



Appeal Decision

Site visit made on 27 November 2023

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 20 December 2023

Appeal Ref: APP/N2535/W/23/3320232

Land adjacent to Highfield Garage, Gainsborough Road, Willingham By Stow, Gainsborough, Lincolnshire DN21 5JX

- 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 and Mrs G Leaning against the decision of West Lindsey District Council.
 - The application Ref 146049, dated 19 December 2022, was refused by notice dated 13 March 2023.
 - The development proposed is described as 'planning application to remove 2 existing open sided sheds and erect 1no. detached bungalow - resubmission of application ref 144624'.
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Decision

1. The appeal is allowed and planning permission is granted for the removal of 2 open sided sheds and the erection of a detached bungalow on land adjacent to Highfield Garage, Gainsborough Road, Willingham By Stow, Gainsborough, Lincolnshire DN21 5JX in accordance with the terms of the application, Ref 146049, dated 19 December 2022, subject to the conditions in the schedule at the end of this decision.

Preliminary Matters

2. The development plan at the time that the Council determined the planning application was the Central Lincolnshire Local Plan which had been adopted in 2017. In April 2023 this plan was replaced by a new Central Lincolnshire Local Plan ('Local Plan') and it is on the basis of this new Local Plan that I have determined this appeal.
3. The description of the proposed development in the banner header above was taken from the planning application form. In the decision in paragraph 1 above I deleted the superfluous words from this description.
4. A unilateral undertaking was submitted with the planning application. Its terms are considered later on in this decision.

Main Issues

5. Based upon the Council's reasons for refusal of the application, the main issues in this appeal are:
 - whether the location of the proposed development would comply with the development plan; and,
 - the effect of the proposed development on the supply of employment land within the District.

Reasons

Planning policy and the location of the proposed development

6. In order to further sustainability objectives, policy S1 of the Local Plan details the spatial strategy for the District which includes a settlement hierarchy. The strategy focuses new development in order of preference on the following hierarchy: Lincoln Urban Area; Main Towns; Market Towns; Large Villages; Medium Villages; Small Villages; and Hamlets. For planning policy purposes, land outside of these settlements is located within the open countryside where development is strictly controlled.
7. The appeal site is located adjacent to the rear of linear development along Gainsborough Road. This line of development together with an overlapping shorter line of dwellings on the eastern side of the road forms a cluster with an elongated developed footprint. This cluster stands within the open countryside clear of the Small Village of Willingham By Stow which is located further to the south.
8. As part of the site visit, checking against the list of dwellings provided by the appellant, I found that there were at least 15 dwellings within this footprint. If the recent side addition to Willow Cottage with a front door is a separate residential unit, then this number rises to 16. For the purposes of the Local Plan this collection of homes therefore constitutes a Hamlet where single dwelling infill developments are supported.
9. The glossary to the Local Plan defines infill as the development of a site between existing buildings. The proposed dwelling would be located in a position currently occupied by a portal framed shed in between the rear of a large workshop facing the road and a second larger open portal shed.
10. In order to facilitate the development both of the portal framed sheds would be demolished. However, as the larger portal shed on one side is existing the proposed bungalow complies with the glossary's definition of infill and hence policy S1 of the Local Plan.
11. Even if the contrary interpretation was held to be true, namely that the proposal did not constitute infill development because once fully implemented the proposal would result in a bungalow that would not be located between two buildings, the thrust of policy S1 in relation to Hamlets is to allow limited infill development within the developed footprint of the settlement. In such circumstances, the fact that the appeal proposal would achieve this aim, whilst also shrinking the built footprint of the Hamlet, would be a material consideration of significant weight in favour of the appeal.

Employment land

12. The appeal site forms part of a larger disused site that was last used as a haulage yard. The Council's second objection to the application related to the loss of local employment land to residential development. In this regard the Council relied upon the absence of sufficient information in the application to demonstrate compliance with the criteria of policy LP5 of the now superseded Local Plan which sought to protect employment sites.
13. In response to the appeal the Council identified policies of the new Local Plan that it considered were relevant. Its list did not include any employment land

policies. The Council though provided a full copy of the current Local Plan which I have read. On the basis that a hamlet is a settlement named in the Settlement Hierarchy of policy S1, policy S33 Part 2 of the Local Plan is relevant as it deals with applications, such as the proposed development, which would result in the loss of employment land.

