



# Appeal Decision

Site Visit made on 2 August 2021

**by Chris Baxter BA (Hons) DipTP MRTPI**

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

**Decision date: 9 September 2021**

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**Appeal Ref: APP/Y2003/W/21/3268393**

**Land north of Ings Lane, Hibaldstow DN20 9PJ**

- 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 Partner Construction against the decision of North Lincolnshire Council.
  - The application Ref PA/2020/248, dated 13 February 2020, was refused by notice dated 18 December 2020.
  - The development proposed is to erect 20 dwellings comprising 10 rent to home buy, five shared ownership and five open market dwellings.
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## Decision

1. The appeal is allowed and planning permission is granted to erect 20 dwellings comprising 10 rent to home buy, five shared ownership and five open market dwellings at land north of Ings Lane, Hibaldstow DN20 9PJ in accordance with the terms of the application, Ref PA/2020/248, dated 13 February 2020, subject to the conditions in the attached schedule.

## Applications for costs

2. An application for costs was made by Partner Construction against North Lincolnshire Council. This application is the subject of a separate Decision.

## Preliminary Matters

3. For the sake of clarity and brevity I have used the description of development from the Council's decision notice.
4. Since the submission of the appellant's appeal the revised National Planning Policy Framework (the Framework) was published and came into force on 20 July 2021. In light of this I have sought the views of the main parties in writing and comments received have been taken into consideration.

## Main Issues

5. The main issues are the effect of the proposal on the character and appearance of the surrounding area and rural landscape and whether there is a need for the proposed affordable housing.

## Reasons

### *Character and appearance*

6. The area surrounding the appeal site is characterised predominantly by residential properties located at the edge of settlement with rural fields located beyond. The appeal site is mainly an agricultural field that abuts the built development of Hibaldstow along the west boundary.

7. The built form in the area is concentrated mainly to the west of the appeal site although there are some properties dotted along Ings Lane to the east. The boundary to the west of the appeal site is an established edging to the settlement of Hibaldstow being made up of hedgerow, shrubs and fencing. This boundary to the village extends south following the line of built development that makes up the settlement.
8. The proposed development, given its location, would encroach into the rural fields that surround the village. As there are open agricultural fields to the north, south (beyond Ings Lane) and east of the appeal site, the introduction of 20 properties, of two and single storey construction, would appear as incongruous features that would not relate well to the existing pattern of development in the area.
9. Proposed materials would reflect those used on local buildings however, the appearance of individual properties would not overcome the adverse effect the development has as a whole and being out of keeping with the existing built form. A master landscape plan has been provided which shows some landscaping although there is a lack of proposed planting along the east boundary which would provide a hard built edge to the settlement that differs significantly from the existing landscaped edging of the settlement.
10. Accordingly, the proposal would have a harmful effect on the character and appearance of the surrounding area and the rural landscape. The proposal would be contrary to Policies CS2, CS5 and CS8 of the North Lincolnshire Local Development Framework Core Strategy 2011 (CS) and Policies RD2 and DS1 of the North Lincolnshire Local Plan 2003 (LP) which seek, amongst other things, development to be designed to a high standard, contribute to the creation of high quality streetscapes, and reflect or enhance the character, appearance and setting of the immediate area.

*Need – affordable housing*

11. A Housing Needs Survey (HNS) has been submitted in support of the scheme which quantifies and describes the housing needs of the Parish of Hibaldstow. This HNS provides substantial evidence including matters on house prices, market affordability, household surveys, local housing requirements and need for affordable housing.
12. The HNS concludes that taking into account capacity, current new build and the proposed development, there would be an estimated additional 78 affordable homes needed in the parish. It further indicates that an analysis of the households in affordable need suggests that the bedroom mix needed should be mostly 1 and 2 bedroom dwellings with some 3 bedroom homes. The proposal would provide 2 and 3 bedroom residential accommodation.
13. From the evidence before me, I am satisfied that a need for affordable housing in the Hibaldstow area has been demonstrated and the proposal would contribute to this need. The proposal would not be contrary to Policy CS9 of the CS which seeks the delivery of affordable housing.
14. The matter of rural exception sites and its relationship with affordable housing as well as CS and LP Policies and the Framework has been brought to my attention. This matter however does not alter my findings in respect of character and appearance.

