
Appeal Decision

Site visit made on 13 April 2021

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2021

Appeal Ref: APP/Y2003/W/21/3266829

Land to the rear of 99, North Street, Winterton DN15 9QW

- 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 L O’Riordan against the decision of North Lincolnshire Council
 - The application Ref PA/2019/1414, dated 1 August 2019, was refused by notice dated 23 November 2020.
 - The development proposed is residential development of up to 66 dwellings with all matters reserved.
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Decision

1. The appeal is allowed, and outline planning permission is granted for residential development of up to 66 dwellings with all matters reserved, at land to the rear of 99, North Street, Winterton DN15 9QW, in accordance with the terms of the application Ref PA/2019/1414, dated 1 August 2019, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The planning application was made in outline with all matters reserved for future consideration. I have dealt with the appeal on that basis, treating any details of reserved matters shown on the plans as being illustrative.
3. A planning obligation has been submitted as part of this appeal which seeks to secure the mitigation required to secure a policy compliant scheme in respect to education, affordable housing, open space and leisure facilities. The Council has confirmed that this document would secure the necessary mitigation. I address this matter later in my decision.

Main Issue

4. The main issue is the effect of the appeal proposal on the character and appearance of the area, with particular regard to the proposed location, scale and form of the development.

Reasons

5. The appeal site is a slightly elevated, relatively flat undeveloped grassed field located on the edge of Winterton. It is bound by a predominance of residential development on 2 sides and recreation fields and an associated

pavilion building on its third. Its remaining open boundary connects to an extensive swathe of open agricultural land.

6. This part of Winterton is characterised by a linear frontage of built development onto North Street comprising a mixture of individually designed residential and commercial properties of varying ages. The more consistent design and layout of bungalows situated along the boundary with Newport Drive also contributes a modern residential estate character here.
7. The current extent of this developed context provides a clear indication on the ground of the development limit for Winterton which is defined by the Housing and Employment Land Allocations Development Plan Document (the HELAP). The appeal site falls beyond this limit. Therefore, for the purposes of policy interpretation, the appeal site falls within open countryside.
8. Paragraph 127 of the Framework states amongst other things that decisions should ensure that developments are sympathetic to local character, including the surrounding built environment and landscape setting.
9. The appeal site is not located within a designated valued landscape. Nonetheless, paragraph 170 of the Framework states that decisions should recognise the intrinsic character and beauty of the countryside.
10. Although falling beyond this well-defined settlement boundary, the appeal site is very well contained. The relationship of the appeal site to the existing edge of the settlement means that it would not present as an isolated development within the open countryside. It would serve to consolidate the otherwise built up form of this part of Winterton. As such, it would not be a visually intrusive incursion into the open countryside.
11. The spacing of properties along the perimeter of the appeal site largely obscure views through into the open countryside beyond. Open views of the appeal site are afforded from approach into Winterton further along North Street and also from much longer distances on higher ground including along Northlands Road. Nonetheless from here, the appeal proposal would be read within the context of the backdrop of the built form of Winterton and would not present as an incongruous protrusion into the surrounding rural landscape.
12. The important sense of arrival and departure from the built up form of the settlement is evident at the vicinity of the proposed access point into the appeal site. This would not be disturbed by the appeal proposal because of its high degree of physical containment.
13. The illustrative layout shows a form of development comprising mostly detached houses and associated open space, set within a simple estate layout. The provision of 66 units would be the upper limit of what the appeal site could reasonably accommodate to reflect the density and form of development found in its vicinity. This would not be discordant with the current scale and function of this settlement as a Market Town.
14. The shape and topography of the site relative to the scale of residential development proposed provides sufficient scope to secure a form of

development which reflects the local distinctiveness of the area and which could successfully assimilate with the existing built up form through careful design and orientation of buildings, open space, landscaping and boundary treatment. This will enable an overly urbanised development form to be avoided.

