the footpath. In addition, the layout shows that the footpath would cross the head of a cul-de-sac and dwellings would be located close to the footpath at the eastern and western ends. The proposed dwellings and infrastructure, including the roads and street lighting, the outside play provision and the domestic paraphernalia associated with residential use, would detract from the open rural character of the landscape and the contribution it makes to the setting of the footpath.
26. Many of the landscape effects, including the loss of open landscape character and the restriction of views, would be perceived visually by neighbouring residents, persons using Winterton Road, recreational users and residents using the footpath through the site. The sensitivity of these users would vary according to the reason for their presence as well as other factors such as

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<sup>4</sup> Paragraph 3.4 on page 3 of the Planning Statement dated March 2019 attached as appendix B to the appellant's Statement of Case - January 2020

distance from the development. The most sensitive users would be those using the public footpath, the neighbouring residents and those entering the village along Winterton Road. All would experience some negative visual effects from the loss of longer views and the change in landscape character.

27. Overall, the appeal site is an attractive area of countryside that is not untypical of its landscape character type and area. Views of the open character and the sloping landform of the site result in relatively high levels of visibility from Winterton Road and from the public footpath. Landscape mitigation may over time reduce some of the visual effects of the development. Nevertheless, retaining a degree of open land and providing landscaping around the footpath and landscaping the southern boundary of the appeal site would not be enough to mitigate the effects of the development on the character and appearance of the area. I consider that the appellant's LVA has underestimated both the landscape and visual effects of the development and I conclude that the appeal scheme would result in significant harm to both.
28. Consequently, I conclude that the development would harm the landscape character and appearance of the area in conflict with Policies CS5 and CS8 of the Core Strategy and Policies RD2, H5 and DS1 of the Local Plan.

#### *Winteringham Conservation Area*

29. Core Strategy Policy CS5 of the development plan seeks to ensure that existing built heritage is considered and Policy CS6 seeks to protect, conserve, and enhance the historic environment. These policies are largely consistent with the National Planning Policy Framework (the Framework) that includes provision to assess whether there is harm to the heritage significance of designated asset and then to weigh that harm with any benefits of the development.
30. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special attention to preserving or enhancing the character or appearance of the conservation area. Whilst not a reason for refusal, third party representations also raise concerns about the negative effect of the development on the CA.
31. Winteringham Conservation Area Appraisal (CA appraisal) identifies that being in the north part of the district Winteringham is built on higher ground; surrounding farmland is arable with minimal hedges and only occasional groups of trees. The significance of the CA is partly derived from Winteringham's setting with extensive views eastwards to the River Estuary and the Humber Bridge. The importance of the trees is also a key factor in the CA's setting, contrasting with the lack of trees in the wider agricultural landscape.
32. The north east section of the appeal site within the CA is contained by the boundary fencing and hedging of properties facing Silver Street and the woodland to the west. It forms part of the open agricultural landscape of the appeal site and makes a positive contribution to the significance of the CA which can be appreciated from the footpath and Winterton Road.
33. The appellant states that the layout is low density to reflect the CA's character. However, the layout indicates four substantial dwellings sited close together. Their form would be of a mostly continuous row of buildings which would close off views to the north and east and create a much more urban setting. A further dwelling would be sited at right angles and close to the footpath. Its

location, together with the cul-de-sac access that would extend over the public footpath, would interrupt key views from High Burgage to the east identified as special within the CA appraisal.

34. I accept that there is limited inter-visibility between the appeal site and Silver Street closer to the centre of the village, however, there are views towards the site from Ermine Street and close views of the relationship of the appeal site to the village on the approach along the footpath from Silver Street from a lower level. The development at the proposed scale, would be very visible from these areas within the CA and would create a much more urban setting. I appreciate that the views would, in part, be against a backdrop of 20th century development, however, the adverse landscape and visual effects would cause harm to the significance of the CA by reason of the loss of part of its open countryside setting.
35. For these reasons, I conclude that the layout of the proposed development would not preserve the CA and would conflict with Policies CS5 and CS6 of the Core Strategy. In terms of the Framework the development would cause less than substantial harm to the significance of the CA. Any such harm merits great weight in accordance with paragraph 193 of the Framework and falls to be weighed in the balance with the public benefits of the development. I return to this matter later in my decision.

### **Other Considerations**

36. The section 106 agreement provides a mechanism to secure the provision of affordable housing; offsite financial contributions to deliver improvements to mitigate the pressures on education and leisure facilities; open space including a Locally Equipped Area of Play (LEAP) within the site and a Traffic Regulation Order contribution to support the relocation of the speed limit and signage on Winterton Road.
37. I have considered the various obligations with regard to the statutory requirements in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and the policy tests in paragraph 56 of the Framework. I am satisfied that all the obligations are necessary, directly related to the development and fairly related in scale and kind. Accordingly, I consider that these obligations can be considered in my assessment of the appeal.
38. The parties agree that the Council cannot demonstrate a 5-year supply of deliverable housing land. The appellant estimates the housing supply to be approximately 3.18 years and this figure has not been challenged by the Council. The undersupply is considerable, and, on this basis, I attach substantial positive weight to the provision of new housing.
39. The Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Additionally, Core Strategy Policy CS2 states that development in North Lincolnshire should be located to minimise the need to travel and encourage any journeys that remain necessary to be possible by walking, cycling and public transport. I agree with the parties that the facilities within Winterringham are accessible on foot or by bicycle and that the bus service would mean that not all trips to access services and facilities beyond the village would be by car. I attach moderate positive weight to the location of the appeal site in relation to services and facilities.