## **Other Matters**

15. The proposal would be in an accessible location being within close walking distance to shops and public services. The proposal would also provide social and economic benefits in terms of investment in construction and related employment as well as contributing to the local economy.
16. I have had regard to the Council's statement of case, minutes of the planning committee and concerns raised from the Parish Council and local residents which include wildlife, loss of high grade agricultural land, fear of crime and anti-social behaviour, flooding and drainage, traffic, living conditions of existing and future occupiers, and local services. I have given careful consideration to these matters, some of which would be capable of being addressed by planning conditions in any event, but they do not lead me to a different overall conclusion on the main issues.

## **Planning Balance**

17. The CS and LP dates from 2011 and 2003 respectively, but the weight to be attached to these does not hinge on their age. Rather paragraph 219 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The Framework states that the creation of high quality, beautiful and sustainable buildings and places are fundamental to what the planning and development process should achieve. I have found conflict with Policies CS2, CS5 and CS8 of the CS and Policies RD2 and DS1 of the LP with regards to character and appearance. I note that the appeal site does not lie within any landscape policy designation and I have accepted that the appearance of the individual properties would reflect local buildings. So, on this basis, the harm and the conflict with the proposal and these Policies, I attribute moderate weight in this appeal.
18. The Council cannot demonstrate a five year supply of deliverable housing sites. There is no description of the actual shortfall however, the Council indicates in the committee report that the proposal would address the current under-supply of housing land therefore I consider the shortfall to be significant. In these circumstances footnote 8 of the Framework establishes that the policies which are most important for determining the application are out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The site is not within a protected area.
19. In terms of the Framework's three overarching objectives, there would be economic, social and environmental benefits to the proposed development. The site is in an accessible location and the proposal would bring contributions to the local economy as well as employment opportunities. These benefits, given the scale of the development, would amount to minimal weight. The scheme also provides housing including contributing to an identified need for affordable homes. Given the Council's lack of a five year housing land supply, I attribute substantial weight to these particular benefits.
20. On this basis, I find that the moderate adverse impacts of the development would not significantly and demonstrably outweigh the benefits. The development therefore benefits from the presumption in favour of sustainable development set out in the Framework.

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise. The presumption in favour of sustainable development is a significant material consideration which justifies a decision other than in accordance with the development plan in this case.

### **Conditions and Planning Obligations**

22. The conditions imposed are those that were attached within the Council's committee report. In the interests of precision and clarity I have undertaken some minor editing and rationalisation where necessary.
23. Conditions relating to timeliness and the identification of plans are necessary in the interests of proper planning and to provide certainty. In the interests of highway safety conditions are imposed in relation to access, roads, footways, junctions, driveways and traffic management. To safeguard the living conditions of nearby residents conditions are necessary in relation to construction times and construction environmental management. To prevent undue risk to the local environment it is necessary to attach conditions relating to drainage, contamination and biodiversity. To encourage sustainable modes of transport and reduce carbon emissions a condition is imposed relating to electrical vehicle charging points. In the interests of the character and appearance of the area, a condition is necessary relating to landscape implementation.
24. A completed Section 106 Agreement has been submitted which details obligations for affordable housing, contributions towards open space, school and highway improvements. It is necessary that I consider these obligations against the three tests set out in the Framework and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (CIL).
25. As detailed above, there is an identified need for affordable housing. All new housing developments can bring about demand for open spaces, increased capacity at schools and improvements to highway network. Given the scale of the development and comments from specialist officers from the Council, I am satisfied that the proposed contributions would be necessary to make the development acceptable in planning terms. Furthermore, on the evidence before me, they would be directly related, and fairly and reasonably related in scale and kind, to the development proposed. The obligations therefore meet the relevant tests and I am satisfied that the proposal adequately contributes to affordable housing and infrastructure in the area.

### **Conclusion**

26. For the reasons given above I conclude that the appeal should be allowed subject to the appropriate conditions and the relevant terms of the submitted Section 106 Agreement.