15. For these reasons whilst change would occur, the appeal proposal would impose a low level of harm to the character and appearance of the area, with particular regard to the proposed location, scale and form of the development.
16. Policy CS1 of the North Lincolnshire Core Strategy Development Plan Document (the Core Strategy) sets the spatial strategy for the area. This states that rural settlements will be supported as thriving sustainable communities, with a strong focus on retaining and enhancing local services. It also requires any development to be in keeping with the character and nature of the settlement.
17. Policies CS2, CS3, CS5 and CS8 of the North Lincolnshire Core Strategy Development Plan Document (the Core Strategy) and Saved Policy RD2 of the North Lincolnshire Local Plan (the Local Plan) seek to control development in the open countryside. These policies set out the types of development which could, as an exception, be permitted on sites outside of development limits. The appeal scheme does not constitute any of these.
18. The Framework does not advocate development boundaries and adopts a more balanced approach to development in the countryside. However, the objectives of these policies remain broadly consistent with the Framework's aims to promote sustainability and recognise the intrinsic character and beauty of the countryside.
19. The appeal proposal conflicts with these policies. However, I attribute limited weight to these conflicts given the low level of the harm identified.
20. Policy H5 of the Local Plan states that the scale of the development, amongst other things, should be in keeping and compatible with the character of the immediate environment and with the settlement as a whole. Policy DS1 of the Local Plan sets out the general requirements for development which, amongst other things, requires that proposals reflect the character, appearance and setting of the immediate area. The objectives of these policies remain broadly consistent with the Framework's aims.
21. There is scope for the site to be developed in a manner which would conform with these policies.

Other Matters

22. The appeal site would be served off an existing main vehicular and pedestrian route through the settlement and bus stops fall within walking distance.
23. From the evidence before me, it is clear that the appeal proposal would be within reasonable reach of a range of services and facilities capable of

meeting daily needs by modes other than by car. Furthermore, the submitted evidence does not demonstrate that the appeal proposal would place unacceptable demands upon local services and facilities. Therefore, the appeal proposal would not be harmful in this regard.

24. The submitted planning obligation provides a mechanism to secure the provision of affordable housing as well as offsite financial contributions to deliver improvements to mitigate the pressures on education, open space and leisure.
25. I have had regard to Policies CS9 and CS22 the Core Strategy and H10 of the Local Plan as well as the Supplementary Planning Guidance (SPG) on developer contributions to schools and provision of open space in new developments. These policies and documents require developments to meet the reasonable costs of new and improved infrastructure made necessary by a proposal and necessary to mitigate the impacts of the development.
26. I find that these obligations are proportionate to the needs arising from the appeal proposal's anticipated scale and nature. Main parties have duly signed this legal agreement. In terms of 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. The evidence before me does not challenge either the necessity or the viability of these obligations.
27. Accordingly, these obligations are taken into account in my assessment of the appeal and, with the exception of affordable housing which I assess later in this Decision. However, they carry limited weight in favour of the appeal proposal as they serve to mitigate pressures arising from the development. Nonetheless, they would ensure that there would be no conflict with the Framework or the development plan in regard to accessibility to and capacity of local infrastructure.
28. Paragraph 109 of the Framework states development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Having regard to the findings of the submitted Transport Statement, the Council has not raised objection to the appeal proposal from a highway safety or network capacity perspective.
29. The submitted evidence does not demonstrate that the location or scale of development proposed would increase levels of traffic to a degree that would be harmful. Neither is there any indication that the proposed access point off North Street would be prejudicial to highway safety. Consequently, there would be no conflict with the Framework in these regards. Moreover, there is no conflict with Policy T2, Policy T6 or Policy H5 of the Local Plan.
30. Paragraph 155 of the Framework states inappropriate development in areas at risk of flooding should be avoided. The appeal site falls wholly within Flood Zone 1, an area least likely to flood. The appellant has submitted drainage modelling regarding surface water and a condition could necessarily be imposed to secure an appropriate sustainable urban drainage scheme for the

site. The Council has not raised objection. The submitted evidence does not indicate that there are drainage issues that could not be resolved and therefore no harm is evident. Consequently, there would be no conflict with the Framework in this regard. Moreover, there is no conflict with Policy DS1 and Policy DS16 of the Local Plan or Policy CS19 of the Core Strategy.

