



# Appeal Decision

Site visit made on 8 March 2023

**by Mr R Walker BA HONS DIPTP MRTPI**

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

**Decision date: 29 March 2023**

**Appeal Ref: APP/E2001/W/22/3311346**

**Land North of Lyndale, West End, Bainton YO25 9NR**

- 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 Colin and Andrew Lakes against the decision of East Riding of Yorkshire Council.
- The application Ref 21/03425/PLF, dated 8 September 2021, was refused by notice dated 11 July 2022.
- The development proposed is the erection of two dwellings and associated works and infrastructure.

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are whether the appeal site is a suitable location for the proposed development with particular reference to:
  - The spatial strategy for the area, including the balance and mix of housing;
  - The effects of the proposal on the character and appearance of the surrounding area; and
  - Whether the proposal would provide acceptable living conditions for future occupiers of the proposed development with particular reference to overlooking.

## Reasons

### *Spatial strategy*

3. The appeal site lies near to, but outside of, the development limits for the village of Bainton as defined by the East Riding Local Plan Strategy Document (ERLPSD) (2016).
4. Policy S4 of the ERLPSD lists certain forms of development outside the defined development limits of villages such as Bainton, which may be acceptable. This list does not include new build market housing, as sought in the proposed development before me. Therefore, the appeal proposal would not accord with this policy.
5. The proposed dwellings would occupy a position very close to the development limits of Bainton and there would be neighbouring houses on either side of the road frontage. Therefore, in my view, the appeal site is not isolated when

applying its ordinary meaning. As such, paragraph 80 of the National Planning Policy Framework (the Framework) is not engaged. However, I do not consider this to be determinative when assessing the appeal against the provisions of the ERLPSD and the Council's spatial strategy.

6. The proposed development would comprise of two three-bedroom houses. There is no dispute that the Council's housing mix guidance note (2020) states that there is an undersupply of one and two-bedroom properties in Bainton and an oversupply of three and four-bedroom properties. I recognise that the pandemic may have altered the market more broadly. Moreover, the Council has approved a development within the village that does not contribute to the undersupply of one and two-bedroom properties. However, I have no substantive evidence of any alternative relevant figures for Bainton. As such, on the evidence before me, the proposal would not contribute to the overall mix of housing in the locality, taking into account the current need as sought by Policy H1 of the ERLPSD.
7. To conclude, the appeal site is not a suitable location for the proposed development with particular reference to the spatial strategy for the area, including the balance and mix of housing. The proposal would not therefore accord with the requirements of Policies H1 or S4 of the ERLPSD. These say, amongst other things, that new residential development should contribute to the overall mix of housing in the locality, taking into account the current need, particularly for older people and first time buyers, current demand and existing housing stock.

#### *Character and appearance*

8. West End runs at an angle westward from the A614. Housing gradually dissipates to the west from the A614, with properties found mostly on the northern side of West End. Beyond the large two storey dwelling known as Lyndale, when leaving the village and turning into Preston Lane, the scale of houses is distinctly smaller. The appeal site is an open parcel of land set between a property on the corner and Wayside Cottage.
9. The village development limits have been drawn to end by the corner as West End turns into Preston Lane. This correlates with the transition between the village and countryside, as the built form and village infrastructure becomes less and views to the wider countryside become increasingly evident.
10. The height and suburban appearance of the proposed dwellings, along with the formality of the shared access point and driveway to the front of the houses and garages, would jar injuriously with the position, layout and scale of the two smaller properties either side, as the built form dissipates and transitions into the countryside.
11. The land contains small piles of material, earth and a shipping container, with areas of bare soil all contributing to a somewhat unkempt quality. Even so, for the reasons set out, the greater scale and permanence of the proposed development would have a more harmful effect on the character and appearance of the area than the existing situation.
12. I therefore conclude that the appeal site is not a suitable location for the proposed development with particular reference to the harmful effects of the proposal on the character and appearance of the surrounding area. As such,

the proposal would be contrary to the requirements of Policies A3, ENV1, ENV2 and S4 of the ERLPSD when taken together. These policies stipulate, amongst other things, that development will be supported where it achieves a high quality of design having regard to the specific characteristics of the site's wider context and the character of the surrounding area. These policies are consistent with the provisions of the Framework.

