



Appeal Decision

Site visit made on 4 March 2024

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 14 May 2024

Appeal Ref: APP/Y2003/W/23/3325318

Land to the rear of the Jolly Miller, Brigg Road, Wrawby DN20 8RL

- 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 J Godfrey-East against the decision of North Lincolnshire Council.
 - The application Ref PA/2022/535, dated 11 February 2022, was refused by notice dated 13 June 2023.
 - The development proposed is the erection of 4 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 4 dwellings on land to the rear of the Jolly Miller, Brigg Road, Wrawby DN20 8RL in accordance with the terms of the application, Ref PA/2022/535, dated 11 February 2022, subject to the conditions in the schedule at the end of this decision.

Preliminary Matters

2. The application was submitted in outline with only access to the site to be determined at this stage. The plan that has been submitted as part of the application showing a possible layout of housing on the site has been taken into account as far as it is relevant to my consideration of the principle of development on the appeal site.
3. The revised National Planning Policy Framework ('the Framework') was published on 20 December 2023 after the statements in relation to this appeal had been exchanged and final comments made. However, as the changes that were made are not material to the main issues in this decision, the cases of the parties have not been prejudiced by not being able to comment on the revised Framework. I have therefore determined the appeal on the basis of the statements and comments that have been received.

Application for costs

4. An application for costs was made by J Godfrey-East against North Lincolnshire Council. This application will be the subject of a separate Decision.

Main Issues

5. The main issues in this appeal are:
 - whether the location of the proposed development would comply with the development plan;
 - the effect of the proposed development on the character and appearance of the area; and,

- whether services and facilities are accessible from the site.

Reasons

Location of the proposed development

6. The development plan for the area includes the saved policies of the North Lincolnshire Local Plan ('Local Plan') adopted in 2003 and the North Lincolnshire Local Development Framework Core Strategy ('Core Strategy') adopted in 2011. Policy CS1 of the Core Strategy describes the spatial strategy for North Lincolnshire. In rural settlements, such as Wrawby, it supports limited development that, amongst other matters, takes into account the level of local service provision and accessibility. In addition, any development needs to be in keeping with the character and nature of the settlement. In order to further sustainability objectives and protect the countryside, policy CS2 of the Core Strategy focuses new housing development in order of preference on Scunthorpe, Market Towns and rural settlements.
7. Policies CS2, CS3 and CS8 of the Core Strategy supports new residential development in rural settlements such as Wrawby if it is within the defined development limits of the settlement.
8. Other than for part of its access, the appeal site lies outside the defined development limit for Wrawby. As a consequence, for planning policy purposes the vast majority of the site, including the land where it is indicated the proposed houses would be built, lies within the open countryside where new development is restricted by saved policy RD2 of the Local Plan. The proposal would not accord with the types of development supported by the development plan within the open countryside. The location of the proposed new houses would therefore be contrary to policies CS2, CS3 and CS8 of the Core Strategy and saved policy RD2 of the Local Plan.

Character and appearance

9. The appeal site is a small, enclosed, rectangular field located on the western edge of the village core. Owing to the location of the site, set well back from Brigg Road on land that slopes gently downwards away from it, and the partial screening effect of the public house, the open, green nature of the field is barely visible in views from Brigg Road. Whilst it is visible from the public house car park it forms part of the back drop and owing to its small size and enclosed nature is the focus of little visual attention. Furthermore, the dense hedgerows around its perimeter screen it from view within the open countryside to the north and east. Notwithstanding, that this parcel of land is visible in private views from the houses immediately to the east that back onto the site, in landscape terms this parcel of countryside is of low value.
10. Moreover, recent planning permissions within the countryside on land adjacent to Wrawby's development limit immediately to the north, and close by to the west, will result in the appeal site being largely enclosed by housing on all sides. In this context, the proposed development would help consolidate development immediately to the west of the core of the village.
11. With the control though that exists at reserved matters stage in relation to scale, layout, appearance and landscaping, I have no doubt that a well-designed four dwelling scheme which protects the perimeter hedgerows and complements the form of the settlement could be achieved. As a result, the proposal would comply with saved policy DS1 of the Local Plan and policy CS5

of the Core Strategy which, amongst other matters, require high quality design that takes into account the character of the area, as well as the protection of trees and hedgerows.

12. Planning permission for use of the site for touring caravans was granted in 2005. The appellant states that no seasonal occupancy condition was attached to this permission. This assertion has not been challenged by the Council. Whilst the pitches are overgrown much of the infrastructure to each plot appears to still be in place. As a result, I find that it is reasonable to assume that should the appeal fail the use of the site for touring caravans on a year round basis could resume. Caravans have a stark white colour and their use attracts clutter. In the context of existing and soon to be built housing, in views of the site the resumption of the caravan use would be more harmful to Wrawby and its setting than the harm that the proposed development would cause through the loss of low value countryside to built development. This fallback position is therefore a material consideration of significant weight in favour of the appeal.