31. Paragraph 127 of the Framework states that decisions should create a high standard of amenity. Some of the plots shown on the submitted illustrative layout plan, particularly those to the rear of properties on North Street, do have shallow rear garden depths, albeit overall reasonable separation distances with existing properties could be maintained.
32. The upper limit of 66 dwellings sought would provide flexibility to address these relationships at reserved matters stage to achieve reasonable living conditions for existing and prospective residents in terms of privacy and outlook. I am therefore satisfied that any unacceptable harm could be avoided in this regard through careful design at reserved matters stage. Consequently, in this regard there is no conflict with the Framework or with Policy DS1 or Policy H5 of the Local Plan.
33. The submitted evidence does not sufficiently demonstrate that property values would be adversely affected by the appeal proposal and this does not attract weight in the consideration of this appeal.

Tilted Balance

34. Since the appeal was lodged the national Housing Delivery Test results have been published. This shows housing delivery to be below the requirement for North Lincolnshire. Furthermore, there is no dispute between main parties that the housing land supply falls below the 5 year requirement.
35. Whilst the Local Plan's housing requirement for the area may have been met, and other housing schemes are in the pipeline, there is a proven shortfall in the supply of housing land and housing delivery across the wider council area in the order of 1 year. Therefore, the assessment to determine whether the Framework's presumption in favour of sustainable development is met is triggered, even though the outcome of this may not align with the area's housing strategy and distribution at a settlement level.
36. The appeal proposal would not conflict with any policies of the Framework that protect areas or assets of particular importance.
37. In terms of benefits, the appeal proposal would lead to an increase in the overall supply of housing for North Lincolnshire where there is an acknowledged under supply. The evidence before me does not indicate that this proposal would be undeliverable. It would support the Government's objective of significantly boosting the supply of housing. The contribution that this particular appeal proposal would make to this shortfall is significant and attracts great weight as a benefit in this instance.
38. The Framework seeks to address the needs of groups with specific housing requirements including through the provision of affordable housing. The

proposed level of affordable units is policy compliant. In this instance such provision is a benefit which attracts great weight.

39. The appeal proposal would provide economic benefits as future residents of appeal proposal could provide support to local services and facilities in the longer term. As this is unquantified, it is a benefit of moderate weight. The appeal proposal would bring short term support to the local economy in terms of construction jobs. As such, this is a benefit which attracts limited weight.
40. The potential for the appeal scheme to improve the settlement edge is a benefit that attracts limited weight. This is because the important matters that would determine this are reserved for future consideration and in any event the existing settlement edge does not currently impose landscape harm.
41. Through my assessment of this particular appeal proposal, I have established that the adverse impact in granting permission when assessed against the policies of the Framework is confined to a low level of harm to the character and appearance of the area. Moreover, a number of benefits of the appeal proposal have been identified which weigh in favour of the appeal proposal. This includes the significant contribution that the appeal proposal would make to the future housing land supply which carries great weight in this instance.
42. Consequently, the adverse impact of permitting the appeal proposal would not significantly and demonstrably outweigh the identified benefits, when assessed against the policies of the Framework taken as a whole. Hence, the appeal proposal benefits from the Framework's presumption in favour of sustainable development.
43. In view of the duration and extent of the shortfall in housing land supply and delivery which has recently necessitated the Council to prepare an action plan, I place great weight upon the fact that the appeal proposal benefits from this presumption.

Planning Balance

44. This proposal must be determined in accordance with the development plan unless material considerations indicate otherwise. The housing land supply falls short of the 5 year requirement for the area and I have concluded that the appeal proposal meets the Framework's presumption in favour of sustainable development. This consideration carries great weight in favour of the appeal proposal.
45. Nonetheless, by virtue of its location, the appeal proposal conflicts with Policies CS2, CS3, CS5 and CS8 of the North Lincolnshire Core Strategy Development Plan Document (the Core Strategy) and Saved Policy RD2 the Local Plan. However, I attribute limited weight to this conflict for the reasons given earlier in this Decision.
46. The appeal proposal conflicts with the development plan when taken as a whole. The material considerations weighing in favour of it, including the

proposal's contribution to boosting the supply of housing in the area outweigh this conflict and indicate here that a decision should be taken contrary to the development plan.

