



Appeal Decision

Site visit made on 6 December 2022

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th January 2023

Appeal Ref: APP/Y2003/W/22/3297397

Land at Westrum Lane, Brigg DN20 9EY

- 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 Messers G & H Thorpe against the decision of North Lincolnshire Council.
- The application Ref PA/2020/2088, dated 16 December 2020, was refused by notice dated 14 January 2022.
- The development proposed is outline planning permission to erect up to nine dwellings.

Decision

1. The appeal is allowed and planning permission is granted for outline planning permission to erect up to nine dwellings at land at Westrum Lane, Brigg DN20 9EY in accordance with the terms of the application, Ref PA/2020/2088, dated 16 December 2020, subject to the conditions in the schedule to this decision below.

Procedural Matters

2. Outline planning permission is sought with all matters reserved for subsequent approval. The submitted drawing includes broad illustrative details of access, internal road layout and the siting of the proposed dwellings. However, the drawing is marked 'indicative' and therefore I have determined the appeal on this basis.
3. The Council has indicated that the emerging North Lincolnshire Local Plan has reached the Preferred Options stage of the preparation process and has not yet been subject to an independent examination. The Local Plan is therefore at an early stage, and accordingly I attach limited weight to its policies.

Main Issues

4. The main issues are:
 - whether the appeal site is an appropriate location for the proposed development with regard to local policy; and
 - the effect of the proposed development on the character and appearance of the surrounding area.

Policy Background

5. The Council has directed me to a recent appeal decision¹ in which the Inspector concluded the Council could not demonstrate a five year supply of deliverable housing land. The Inspector put the Council's actual housing supply position to somewhere between 3.2 years and 4.8 years. The Council has not disputed the Inspector's findings. The recent date of the appeal decision and lack of evidence to counter the Inspector's findings, leads me to conclude that the Council cannot demonstrate a five year supply of deliverable housing land. As such, relevant policies for the supply of housing should be considered out-of-date and paragraph 11(d) of the National Planning Policy Framework (NPPF) is engaged.
6. Policy CS1 of the North Lincolnshire Local Development Framework Core Strategy, adopted 2011 (CS) sets out the spatial strategy for new development and seeks to ensure that the majority of new development is within the major sub-regional town of Scunthorpe, the market towns, rural settlements and key strategic employment sites. Policy CS2 of the CS sets out a sequential approach to the delivery of the spatial strategy and states that any development that takes place outside the defined development limits of settlements will be restricted and that only development which is essential to the functioning of the countryside will be allowed to take place.
7. Policy CS3 of the CS outlines the development limits of Scunthorpe, the market towns and rural settlements and states that development outside of the defined boundaries will be restricted to that which is essential to the functioning of the countryside. Policy CS8 of the CS outlines the spatial distribution of housing sites, and states that within the open countryside outside development limits, housing development will be strictly limited with consideration given to housing which relates to agriculture, forestry or to meet a special need associated with the countryside. Policy CS8 of the CS refers to developments on greenfield sites, however, this is in relation to a hierarchical approach to sites within the development limits, with first priority given to brownfield sites. Therefore, although the appeal site is a greenfield site, this is not applicable to the proposal.
8. Policy RD2 of the North Lincolnshire Local Plan, adopted 2003 (LP) states that development in the open countryside will be strictly controlled and details a closed list of developments for which planning permission will be granted. The proposed development is for market housing and therefore it would not comply with part (iii) of Policy RD2. The proposed development would not comply with any of the other categories of development listed.
9. These policies seek to achieve a sustainable pattern of development and to protect the countryside from future developments. However, these policies predate both the NPPF and are deemed out-of-date by reason of paragraph 11(d) of the NPPF being engaged.

Reasons

Location

10. The appeal site comprises part of an open field fronting onto Westrum Lane. The northern part of Westrum Lane is predominantly residential and is within

¹ Appeal Ref: APP/Y2003/W/21/3278257

the development limits of the market town of Brigg. The southern part of the road is predominantly open fields interspersed with sporadic developments and is within the open countryside. The appeal site is sited adjacent to 30 Westrum Lane, is outside the development limit and is in the open countryside.

11. The appeal site is located adjacent to the development limits of Brigg and would be viewed as an extension to the existing built development along Westrum Lane. Westrum Lane has a pavement along its length and is lit by street lighting, which the Highway Authority has requested be extended along the frontage of the appeal site. The appeal site is close to Brigg town centre with a large range of shops, services and facilities, to Brigg train station and bus stops on the A1084. Consequently, the future occupiers of the proposed development would be able to walk or cycle to access services, employment, education and healthcare to support their day-to-day living and would not be reliant on the private car. Therefore, the appeal site would serve to promote sustainable patterns of development.
12. In reference to the first main issue, the appeal site would not be an appropriate location for the proposed development with regard to Policies CS2, CS3 and CS8 of the CS and Policy RD2 of the LP, which seek to distribute development in a hierarchical manner in the interests of encouraging sustainable patterns of development and to strictly control development outside of defined development limits to protect the countryside. However, whilst there is conflict with these policies, I attribute limited weight to it in this case, given the sustainable location of the appeal site and the policies being deemed out-of-date.