Accessibility of services and facilities

13. In terms of services and facilities, Wrawby is a mid-ranking settlement in North Lincolnshire with a public house, primary school, church and other facilities. These facilities are sufficiently close to be accessible on foot or by bicycle from the appeal site. Moreover, the wider range of services and facilities within the nearby market town of Brigg are accessible via a bicycle lane and readily available public transport.

Other Matters

Access

14. In terms of the site access, the highway authority and Council have no objection to the proposal on highway safety grounds, subject to the use of conditions in relation to highway safety. With the increased level of on-site parking that would be provided to the public house, and the provision of on-site bin storage areas for the proposed scheme and the public house, I have no reason to disagree with those conclusions.

Housing land supply

15. At the time that the Council determined the application it was common ground that North Lincolnshire did not have a five year housing land supply, and that as a result, the so called 'tilted balance' in paragraph 11d of the Framework applied. Owing to the publication of its Five Year Housing Land Supply Statement, the Council's position at appeal stage is that it can now demonstrate such a supply. The appellant contests this position. However, given my conclusions below, it is not necessary for a finding to be reached on this matter in order to determine this appeal. As a result, I have not done so.

Biodiversity

16. The appeal proposal would result in the loss of much of the appeal site to development. However, with the control that exists at reserved matters stage the perimeter hedgerow and trees could be retained. This consideration, together with the requirement of policy CS17 of the Core Strategy for development to protect and enhance biodiversity, would mean that through the use of appropriate conditions biodiversity on the site would not be harmed.

Overall conclusions: The planning balance

17. The proposed development would be located within the countryside next to the development limits of Wrawby. As a result, its location would be contrary to policies CS2, CS3 and CS8 of the Core Strategy and saved policy RD2 of the Local Plan. However, in landscape terms it is a low value site, and owing to the recent planning permissions for housing on nearby land residential development of the site would complement the evolving form of the village. Consequently, with the control that exists at reserved matters stage, the design of the proposed development would comply with saved policy DS1 of the Local Plan and policy CS5 of the Core Strategy. The site is also in a location where services and facilities are accessible on foot, by bicycle or by bus.
18. If residential development of the site did not proceed it is reasonable to assume that use of the site for touring caravans could resume with caravans potentially present on a year round basis. With development enclosing the site on three sides, such a use would be more harmful to the character and appearance of the area than a well-designed and landscaped residential development.
19. Taking all these matters into account, I therefore conclude that the minimal harm that would be caused by non-compliance with policies regarding the location of development would be outweighed by the recent permissions that will materially change this part of Wrawby, the accessibility of services and facilities from the site by non-car modes of transport and the fallback position. Material considerations therefore indicate that planning permission should be granted for development that is not in accordance with the development plan. I therefore conclude that the appeal should be allowed.

Conditions

20. 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.
21. In the interests of highway safety, the junction of the site access with the highway needs to be created and visibility splays at this junction thereafter kept free of any obstruction. For the same reason, control needs to be exerted over the following matters: the width of the private driveway close to the junction with the existing highway; the proximity of loose material to the adopted highway; the provision of vehicular access including a driveway to each dwelling and timing of occupation; the provision of parking and turning in relation to each property; and, drainage.
22. In order to manage flood risk, details of drainage to prevent surface water from the highway running onto the site are required. In the interests of protecting health and property, concerns regarding the potential for contaminated land need to be dealt with. Given that the site potentially contains archaeologically significant remains, a scheme of investigation, monitoring and recording needs to be carried out and the results and assessment published and placed on record. To provide acceptable levels of privacy for future occupiers and to ensure good design, further details on boundary treatments are required.
23. To protect wildlife and enhance biodiversity, further details, including a biodiversity metric assessment and a biodiversity management plan need to be submitted for approval.

24. 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.
25. The committee report on the application makes clear that the appellant has agreed to the contaminated land condition being a pre-commencement condition. Following the site visit the appellant provided written consent to conditions 5 and 8 also being pre-commencement conditions.
26. A condition has been suggested in relation to the implementation and maintenance period for landscaping. However, as landscaping is a reserved matter it is not necessary to attach this condition to the outline permission. As a result, I have not done so.