Conditions

47. All matters have been reserved for later submission and this is reflected in the wording of the conditions set out in the attached Schedule of Conditions. The standard time limit conditions for outline applications have been applied through conditions 1-3. Condition 4 clarifies the approved plan in the interests of certainty.
48. Conditions 5 and 6 which seek to manage travel patterns are required in the interests of sustainability and highway safety. Condition 7 seeks to secure car charging points within the appeal scheme and is necessary in order to reduce carbon emissions otherwise arising from the appeal proposal. Condition 8 is necessary to secure a Construction Phase Traffic Management Plan in the interests of highway safety. Conditions 16, 17, 18 and 19 are necessary to ensure that safe and appropriate access and parking arrangements are secured prior to occupation and the completion of the development.
49. Condition 9 is necessary to secure a CEMP in the interests of safeguarding the living conditions of neighbouring residents. For the same reason condition 10 which seeks to control hours of construction operations is necessary.
50. Condition 11 is necessary to understand and address any contamination relating to the appeal site in the interests of public safety. Condition 12 and 13 seek to secure the implementation of an appropriate means to manage surface water and is necessary to avoid increased flood risk. Condition 14 and 15 seek to manage site specific landscaping requirements which should form part of the reserved matters submission.
51. Furthermore, it would be necessary for the submitted planning obligations to be discharged in full in accordance with those set out in the legal agreement dated 28 April 2021 in order to mitigate otherwise harmful impacts of the development on local infrastructure capacity.
52. I have not imposed conditions advanced by the Council relating to materials and boundary treatment as these will be determined at reserved matters stage. For the same reasons, I have not included conditions which seek to control details pertaining to access, highways and parking spaces associated with the appeal proposal.

Conclusion

53. For the reasons given, the appeal should be allowed, subject to the prescribed conditions.

C Dillon
INSPECTOR

Schedule of Conditions

Outline Timing and Plans

1. Details of the layout, scale and appearance of the buildings, the means of access thereto and the landscaping of the site (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out in accordance with the approved plans.
2. Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan LWHS 002 dated March 2019.

Sustainability

5. The final travel plan shall be submitted to and approved in writing by the local planning authority within six months of the proposed development being brought into use and all conditions and requirements of the plan, once approved, shall be implemented and retained at all times.
6. The travel plan, once approved and in place, shall be subject to monitoring on an annual basis for a period of three years from the approval date. The monitoring report on the impact of the travel plan shall be submitted to the local planning authority on the first of January each year following the grant of planning permission. All amendments to the approved travel plan identified as a result of the monitoring process shall be implemented and retained.
7. No above-ground works shall take place until a scheme for the provision of electrical vehicle charging points has been submitted to and approved in writing by the local planning authority. The scheme shall be designed to take account of good practice guidance as set out in the Institute of Air Quality Management Land Use Planning and Development Control:

<http://www.iaqm.co.uk/text/guidance/air-quality-planning-guidance.pdf>

and contemporaneous electrical standards, including: - Electrical Requirements of BS7671:2008; - IET Code of Practice on Electrical Vehicle Charging Equipment installation 2012 ISBN 978-1-84919-515-7. The approved scheme shall be installed in full and retained in perpetuity thereafter.

Construction Management

8. No development shall take place until a construction phase traffic management plan showing details of:

- all associated traffic movements, including delivery vehicles and staff/construction movements;
- any abnormal load movements, contractor parking and welfare facilities;
- storage of materials; and
- traffic management requirements, including the means of controlling the deposition of mud onto the adjacent highway, along with appropriate methods of cleaning the highway

have been submitted and approved in writing by the local planning authority. Once approved the plan shall be implemented, reviewed and updated as necessary throughout the construction period.

9. No stage of the development hereby permitted shall commence until a construction environmental management plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:

Noise and vibration – the CEMP shall set out the particulars of:

- a) the works, and the method by which they are to be carried out;
- b) the noise and vibration attenuation measures to be taken to minimise noise and vibration resulting from the works, including any noise limits; and
- c) a scheme for monitoring the noise and vibration during the works to ensure compliance with the noise limits and the effectiveness of the attenuation measures.

Light – the CEMP shall set out the particulars of:

- a) specified locations for contractors' compounds and materials storage areas;
- b) areas where lighting will be required for health and safety purposes;
- c) the location of potential temporary floodlights;
- d) identification of sensitive receptors likely to be impacted upon by light nuisance;
- e) proposed methods of mitigation against potential light nuisance, including potential glare and light spill, on sensitive receptors.

