



Appeal Decision

Site visit made on 16 August 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 October 2022

Appeal Ref: APP/Y2003/W/21/3270879

The Duke William Motel, 27 Church Street, Haxey DN9 2HY

- 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 Mr Paul Chapman against the decision of North Lincolnshire Council.
 - The application Ref PA/2020/1354, dated 27 August 2020, was refused by notice dated 28 January 2021.
 - The development proposed is described on the application form as full planning application to erect three two-storey, three bedroom detached dwellings, three two-storey, four bedroom detached dwellings and change the use of the main building of the Duke William Motel to residential use (including demolition of an existing side extension to the Duke William and rear chalets).
-

Decision

1. The appeal is allowed and planning permission is granted to erect six two-storey detached dwellings and change the use of the main building of The Duke William Motel to residential use (and demolish an existing side extension to the Duke William and rear chalets) at The Duke William Motel, 27 Church Street, Haxey, DN9 2HY in accordance with the terms of the application, Ref PA/2020/1354, dated 27 August 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description in the banner heading is taken from the application form. The description on the decision notice and appeal form is 'planning permission to erect six two-storey detached dwellings and change the use of the main building of The Duke William Motel to residential use (and demolish an existing side extension to the Duke William and rear chalets)'. This more accurately describes the proposal and is what I have used in my decision, omitting 'planning permission' as this is not a description of development.
3. Each proposal must be determined on its planning merits in accordance with the development plan unless material considerations indicate otherwise. There is, however, some planning history to the site, in particular appeal reference APP/Y2003/W/19/3220124 (the 2019 appeal) to which I have had regard as appropriate.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the Isle of Axholme Area of Special Historic Landscape Interest and its setting.

Reasons

5. The appeal site lies within the defined development boundary of Haxey and comprises land and buildings associated with The Duke William Motel which the submitted evidence indicates closed in 2019.
6. The northern part of the site lies within the Isle of Axholme Area of Special Historic Landscape Interest (the ASHLI), defined under Policy LC14 of the North Lincolnshire Local Plan, adopted 2003 (the Local Plan). The supporting text to the policy states that significant areas of medieval open strip fields and Turbaries together with enclosed land and the overall settlement pattern of the area make it unique in the country. Policy LC14 does not allow for development that would destroy, damage or adversely affect the character, appearance or setting of the historic landscape, or any of its features.
7. The Council regards this area to be a non-designated heritage asset. Paragraph 203 of the National Planning Policy Framework (the Framework) states that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
8. The significance of the ASHLI is derived in part from the pattern of ancient open strip fields, the enclosures of small irregular fields known as early enclosed land surrounding the villages and the overall settlement pattern. The ancient open strip fields form part of the setting of Haxey and the presence of the early enclosed land is apparent on the edge of the built development on both sides of Church Street in the vicinity of the site. There is an inherent spaciousness to the ASHLI which extends into the backland areas in this part of the village, and which is a positive and distinctive characteristic.
9. The submitted information indicates that the northern part of the site that is within the ASHLI is situated within the block of ancient open strip fields while the southern part, outside of the ASHLI, is within the early enclosed land. The presence of the chalets along one boundary of the site and the hard surfaced car park mean that it does not have an undeveloped appearance. Nevertheless, to the extent that part of the site is free from buildings, it does contribute to the overall significance of the ASHLI.
10. The site is within the historic core of the village, the street scene of which is dominated by the grade I listed St. Nicholas Church. Although not listed, the main Duke William Motel building is an attractive property of traditional design that compliments the adjacent grade II listed building at 23 and 25 Church Street. There is a spacious character to the settlement behind the built form fronting onto Church Street due to the relative absence of built development. As noted above, to the extent that there is an absence of buildings on part of the site, it does contribute to this spacious character. Overall, therefore, the site contributes positively to the character and appearance of the area.
11. Based on the information that is before me, the application site boundary within which the proposed development would sit does not appear to extend as far north as the 2019 appeal scheme. It would comprise the demolition of the existing single storey chalets to the rear of the site and the demolition of a side extension of the main Duke William Motel building and its conversion to residential use, which the 2019 appeal scheme also did. It would also comprise the construction of six two storey detached dwellings, whereas the 2019 appeal

scheme proposed the construction of seven detached bungalows and one detached house. There would therefore be two less dwellings and they would be of a different scale and design to that previously proposed. Although plots 3 and 4, which would sit on the northern boundary of the application site, would lie within the ASHLI, as would a part of plot 2 and part of the turning head, a smaller part of the ASHLI would be affected by built development.