Ian Radcliffe

Inspector

Schedule

- 1) Details of the appearance, landscaping, layout, and scale, (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 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Site Location Plan (LDC3683-PL-02A), but only in respect of those matters not reserved for later approval.
- 5) Prior to the commencement of development, a biodiversity metric assessment and biodiversity management plan shall be submitted to, and approved in writing by, the local planning authority. The document shall include:
 - (a) an assessment of biodiversity loss based on the submitted Habitat Plan (Figure 3 of the submitted Extended Phase 1 Habitat Survey report);
 - (b) details of measures required to provide at least 1% biodiversity net gain in accordance with the Defra Small Sites metric;
 - (c) details of measures to avoid harm to bats, badgers, hedgehogs and nesting birds during vegetation clearance and construction works;
 - (d) details of bat boxes and nest boxes to be installed;
 - (e) restrictions on lighting to avoid impacts on bat roosts, bat foraging areas, bird nesting sites and sensitive habitats;
 - (f) provision for hedgehogs to pass through any fencing installed between gardens and between areas of grassland;
 - (g) prescriptions for the eradication of Japanese knotweed;
 - (h) prescriptions for the planting and aftercare of hedgerows, trees and shrubs of high biodiversity value;

(i) proposed timings for the above works in relation to the completion of the dwellings;

(j) details of tree protection measures for existing trees and hedgerows during the construction of the development.

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.

- 6) 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 occupation of the third dwelling, a report that provides evidence of compliance with the biodiversity management plan shall be submitted to, and approved in writing by, the local planning authority.
- 7) No development shall take place until parts 1 to 4 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until part 4 has been complied with in relation to that contamination.

Part 1: Site Characteristics

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. The report of the findings must include:

(i) a survey of the extent, scale, and nature of contamination;

(ii) an assessment of the potential risks to:

- human health;
- property (existing or proposed) including buildings, crops, livestock, pets, woodland, and service lines and pipes;
- adjoining land;
- groundwaters and surface waters;
- ecological systems;
- archaeological sites and ancient monuments;

(iii) an appraisal of any necessary remedial options, and a proposal of the preferred option(s). This must be conducted in accordance with Environment Agency's Land Contamination Risk Management (LCRM) guidance October 2020.

Part 2: Submission of Remediation Scheme

In the event that the approved Part 1 report establishes that contamination is present which requires remediation, a detailed remediation scheme to

bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Part 3: Implementation of Approved Remediation Scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks' written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (also known as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the local planning authority.

Part 4: Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part 2, which is subject to the approval in writing of the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with Part 3.

- 8) No development shall take place until a timetable for the setting out and establishment of the access road junction with the highway has been submitted to and approved in writing by the local planning authority. The junction of the access road with the highway shall be set out and established in accordance with the approved timetable.
- 9) Nothing shall at any time, whether permitted by the town and Country Planning (General Permitted Development) Order or not, 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 2m from the highway boundary across the site frontage.
- 10) Development shall take place in accordance with the 'Written Scheme of Investigation: Archaeological Monitoring and Recording, Land to the rear of The Jolly Miller, Brigg Road, Wrawby, North Lincolnshire' prepared by PCAS Archaeology Ltd, dated June 2022, and the approved details and timings. No variation shall take place without the prior written consent of the local planning authority.

- 11) No above-ground works shall take place until details showing the driveway to be 5 metres wide for a distance of 10 metres from the junction with Brigg Road, and thereafter a minimum of 4.1 metres wide, have been submitted to and approved in writing by the local planning authority.
- 12) No above-ground works 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 thereafter so retained.
- 13) No above-ground works 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 thereafter so retained.
- 14) No above-ground works shall take place until details of the positions, design, materials and type of boundary treatment to be built/planted have been submitted to, and approved in writing by, the local planning authority. The agreed boundary treatment shall be built/planted before the dwellings are occupied and once built/planted it shall be retained.
- 15) No loose material shall be placed on any driveway or parking area within 10 metres of the adopted highway unless measures are taken that have first been approved by the local planning authority to prevent the material from spilling onto the highway. Once agreed and implemented these measures shall thereafter be retained.
- 16) No dwelling on the site shall be occupied until the vehicular access to it and the vehicle parking and turning space(s) serving it have been completed and once provided, the vehicle parking and turning space(s) shall be retained.
- 17) No dwelling served by the private driveway shall be occupied until it has been constructed in accordance with details that have first been submitted to, and agreed in writing by, the local planning authority. These details shall include:
 - (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 thereafter be retained.
- 18) No dwelling on the site shall be occupied until the private driveway has been completed, to a standard to be agreed beforehand in writing with the local planning authority, up to its junction with the vehicular access to that dwelling.

- 19) The final dwelling shall not be occupied until the post investigation archaeological assessment has been completed in accordance with the programme set out in the approved written scheme of investigation, and provision made for analysis, publication and dissemination of results and archive deposition has been secured.
- 20) A copy of any analysis, reporting, publication, or archiving required as part of the approved scheme of archaeological investigation shall be deposited at the North Lincolnshire Historic Environment Record and the archive at the North Lincolnshire Museum within one year of commencement of the archaeological programme of work or such other period as may be agreed in writing by the local planning authority.

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