Dust – the CEMP shall set out the particulars of:

- a) site dust monitoring, recording and complaint investigation procedures;
- b) identification of receptors and the related risk of dust impact at all phases of the development, including when buildings and properties start to be occupied;
- c) provision of water to the site;
- d) dust mitigation techniques at all stages of development;
- e) prevention of dust track-out;

- f) communication with residents and other receptors;
- g) a commitment to cease the relevant operation if dust emissions are identified either by regular site monitoring or by the local authority; and
- h) a 'no burning of waste' policy.

10. Construction and site clearance operations shall be limited to the following days and hours:

- 8am to 6pm Monday to Friday
- 8am to 1pm on Saturdays.

No construction or site clearance operations shall take place on Sundays or public/bank holidays.

HGV movements shall not be permitted outside these hours during the construction phase without prior written approval from the local planning authority.

Installation of equipment on site shall not be permitted outside these hours without prior written approval from the local planning authority.

Contamination

11. Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts 1 to 4 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until part 4 has been complied with in relation to that contamination:

Part 1: Site Characteristics

A Phase 1 desk study shall be carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk study shall establish a 'conceptual model' of the site and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/Quantitative Risk Assessment (or state if none required).

Two full copies of the desk study and a non-technical summary shall be submitted to the local planning authority for approval prior to proceeding to further site investigation. An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site.

The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must

be produced. The written report is subject to the approval in writing of the local planning authority.

The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to: - human health; - property (existing or proposed) including buildings, crops, livestock, pets, woodland, and service lines and pipes; adjoining land; groundwaters and surface waters; ecological systems; archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and a proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the management of Land Contamination, CLR 11'.

Part 2: Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and is subject to the approval in writing of the local planning authority.

The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Part 3: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks' written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the local planning authority.

Part 4: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part 2, which is subject to the approval in writing of the local planning authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with Part 3.

Drainage

12. No above-ground works shall take place until a detailed surface water drainage strategy for the site has been submitted to and agreed in writing by the local planning authority. The scheme shall be based on sustainable drainage principles and must be based on the Flood Risk Assessment submitted with this planning application prepared by PHC Ltd, Final dated 19th July 2019. The drainage scheme shall demonstrate that surface water run-off generated up to and including the 1:100 year critical storm (including an allowance for climate change) will not exceed the run-off rate from the existing site. It should also include details of how the scheme is to be maintained and managed for the lifetime of the development. Should infiltration not be feasible then alternative sustainable drainage solutions should be used.
13. The drainage scheme shall be implemented in accordance with the details submitted to satisfy condition 12 above, completed prior to the occupation of any dwelling within each phase or sub-phase of the development, and maintained for the lifetime of the development, unless otherwise agreed in writing by the local planning authority.

Landscaping

14. The landscaping details required by condition 1 and 2 shall include details of all existing trees and hedgerows on the land, including the line of trees along the western boundary of the site which shall be retained at all times and shall form part of the landscaping scheme for any future reserved matters application submission and set out measures for their protection throughout the course of development.
15. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (No. 2) (England) Order 2008 (or any order revoking and re-enacting that order with or without modification), no development shall take place within any service strip adjacent to any shared surface road, and any planting or landscaping within this service strip shall be of species which shall be agreed in writing with the local planning authority prior to planting.

Highways

16. No dwelling on the site shall be occupied until the vehicular access to it and the vehicle parking spaces serving it have been completed and, once provided, the vehicle parking spaces shall be retained.
17. No dwelling on the site shall be occupied until the access road has been completed to at least base course level and adequately lit from the junction with the adjacent highway up to the access to the dwelling, in accordance with details which shall have been previously approved in writing by the local planning authority.

- 18.No dwelling on the site shall be occupied until the footway has been constructed up to base course level from the junction with the adjacent highway to the access to the dwelling in accordance with details which shall have been previously approved in writing by the local planning authority.
- 19.The penultimate dwelling on site shall not be occupied until the access roads have been completed in accordance with details which shall have been previously approved in writing by the local planning authority.