12. The proposed development is therefore materially different to the 2019 appeal scheme in terms of the site boundary, the quantum of development, the layout of the built form and the scale and design of the dwellings.
13. The rear boundary of the application site does not extend as far north as the adjacent property at Whyalla and the removal of the chalets would reduce the northern projection of built development along the other boundary. The proposed dwellings would be visible from the ASHLI outside of the site, including from the footpath that runs just to the north and that which runs across the agricultural field to the north. However, from such vantage points, the proposed dwellings would be close enough to the existing built development that they would be seen against the context of the existing built form of the settlement, including Whyalla. The proposed development would not therefore appear as unduly extending the built form into the historic landscape from such vantage points.
14. There are already only relatively limited views of the historic landscape to the north of the settlement from Church Street in the vicinity of the site, given the screening effect of the existing buildings that front onto the street, and the property at Whyalla which shortens views at the access point. The visual link between Church Street and the landscape to the north would not therefore be materially changed.
15. However, the proposed development would introduce buildings onto the site where presently there are none, which would inevitably alter its appearance, and would, to a limited degree, reduce the overall sense of spaciousness. To this extent, there would be some harm to the significance of the ASHLI and its setting including the distinctive settlement form in what is the historic core of the village. However, the limited intrusion of the proposed development into the space, both spatially and visually, would mean that the loss of significance to this non-designated heritage asset as a whole would be limited, as would the harm to the character and appearance of the settlement form.
16. The site boundary is within the defined development boundary which was not the case with the 2019 appeal scheme. The design of the proposed dwellings is materially different to the 2019 appeal scheme and would be more in keeping with the traditional style of the built form in this part of Haxey. The scale of the proposed dwellings would be in keeping with those surrounding the site, and the proportions and arrangement of the doors and windows would be appropriate given the traditional style of the buildings in the vicinity. The proposed development would therefore respect the character and distinctiveness of the historic core of Haxey in terms of its general design.
17. I acknowledge that the street frontage would change. However, given the design of the proposed dwelling that would front onto Church Street, the scale of the new access and the nature of the boundary wall that would be removed, this would not unacceptably harm the character and appearance of the area.

18. The front setting of the adjacent listed building at 23 and 25 Church Street would not be altered to a material extent by the proposed development given the retention of the main Duke William Motel building facing the street and the location and design proposed for the new dwelling that would front onto it. The rear setting would change from the single storey chalets to a built form with dwellings of a design that would be sympathetic to the character and appearance of the area and would retain some openness in between the built form. The grade I listed Church of St Nicholas is not readily visible from within the site, and the proposed dwelling that would front onto Church Street would be of a design that would complement the street scene. I am therefore satisfied that the proposed development would preserve the settings of nearby listed buildings.
19. The 2019 appeal scheme was found to be unacceptable due to a combination of factors. This included the extent of development proposed within the ASHLI, the fact that the proposed dwellings would extend substantially beyond the footprint of the existing chalets and would noticeably erode the distinctive spaciousness of the area, the scale and design of the proposed bungalows which would be discordant with the character of the area, and the harm that would be caused to the nearby listed building.
20. I note that the proposal has sought to address these concerns. This has been achieved to a large extent. However, as the proposed development would reduce the open and spacious nature of the area, I conclude that, on balance, there would be some very limited harm to the significance of the ASHLI and its setting.
21. For the above reasons, I find that there would be some conflict with Policy LC14 of the Local plan which has been summarised above. The proposed development would also conflict with Policies CS1 and CS6 of the North Lincolnshire Local Development Framework Core Strategy adopted 2011 (the Core Strategy), and Policies LC7 and DS1 of the Local Plan. Amongst other matters, these policies seek to protect historic landscapes including the ASHLI and require development to respect local landscape character and not have an adverse effect on features of acknowledged importance. There would also be some conflict with the heritage protection aims of the Framework and its design objectives relating to local character.