14. It is common ground that there is demand for the site. Its partial loss to development, and the unilateral undertaking preventing commercial use of the site should the appeal be allowed, would therefore have an adverse effect on the supply of employment land. However, given the close proximity of the Main Town of Gainsborough and the employment land opportunities it already has, together with the land that has been allocated for employment in the Local Plan, this effect would not be significant. For this reason, and because the proposed dwelling would not conflict with the remaining criteria of this policy, the scheme would comply with policy S33 of the Local Plan.

Other Matters

15. The appeal site and neighbouring land to the south owned by the appellant form a disused haulage yard. As a result, should the appeal be allowed, the potential exists for an unneighbourly employment use recommencing on the neighbouring land that would harm the living conditions of future occupiers of the proposed bungalow. In order to prevent this a planning obligation in the form of a properly completed unilateral undertaking (UU) has been completed by the appellant. This obligation ensures that in the event of the appeal being allowed no commercial employment use on the neighbouring land would occur.
16. Given the above, I find that the undertaking is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind. As a result, it complies with Regulation 122 of the Community Infrastructure Regulations 2010 (as amended) and I shall take its provisions into account.
17. In preventing commercial employment use of this land the UU would also improve the living conditions of the occupiers of dwellings on either side of the land within the appellant's ownership. This is because it is evident from the interest that has been shown in the site that if the appeal was dismissed commercial use of the site would re-start. The creation of a quieter environment with no lorries operating from the site would also be of benefit to the nearby public house and the attractiveness of the visitor accommodation it offers. These are notable benefits that weigh in favour of the scheme.

Conditions

18. In the interests of certainty, I have imposed a condition specifying the relevant plans that the development is to be carried out in accordance with. To protect health, any contaminated land present on the site needs to be identified and dealt with. This matter needs to be dealt with by way of a pre-commencement condition because starting development without assessing contamination could hinder any remediation required. The appellant has agreed to this. To help the dwelling complement the character and appearance of the area, the external materials used in the dwelling's construction need to be in accordance with those listed on the application form. In the interests of sustainable drainage and ecology, well drained hardstanding and ecological enhancements need to occur.

19. I have required all these matters by condition, revising the conditions suggested by the Council where necessary to reflect the advice contained within Planning Practice Guidance.
20. As the proposed development is for a single dwelling a landscaping scheme is unnecessary. I have therefore not attached the two conditions relating to this matter. A condition was also suggested requiring further drainage details. However, as these matters are addressed by Building Regulations this condition is not necessary.

Overall Conclusions – The Planning balance

21. I have found that the location of the proposed development would comply with the development plan and that the loss of the use of the site and adjacent land for employment would not materially affect employment opportunities in the area. As a result, it would comply with the development plan considered as a whole.
22. In the event that the contrary assessment of the location of the proposed development described above was held to be correct, and the proposal was considered to be contrary to policy S1 of the Local Plan and therefore the development plan considered as a whole, the fact that the development would occur within the existing development footprint of the hamlet and serve to shrink it is a material consideration of sufficient weight to outweigh non-compliance with this policy.
23. For the reasons given above, I therefore conclude that the appeal should be allowed.

Ian Radcliffe

Inspector

Schedule

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings: GLWBS/21/012 dated 17/10/2021, GLWBS/21/014R1 dated 6/03/2022 and GLWBS/21/013R1 dated 06/03/2021.
- 3) No development shall take place until, suitably qualified contaminated land assessments and associated remedial strategy with non-technical summaries, conclusions and recommendations, together with a timetable of works, have been submitted to and approved in writing by the Local Planning Authority (LPA) and the measures approved in that scheme shall be fully implemented. [Outcomes shall appropriately reflect end use and when combining another investigative purpose have a dedicated contaminative summary with justifications cross referenced]. The scheme shall include all of the following measures unless the LPA dispenses with any such requirement specifically in writing:

- a) The contaminated land assessment shall include a desk study to be submitted to the LPA for approval. The desk study shall detail the history of the site uses and propose a site investigation strategy based on the relevant information discovered by the desk study. The strategy shall be approved by the LPA prior to investigations commencing on site.
 - b) The site investigation, including relevant soil, soil gas, surface and groundwater sampling, shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
 - c) A site investigation report detailing all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the LPA. The LPA shall approve such remedial works as required prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.
 - d) Approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the LPA.
 - e) Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the LPA. The closure report shall include details of the proposed remediation works and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
- 4) The materials used in the development shall match those stated on the application form.
 - 5) New hardstanding shall be constructed from a porous material or shall be appropriately drained within the site and shall be retained as such thereafter.
 - 6) The development shall be carried out in full accordance with the recommendations contained within the Preliminary Ecological Appraisal (CGC Ecology November 2022).

-----End of Schedule-----