### *Living conditions*

13. The rear garden of Plot 2 would be overlooked by a first floor window of Lyndale House, which is positioned on a higher level. However, such views are not uncommon between residential properties and gardens. Moreover, the views would be confined to a single window on the first floor with most of the rooms in Lyndale not overlooking the garden. As such, there would not be an unacceptable level of overlooking, even prior to the establishment of the additional planting indicated in the proposed layout plan.
14. I therefore conclude that the proposal would provide acceptable living conditions for future occupiers of the proposed development with particular reference to overlooking. I therefore find no conflict with the requirements of Policy ENV1 of the ERLPSD or the provisions of the Framework, insofar as they relate to this matter. When taken together, these seek to ensure good standards of living conditions for existing and future occupants, amongst other things.

### **Other Matters**

15. The Council's housing supply figure means the so called 'tilted balance' is not engaged. Nonetheless, the presence of a 5-year supply of housing is not a maximum and the government places considerable importance on boosting the supply of housing. Moreover, whilst the proposal would not directly meet an identified need for housing in the village, two three-bedroom dwellings would still contribute to maintaining the Council's supply of housing.
16. The proposal would create short-term employment during construction. Moreover, future occupiers would contribute to the vitality of the local community and economy. However, the associated social and economic benefits from two dwellings would be very small.
17. The appeal site is not isolated in the context of the Framework. However, there are few facilities nearby in Bainton and I have little information regarding the frequency of busses to other settlements. Although the Framework does accept that the opportunities for sustainable rural transport solutions are reduced, given the location of facilities and services, and evidence before me, I consider that future occupiers would have a general reliance on private vehicles. This moderates the weight I afford the appeal site's location near the edge of the settlement.
18. There is a dispute between the parties as to whether the site constitutes Previously Developed Land (PDL). The site is identified on mapping as a builder's yard and there is sufficient evidence before me, for me to accept that the site was previously used for that purpose. However, the google street scene image and written submissions indicate that the land was grassed over and used, in part, for growing crops. Moreover, I do not have firm details of the extent and nature of the existing use of the site since the commercial

operations of Mr M Lakes ceased. In this regard, I can not conclude on the evidence before me that the historical builders yard use had not been severed and that the current items stored on the site are sufficient to amount to PDL. In any case, as set down below, my decision does not turn on whether the site is PDL or not.

19. The absence of harm in relation to other considerations weighs neither for nor against the proposal and are neutral matters.
20. The LP is consistent with the Framework and the conflict with relevant policies is a matter that weighs significantly against the proposal. Indeed, the Council's spatial strategy would be undermined if the appeal was allowed, bearing in mind that Paragraph 15 of the Framework reminds decision-makers that the planning system should be genuinely plan-led. This reflects the primacy of the development plan set out in Section 38(6) of the Planning and Compulsory Purchase Act 2004. To allow development contrary to their provisions would undermine and dilute the plan-led system and the future pattern of development in the area.
21. I have also found the resulting development would be harmful to the character and appearance of the area, even considering the unkempt nature of the appeal site. As such, even if I were to accept the appellants position that the appeal site is PDL, this would still not be sufficient, in combination with other considerations to outweigh the harm and policy conflicts in relation to the first two main issues.
22. I do not have full details of the other applications referred to by the appellants. However, each site has its own characteristics and I have considered the appeal proposal on its own merits having regard to the evidence and plans before me.

### **Conclusion**

23. For the reasons given above, the proposal would conflict with the development plan and there are no material considerations that outweigh this conflict. Therefore, the appeal is dismissed.

*Mr R Walker*

INSPECTOR