Other Considerations

22. The harm arising from the proposal in terms of its effect on the ASHLI and its setting, as established above, would be very limited.
23. My attention has been drawn to the North Lincolnshire Five Year Housing Land Supply Statement, August 2021, which states that North Lincolnshire currently can demonstrate a 5.64 year supply between 1 April 2021 to 31 March 2026. However, the Council has identified that a recent appeal decision dated 20 July 2022¹ has been issued where the Inspector concluded that the Council cannot demonstrate a five year supply of deliverable housing sites. The Council has not disputed the conclusions reached by the Inspector in terms of the housing land supply position and I have not been provided with any evidence to indicate that such a position has changed.

¹ Appeal reference APP/Y2003/W/21/3278257

24. As the local planning authority cannot demonstrate a five year supply of deliverable housing sites, footnote 8 of the Framework means that the 'presumption in favour of sustainable development' at paragraph 11d) of the Framework is engaged. As such, the most important policies should be deemed out of date and planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
25. It is of note that non-designated heritage assets are not included in the list of areas or assets of particular importance stated in footnote 7 of the Framework and I have concluded that the proposal would preserve the settings of nearby listed buildings. I would also add that there would be some very limited harm caused to the significance of the ASHLI and its setting and hence conflict with development plan policies.
26. Nonetheless, the aforementioned development plan policies are out of date and paragraph 203 of the Framework requires that in weighing applications that directly or indirectly affect non-designated heritage assets, a 'balanced judgment' will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The scale of harm would be very limited and there would be very limited loss of the significance of the asset. I reach an overall 'balanced judgment' in my overall conclusion at the end of this decision.
27. I accord moderate weight to the benefits of the provision of seven new dwellings and the associated socio-economic benefits that would result, notably in supporting employment during construction and the use that future occupants would make of nearby services and facilities. The proposal would also generate investment into the fabric of the main Duke William Motel building, albeit as a residence rather than a pub.
28. The main parties agree that the local planning authority cannot demonstrate a deliverable five year supply of housing sites. The Inspector for the appeal decision identified by the Council concluded that the supply position is likely to be above 3.2 years but below 4.8 years. Even if the shortfall is modest, the proposal would nonetheless make a positive contribution towards the supply of housing in the area.

Other Matters

29. The number of objections to the proposed development received during the consideration of the planning application and as part of the appeal, and the registration of The Duke William Motel as an asset of community value in 2018 indicate that it was valued by the local community.
30. The property has been the subject of a scheme of marketing. I note the reference to a potential sale with a view to re-opening the facility as a pub and restaurant. However, there is no robust evidence before me on this or to suggest that there has been an attempt to take over The Duke William Motel and bring it back to community use. Unaudited financial statements for The Duke William Motel indicate an operating loss most years between 2009 and 2019, and a gross profit below that estimated in the viability report submitted

by an interested party². Other facilities are available in the locality, including two pubs in the village that collectively offer meals, accommodation, beer garden and typical pub games. While The Duke William Motel has a distinctive place in terms of its appeal and history, I find that the proposal would not result in unnecessary loss of valued facilities and services and would not reduce the community's ability to meet its day-to-day needs.