*Chris Baxter*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed Location Plan; Site Plan; Proposed Site layout; Proposed Boundary Treatment & Hard Landscaping Plan; Proposed External Materials Plan; Proposed Block Plan; EA Access Plan; House Type F112; House Type F136; Landscape Masterplan; Landscape Details Shrub Beds S1 – S15; Landscape Details Shrub Beds S16 – S27.
- 3) The development hereby permitted shall not commence until a detailed surface water drainage scheme 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 include an assessment of the hydrological and hydrogeological context of the development. This should be based on the Flood Risk Assessment and Drainage Strategy produced by Patrick Parsons Engineering Consultancy dated December 2018. Additional ground investigations will be required to account for the 12 month seasonal fluctuations for the presence of groundwater. The drainage scheme shall demonstrate that surface water run-off generated up to and including the 1:100 year critical storm (including allowance for climate change) will not exceed the run-off from the existing site and include details of how the approved scheme is to be maintained and managed for the lifetime of the development. SuDS must be considered. The approved drainage scheme shall be implemented in accordance with the approved details, completed prior to the occupation of any dwelling on the site, and thereafter retained and maintained for the lifetime of the development.
- 4) If, during development, any odorous, discoloured or otherwise visually contaminated material is found to be present at the site then no further development shall be carried out until a written method statement detailing how this contamination shall be dealt with has been submitted to and approved in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.
- 5) 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 and contemporaneous electrical standards including:
  - Electrical Requirements of BS7671:2008; and
  - 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.

- 6) The hours of operation for construction and demolition works shall be restricted to between 07:00 – 19:00 Monday to Friday and 07:00 – 13:00

on a Saturday. No work is permitted to take place on Sundays or Public Holidays. HGV movements shall not be permitted outside these hours during the construction and demolition phase. Installation of equipment on site shall not be permitted outside these hours.

- 7) The development hereby permitted shall not 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 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) 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 trackout;
- (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;
- (h) a 'no burning of waste' policy.

- 8) No above-ground works shall take place until details of all within-highway works required to widen/improve the existing carriageway on Ings Lane and provide an appropriate footway connection to the site have been submitted to and agreed in writing by the local planning authority. The agreed works shall be completed before the occupation of the tenth dwelling.
- 9) No loose material shall be placed on any driveway or parking area within 10 metres of the adopted highway unless measures are taken in accordance

with details to be submitted to and approved in writing by the local planning authority to prevent the material from spilling onto the highway. The development shall be constructed in accordance with any agreed details and thereafter retained.

- 10) 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.
- 11) No dwelling served by the private driveway shall be occupied until it has been constructed in accordance with details, including the following, to be submitted to and agreed in writing by the local planning authority:
  - the proposed method of forming access from the highway, including the required visibility splays;
  - the method of constructing/paving the drive
  - the provision of adequate drainage features;
  - the provision of suitable lighting arrangements;
  - the provision of a suitable bin collection facility;
  - the provision of street name plates that include the words 'Private Drive'.

The development shall be constructed in accordance with the agreed details and once constructed it shall thereafter be retained.

- 12) The development hereby permitted shall not commence until details of the drainage, construction, services and lighting of the proposed access road, including the junction with the adjacent highway, have been submitted to and approved in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.
- 13) No dwelling on the site shall be occupied until the access road has been completed to at least base course level and lit from the junction with the adjacent highway up to the access to the dwelling.
- 14) No other works shall be commenced on the site until the access road junction with the adjacent highway, including the required visibility splays, has been set out and established.
- 15) 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.
- 16) The penultimate dwelling on the site shall not be occupied until the access road has been completed in accordance with the agreed details.
- 17) No above-ground works shall take place until a final construction phase traffic management plan has been submitted and approved by the local planning authority. This plan shall align with the framework traffic management plan (TMP) submitted in the Transport Statement. Once approved, the plan shall be implemented, reviewed and amended as necessary throughout the construction period.

- 18) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 19) Within three months of the commencement of development, a biodiversity management plan shall be submitted to and agreed in writing by the local planning authority. The plan shall include:
- (a) details of measures to avoid harm to nesting birds and hedgehogs during demolition, vegetation clearance and construction works;
  - (b) details of at least three bat roosting features to be installed in new dwellings;
  - (c) details of nest boxes to be installed to support house sparrow, starling and other garden birds;
  - (d) restrictions on lighting to avoid impacts on bat roosts, bat foraging areas, bird nesting sites and sensitive habitats;
  - (e) provision for hedgehogs to pass through any fencing installed between gardens and between areas of grassland;
  - (f) prescriptions for the retention and improvement of existing hedgerows;
  - (g) a scheme for the provision of invertebrate habitats;
  - (h) prescriptions for the planting and aftercare of native trees and shrubs of high biodiversity value;
  - (i) a commitment to provide each new dwelling with a wildlife gardening advice pack to be approved in writing by the local planning authority;
  - (j) proposed timings for the above works in relation to the completion of the dwellings.
- 20) The biodiversity management plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority. Prior to the completion of the approved development, the applicant or their successor in title shall submit a report to the local planning authority, providing evidence of compliance with the biodiversity management plan.