Character and Appearance

13. The Highways Authority has stated that as part of the reserved matters application they would require the road to the front of the appeal site to be widened due to Westrum Lane narrowing significantly at the end of the existing residential development and due to an increase in vehicle movements from the proposed development. This would result in the total or partial loss of the roadside hedgerow along the appeal site frontage.
14. The hedgerow is mixed species interspersed with trees. It is mature and of a substantial height. Together with a similar hedgerow on the opposite side of the road, it provides an imposing and verdant feature and signifies a change in character from the adjacent part of the road that falls within the development limits of Brigg. The widening of the road and the loss of all or part of this hedgerow would therefore significantly change the character and appearance of this part of the road, to the detriment of the surrounding area.
15. The hedgerow has been described as 'low quality' however, this has not been substantiated. A replacement hedgerow could be achieved as part of a subsequent reserved matters application. However, such planting would likely be set further back from the road, eroding the existing enclosed character. Furthermore, such planting would take time to become established and provide a similar level of visual amenity.
16. In reference to the second main issue, the proposed development would have a detrimental effect on the character and appearance of the surrounding area from the likely partial or total loss of the existing mature roadside hedgerow. This would be contrary to Policy DS1 of the LP which, amongst other things,

seeks to reflect or enhance the character, appearance and setting of the immediate area and the adjoining countryside. In this regard, I attach full weight to this policy as it is consistent with the NPPF.

Planning Balance

17. I have not been made aware that the proposed development would harm any areas or assets of particular importance, therefore paragraph 11(d)(ii) of the NPPF is relevant in this case. This states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
18. The proposal would be contrary to Policies CS2, CS3 and CS8 of the CS and Policy RD2 of the LP, which refer to the location of new development and seek to protect the countryside. However, I attach limited weight to conflict with these policies arising due to the location of development, as the proposal would be in a sustainable location and the policies are deemed out-of-date. Harm would be caused to the character and appearance of the area from the partial or total loss of the roadside hedgerow, a matter which I give moderate weight due to the potential for the harm to be partly mitigated over time by replacement planting and that the visual impact would be relatively localised.
19. In terms of the benefits, the provision of up to 9 dwellings weighs in favour of the proposal and would make a moderate contribution to the Government's objective of significantly boosting the supply of new homes and would help to address the Council's shortfall. The proposal would also provide a limited amount of short-term employment through the construction of the development. Moderate economic benefit would also accrue from local spending by future occupants and from additional support to the local community and its services. I attach significant weight to these benefits.
20. Overall, I find that the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF when taken as a whole. Therefore, the presumption in favour of sustainable development applies. Whilst not in accordance with Policies CS2, CS3 and CS8 of the CS and Policy RD2 of the LP, the proposed development would provide a suitable location for housing having regard to the specific circumstances of this case. It would also represent sustainable development in accordance with paragraph 8 of the NPPF.

Other Matters

21. I have had regard to the objections raised by third parties in respect of the proposal. The layout and design of the dwellings are reserved matters and are therefore not before me. Nevertheless, having regard to the proposed number of dwellings and the size of the site and the information provided within the indicative plans, I have no reason to consider that a satisfactory form of development cannot be accommodated on the site. Comments regarding the effect of the proposed development on public sewers and wildlife are unsubstantiated and the Council has not raised an issue in this regard. Whilst the construction phase is likely to be disruptive, it would be short-term and is not a reason to withhold permission. Furthermore, a condition limiting construction and clearance to particular days or hours could be used to mitigate these effects.

22. The provision of up to 9 dwellings at the appeal site would increase the number of vehicles travelling along Westrum Lane and utilising the junction with Bigby High Road. However, I have not been provided with evidence to suggest that such an increase would result in a highway safety issue. Furthermore, the Highways Authority has not raised an objection in this regard. The Council has not objected to the loss of good quality agricultural land due to the limited extent of the appeal site. I have no reason to take a different view on these matters.
23. Concern has been raised that there are other more suitable sites available for housing within the development limits of Brigg; that planning permission has been granted for housing developments within Brigg that have yet to be constructed; and that sites have been allocated for housing by the Council. These sites would have formed part of the Council's five year supply of deliverable housing land, however, the evidence before me suggests that the Council is unable to demonstrate such a supply and therefore additional housing sites are required.