31. Haxey is a rural settlement where small scale developments that maintain the viability of the settlement and meet identified local needs without increasing the need to travel would be permissible under the terms of Policies CS2 and CS8 of the Core Strategy, these policies along with Policy CS7 having replaced Policy H1 of the Local Plan. The Council's information indicates that Haxey contains five out of the seven key facilities and services considered in its North Lincolnshire Settlement Survey (2019). Given this context, the scale of the proposed development would not be unacceptable in terms of the Council's development strategy. In addition, it has not been demonstrated that there is insufficient capacity within the existing services to meet the demand that would be generated by the proposed development.
32. The Framework states that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of five units or fewer). My attention has not been drawn to any development plan policies relating to affordable housing provision and there is no evidence before me to suggest that the site is within a designated rural area, which the Framework's Glossary defines as 'National Parks, Areas of Outstanding Natural Beauty and areas designated as 'rural' under Section 157 of the Housing Act 1985'. On this basis, it would not be necessary to require an affordable housing contribution.
33. There is no robust evidence before me to indicate that traffic speeds or volume, or congestion caused by on-street parking or refuse collection vehicles are a significant cause for concern about highway safety, or that appropriate visibility splays would not be achieved. The proposed development would make appropriate provision for parking within the site. Appropriate measures could be put in place to manage surface water and drainage to ensure that there would be no unacceptable increase in flood risk, and to address any potential contamination. The proposal would be sufficiently separated from other properties with regard to the prevailing pattern of development such that unacceptable effects would not result to the living conditions of nearby residents, including occupiers of Whyalla. There is no clear evidence that the hedgerow to the rear would be classed as ancient or to suggest that the site is of ecological value.
34. None of the other matters raised alter or outweigh my overall conclusion below.

Planning Balance and Conclusion

35. I find that the proposal would preserve the settings of nearby listed buildings and that it would result in very limited harm to the significance of the ASHLI and its setting. On balance, I conclude that the latter and very limited adverse impact, including associated conflict with associated and out of date

² Viability Report and Capital Value Assessment, Morgan & Clarke Chartered Surveyors, reference 7583, September 2021

development plan policies, would be significantly and demonstrably outweighed by the identified benefits of the proposal when assessed against the policies in the Framework taken as a whole. Consequently, the appeal should be allowed.

Conditions

36. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework, and have amended the wording of certain conditions in that light (without altering their fundamental aims).
37. As well as the standard time condition, and for certainty, one is required to ensure that the development is carried out in accordance with the approved plans.
38. A number of conditions are required prior to commencement of development to ensure that the relevant details are acceptable and compliance with their requirements at a later time could result in unacceptable harm. These are summarised in the following paragraph.
39. In the interests of highway safety, it is necessary to require details of the relocation of the lighting column, telegraph pole and water board marker. Details of the construction phase is necessary to ensure that the impacts of construction on the living conditions of neighbouring occupiers and highway safety are minimised. Drainage details are necessary to make sure that there is no increased risk of flooding. For the same reason, details are necessary to ensure that surface water run off from the highway and hard surfaced areas can be effectively managed.
40. It is necessary to restrict hours of operation during the construction phase, including when HGVs can enter and leave the site, in the interests of the living conditions of neighbouring occupiers. In the interests of highway safety, conditions are necessary to restrict the use of loose material and structures or planting near to the adopted highway, to require details of the private driveway, and to require that the vehicle access is provided and access and parking for the dwellings are available for use and retained as such. In the interest of public health and safety and the environment, a scheme to address land contamination risks is necessary. Conditions are necessary to secure details of the external materials and the windows and doors to be used on the development, boundary treatments, landscaping and bin storage in the interests of the character and appearance of the area.

Conclusion

41. For the above reasons, and having taken all other relevant matters into account, the other material considerations in favour of the development proposed justify taking a decision which is not in accordance with certain provisions of the development plan. Therefore, having had regard to the development plan as a whole and to the approach in the Framework, the appeal should be allowed.