40. The scheme would result in a degree of economic gain to the area through the construction and occupation of the development. Those jobs associated with construction would be temporary and limited, however, household expenditure would help support the local shops and facilities in Winteringham and Winterton. I attach moderate weight to these benefits.
41. The development would trigger payment of a New Homes Bonus but there is no evidence of a connection between the payment and the development to enable it to be considered in accordance with the advice in the Planning Policy Guidance. Accordingly, whilst the New Homes Bonus is a material planning consideration, it is not one to which positive weight can be attached.
42. Furthermore, whilst there would be Council Tax revenue from the development, there would also be new occupiers to serve. As such, this revenue would mitigate the effects of the proposal and the demands of those future occupiers on local services and is a neutral factor in the planning balance.
43. From a social perspective the scheme proposes affordable housing and would provide a mix of dwelling types for local people in an accessible location. The provision of open space would be available for the village to use, although I have not been provided with evidence of any short fall in open space provision. I attach moderate positive weight to the benefit of providing a mix of housing and housing for specific groups of people and limited positive weight to the provision of additional open space.
44. The appellant also indicates that the development would contribute to local school provision and contribute to local leisure facilities. However, these contributions would largely offset the impacts of the development and are of neutral consequence.
45. The appellant sets out the environmental benefits including separation distances between existing and proposed development; provision of an onsite sustainable urban drainage system (SUDS) to prevent increased flooding; a pumping station to deal with foul waste; retention of the woodland on the appeal site; retain, strengthen and diversify the existing hedgerow providing new tree planting and providing a central area of public open space. There would be some environmental benefits associated with the increase in hedge and tree planting. Nevertheless, the woodland is protected due to its location in the CA and the other measures are required to ameliorate the impact of the development. I therefore attached very limited positive weight to the environmental benefits of the scheme.
46. In considering the weight to attach to the above matters I have taken into account the third-party support for expanding the village and the need to provide affordable housing as well as the potential of additional housing to improve local services in a sustainable location.
47. I have also had regard to other concerns raised by interested parties in respect of matters not already addressed, including flood risk, ecology, increase in number of properties in the village, grade 2 agricultural land, precedent for additional development in the field, effect on amenity of residents adjacent to the site and traffic concerns. However, the evidence before me on these matters does not indicate that they would cause additional material harms to be factored into the planning balance, and therefore I do not address them in

greater detail. Nonetheless, a lack of harm in these respects weighs neutrally and does not amount to support in favour of the appeal.

### **Planning Balance and Conclusion**

48. I conclude that the proposal would have a harmful effect on the landscape character and appearance of the area, would not preserve or enhance the character or appearance of the CA and would not be a suitable location for development having regard to development plan policy. In these respects, there would be conflict with Policies CS2, CS3, CS5 and CS8 of the Core Strategy and RD2, H5 and DS1 of the Local Plan and I conclude that there would be conflict with the development plan when taken as a whole.
49. However, the lack of a deliverable 5-year housing supply means that at least some of the most important development plan policies for determining the application are out of date. Policies CS2, CS3, CS8 and RD2 act as a constraint on housing land supply and there is a lack of evidence that sufficient housing to meet the identified local need could be provided within the development limits. That and the supply shortfall triggers the application of paragraph 11 of the Framework.
50. In relation to Paragraph 11 d)(i) of the Framework I have concluded that the development would harm the CA, a designated heritage asset. This would be of a less than substantial nature. Paragraph 196 of the Framework is thus engaged. Paragraph 196 is a restrictive policy for the purposes of footnote 6 to Paragraph 11. Whilst great weight is to be accorded to the less than substantial harm to designated heritage assets, that harm falls to be weighed with the public benefits of the development.
51. The public benefits of the development include: the social benefits of the provision of market housing where there is an acknowledged substantial undersupply; provision of affordable housing that would address the needs of groups with specific housing requirements; the economic and employment benefits associated with the construction and subsequent occupation of the housing including local spending in shops and services; proposed open space facilities would be accessible to the village providing increased access to play facilities; some benefits from enhancement of hedges and provision of trees.
52. The harm to the CA would not outweigh the public benefits. Thus, these effects would not on their own provide a clear reason for refusing the development. However, the harm to the CA overlaps with and reinforces other harm to the landscape character and appearance of the area which also falls to be weighed with the benefits in the application of sub-paragraph 11d)(ii).
53. The main identified harm is the harm to landscape character and to the appearance of the area including the loss of the site's openness, the restriction of views, the effect on the setting of the village and the harm arising from the layout of the proposed development. The Framework paragraphs 77, 127 and 170 are clear that development should be responsive to local circumstances, sympathetic to local character and history, including the surrounding built environment and landscape setting and recognise the intrinsic character and beauty of the countryside. Therefore, even when considering the Framework's objectives of significantly boosting the supply of housing, the substantial short fall of housing land supply identified and the contribution medium sites can

make to this supply as well as the other benefits I have set out, I attach significant weight to the harm I have identified.

54. In the terms of paragraph 11(d)(ii) of the Framework I conclude that the significant adverse impacts of granting planning permission for the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
55. My conclusion is that the proposal is in overall conflict with the development plan and that conflict is not outweighed by other material considerations including the Framework.
56. The appeal site is located within 10km of nationally and internationally designated sites. The requirement for an Appropriate Assessment is only necessary where the competent authority is minded to give consent for the proposed development. Therefore, given my overall conclusions it is not necessary for me to consider this matter any further, as any findings in this respect would not change the outcome of the appeal.
57. Overall, for the reasons given above, the appeal is dismissed.

*Diane Cragg*

INSPECTOR