Conditions

24. I have had regard to the conditions suggested by the Council. Where necessary, I have made amendments to these in the interests of clarity and precision. I have imposed standard conditions relating to the submission and timing of the reserved matters application(s) and the commencement of development.
25. I am satisfied that the condition in respect of the widening of Westrum Lane and the provision of a footway is necessary to comply with highway safety issues. As too are conditions in respect of the provision of vehicular access(es), parking and turning facilities prior to occupation of the dwellings, the prevention of loose material onto the adopted highway, the provision of wheel washing facilities, and the submission and implementation of a construction phase traffic management plan. A timing condition for the construction and site clearance works is considered necessary to protect the living conditions of the occupiers of neighbouring properties.
26. A condition in respect of a surface water drainage scheme is necessary based on local knowledge of the water environment which is not addressed by the appellant's flood risk and drainage assessment. An unexpected contamination condition is considered proportionate to the appeal site given the absence of evidence that contaminative activities have previously taken place. To ensure the proposal complies with Policy CS17 of the CS, a condition in respect of a biodiversity metric assessment and biodiversity management plan are considered necessary.

Conclusion

27. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal is allowed.

A Berry

INSPECTOR

Schedule of Conditions

1. Details of the layout, scale, appearance, access and landscaping (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 as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
3. The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
4. The reserved matters applications referred to in Condition 1 shall include details of the widening of Westrum Lane to accommodate two lanes of vehicular traffic and provision of a footway across the site frontage to a point agreed with the local planning authority, and a timetable for their construction. The development shall proceed in accordance with the approved details and retained thereafter.
5. Prior to the occupation of the dwellings hereby approved, the vehicular access(es), parking and turning facilities shall be completed in accordance with the reserved matters approval(s) and shall be retained thereafter.
6. 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 first 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 the approved details and retained thereafter.
7. Prior to the commencement of development, details regarding wheel cleaning facilities shall be submitted to and approved in writing by the local planning authority. The approved details shall be provided within the curtilage of the site prior to the commencement of development and shall be retained for the duration of the works.
8. Prior to the commencement of development, 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, shall be submitted to and approved in writing by the local planning authority. The development shall proceed in accordance with the approved details.
9. The details to be submitted in respect of reserved matters for any phase of development shall include a scheme for the provision of surface water drainage for the site and shall include the following:
 - (a) discharge from "greenfield sites" taken as 1.4 lit/sec/ha (1:1yr storm)
 - (b) no above-ground flooding to occur up to the 100 year plus climate change critical flood event (based on current national guidance)
 - (c) a range of durations should be used to establish the worst-case scenario

- (d) the suitability of soakaways, as a means of surface water disposal, should be ascertained in accordance with BRE Digest 365 or other approved methodology
- (e) a scheme for the provision of a positive outlet of surface water from the site
- (f) adoption and maintenance agreements for all surface water and SuDS drainage features
- (g) an effective method of preventing surface water run-off from hard paved areas within the site onto the highway and vice versa.

The drainage scheme shall be implemented in accordance with the approved details, completed prior to the occupation of any dwelling or building within each phase or subphase of the development on site, and thereafter retained and maintained in accordance with the scheme for the life of the development.

10. 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.
11. Prior to the commencement of development, a biodiversity metric assessment and biodiversity management plan shall be submitted to the local planning authority for approval in writing. The document shall include:
 - (a) an assessment of biodiversity loss based on a habitat and hedgerow baseline of December 2020;
 - (b) details of measures required to provide at least 1% biodiversity net gain in accordance with the Defra biodiversity metric 2.0;
 - (c) details of sensitive working practices to avoid harm to hedgehogs and nesting birds;
 - (d) details of bat boxes and bat bricks to be installed on at least two dwellings;
 - (e) details of swift boxes and sparrow terraces to be installed on at least two dwellings;
 - (f) details of nesting sites to be installed to support other species including starling and house martin;
 - (g) restrictions on lighting to avoid impacts on bat roosts, bat foraging areas, bird nesting sites and sensitive habitats;
 - (h) provision for hedgehogs to pass through any fencing installed between gardens and between areas of grassland;
 - (i) prescriptions for the retention, planting and aftercare of native hedgerows, trees and shrubs, of high biodiversity value;
 - (j) proposed timings for the above works in relation to the completion of the dwellings.

Biodiversity units should be delivered on site, within the red line boundary shown on the submitted Location Plan. Those that cannot viably be delivered on site should be delivered locally, according to a local plan or strategy.

12. The biodiversity management plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter. Prior to the occupation of the penultimate dwelling granted reserved matters approval, a report shall be submitted to and approved in writing by the local planning authority, providing evidence of compliance with the biodiversity management plan.

13. 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.

*****End of Conditions*****