F Wilkinson

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: Site Location Plan; Site Plan (1467); Floor Plans Dwellings 1 & 2 (1467/3); Floor Plans Dwelling 3 (1467/5); Floor Plans Dwellings 27A & 4 (1467/7), Floor Plans Dwelling 5 (1467/9); Floor Plans Duke William (1467/11); Elevations and Floor Plan of 27A Garage (1467/13); Elevations and Floor Plan of Dwelling 2 Garage (1467/12), Elevations of Dwellings 1 & 2 (1467/2), Dwelling 3 (1467/4), Dwellings 27A & 4 (1467/6), Dwelling 5 (1467/8), Duke William (1467/10).
- 3) No development shall take place until details showing the relocation of the existing street lighting column, telegraph pole and water board marker have been submitted and approved in writing by the local planning authority. No other works shall be commenced on the site until the access road junction with the adjacent highway, including the required visibility splays and relocation of the existing street lighting column, telegraph pole and water board marker, has been set out in accordance with the approved details and established.
- 4) 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 on the adjacent highway, has been submitted to and approved in writing by the local planning authority. Once approved the plan shall be implemented throughout the construction period.
- 5) No development shall take place 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:

- (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:

- (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:

- (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;
- (h) a 'no burning of waste' policy.

The approved CEMP shall be adhered to throughout the construction period for the development.

- 6) No development shall take place until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
- 7) No development shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. The drainage scheme shall demonstrate that surface water run-off generated up to and including the 1 in 100 year critical storm (including an allowance for climate change) will not exceed the run-off from the existing site. It shall also include details of how the resulting completed scheme is to be maintained and managed for the lifetime of the development so that flood risk, both on and off the site, is not increased. SuDS must be considered. Should infiltration not be feasible at the site, alternative sustainable drainage should be used, focusing on above-ground solutions. The drainage scheme shall be implemented in accordance with the approved submitted details required by condition 6, completed prior to the first occupation of any dwelling, and thereafter retained and maintained.
- 8) No development shall take place until details showing an effective method of preventing surface water run-off from hard paved areas within the site onto the highway have been submitted to and approved in writing by the local planning authority. These facilities shall be implemented prior to the access and parking facilities being brought into use and retained thereafter.
- 9) No development shall take place until details showing an effective method of preventing surface water run-off from the highway onto the developed site have been submitted to and approved in writing by the local planning authority. These facilities shall be implemented prior to the access and parking facilities being brought into use and retained thereafter.
- 10) Prior to the commencement of any above-ground works, details of all external facing and roofing materials and scale drawings of the proposed windows and doors (with material specification) shall be submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the approved details.

- 11) Prior to the commencement of any above-ground works, a scheme for the positioning and appearance of all boundary treatments shall be submitted to and approved in writing by the local planning authority. The boundary treatments shall be provided in accordance with the approved details before any part of the development is first occupied and shall be retained thereafter.
- 12) Prior to the commencement of any above-ground works, a scheme showing the storage of bins shall be submitted to and approved in writing by the local planning authority. The bin storage shall be provided in accordance with the approved details before any part of the development is first occupied and retained thereafter.
- 13) Prior to the commencement of any above-ground works, a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. 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.
- 14) No dwelling served by the private driveway shall be first occupied until it has been constructed in accordance with the following details which shall be submitted to and approved in writing by the local planning authority:
 - i. the proposed method of forming access from the highway, including the required visibility splays;
 - ii. the method of constructing/paving the drive;
 - iii. the provision of adequate drainage features;
 - iv. the provision of suitable bin collection facilities adjacent to the highway;
 - v. the provision of suitable lighting arrangements; and
 - vi. the provision of street name plates that shall include the words 'Private Drive'.

Once constructed the private driveway shall be thereafter retained.
- 15) Construction and site clearance operations shall be limited to the following days and hours: 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 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. Installation of equipment on site shall not be permitted outside these hours.
- 16) If, during the construction of the 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 approved method statement shall be carried out before the development is resumed or continued.
- 17) 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 thereafter retained.

- 18) 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. Once agreed and implemented these measures shall be thereafter retained.
- 19) Nothing shall at any time, whether or not permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order with or without modification), be erected, retained, planted or allowed to grow over 1.05 metres in height above the level of the adjoining carriageway for a distance of 2 metres from the highway boundary across the site frontage.