



Appeal Decision

Site visit made on 4 February 2025

by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th February 2025

Appeal Ref: APP/Y2003/W/24/3352581

Land west of Vicarage Lane, North Killingholme, DN40 3JL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Qudos Homes Limited against the decision of North Lincolnshire Council.
 - The application Ref is PA/2023/1651.
 - The development proposed is 'erect six dwellings with access road, drive and landscaping'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Qudos Homes Limited against North Lincolnshire Council. That application is the subject of a separate decision.

Preliminary Matters

3. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. The main parties were invited to comment on whether the revised Framework has any implications for the case, and they were also invited to comment on each other's responses in that regard. I have taken account of their comments in coming to my decision.
4. Corrections to footnotes 7 and 8 and an amendment to paragraph 155 of the Framework were also published on 7 February 2025. As these are minor corrections, I have not sought any further comments from the main parties.
5. The North Lincolnshire Local Plan 2020-2038 was submitted for examination in November 2022 but was formally withdrawn from the examination on 4 October 2024 (the withdrawn LP). The main parties have had an opportunity to address any implications of this for the appeal as part of their appeal submissions. In addition, the appellant also referred to it in their final comments. I have taken account of those points in my determination of the appeal. The main parties do not dispute that the withdrawn LP has no weight in the determination of this appeal, and I concur with that position.

Main Issues

6. The main issues in this case are:
 - Whether or not the location of the appeal site would accord with the strategy for the location of development in the District;

- The effect on the character and appearance of the area; and
- The effect on the living conditions of adjoining occupiers.

Reasons

Location

7. The adopted development plan comprises the policies of the North Lincolnshire Core Strategy (2011) (CS), the saved policies of the North Lincolnshire Local Plan (2003) (LP) and the Housing and Employment Land Allocations Development Plan Document (2016) (HELA).
8. North Killingholme is identified as a Rural Settlement in the CS settlement hierarchy. The appeal site is outside the North Killingholme development limit set out in the HELA. Saved LP Policy RD2 seeks to control development in the open countryside, apart from a list of specified development types, none of which apply in this case. Saved LP Policy H5 allows for infill development of up to three dwellings within the minimum growth settlements. CS Policies CS2, CS3 and CS8 establish that development outside the defined boundaries will be restricted to that which is essential to the functioning of the countryside, which does not include market housing.
9. Due to its location outside the development limit, the appeal proposal would be contrary to CS Policies CS2, CS3 and CS8 and saved LP Policies H2 and H5 and would be in conflict with the strategy for the location of new development in the District. The weight to be attributed to that conflict, having regard to the relevant material considerations in this case, is a matter to which I return later in this decision.
10. CS Policy CS7 is referred to in the first reason for refusal but as it deals with the District's overall housing requirement it is not directly relevant to my assessment of the first main issue in this case.

Character and appearance

11. North Killingholme is located on the south bank of the River Humber and to the west of Immingham Port. The focal point of the village is centred around St Denys Church and the open spaces around the Church Lane/St Crispins Close/Vicarage Lane junction. Traditional farmhouses, farm buildings and cottages are positioned along the lanes extending from the village core, with more modern development along St Crispins Close and at Garden Village to the south-west. Opposite the appeal site, the Ashbourne Hotel complex comprises a number of traditional and modern buildings.
12. The appeal site comprises part of a grazing paddock to the west of Vicarage Lane. The surrounding detached properties at the Old Vicarage, Homeword Cottage, The Chestnuts and Walnut Tree Farm are set within spacious plots enclosed by mature trees, which contributes to a spacious and verdant character to this part of the village when approaching from the junction with Church Lane. The tighter-knit frontage layout of the bungalows to the north of the appeal site does not undermine this character. Due to the wide grassed verge in front of the site, the boundary hedge and the open aspect which affords views of the open countryside beyond, the site contributes to the rural setting and character of the village.

13. The frontage layout of the proposed dwellings on plots 1, 2 and 3 would reflect the linear form of the frontage development to the north of the appeal site. The verge would be retained, albeit with new access points. However, the access road off Vicarage Lane and the position of the dwellings on plots 4, 5 and 6 at right angles to the lane would introduce development 'in depth', resulting in a road dominated and suburban layout and appearance. Due to the location of the foul sewer in the south-east corner of the site, the dwellings on plots 4 and 5 would have a forward position which would result in a narrow separation distance to the side gable of the dwelling on plot 3, creating a cramped appearance.
14. Overall, the development in depth on plots 4, 5 and 6 would sit awkwardly in relation to the dwellings on plots 1, 2 and 3, and in relation to the grain of surrounding existing development. The cramped layout of the dwellings on plots 4, 5 and 6 would have an incongruous appearance within the street scene which would be harmful to the spacious and rural character of this part of the village. Although the visual impacts would be predominantly short distance and from within the village, the dwellings on plots 4, 5 and 6, and the access road, would also be conspicuous in wider views from East Halton Road to the west.
15. In accordance with the Framework, I have considered whether the development could be made acceptable through the use of a condition to require a landscaping scheme, in addition to the proposed post and rail fence on the west boundary. However, this would not mitigate the discordant appearance created by the access road and the orientation of the dwellings on plots 4, 5 and 6.
16. For these reasons, the proposal would conflict with CS Policy CS5 and saved LP Policies RD2, DS1 and H5 which, taken together, seek to ensure that the design of proposals reflects or enhances the character, appearance and setting of the immediate area and that development should be appropriate for its context. There would also be conflict with the provisions of the Framework that development should add to the overall quality of an area.

Living conditions

17. The third reason for refusal does not identify which neighbouring properties or occupiers would be affected by the proposed development. I have therefore based my assessment on the evidence before me and from what I saw at my site visit.
18. The adjoining bungalow By-Ni to the north of the site has two windows in its south facing gable elevation. Although the appellant's evidence indicates that these serve non-habitable rooms, that is not clear from the evidence before me, nor was it clear from my site visit. I have therefore assessed the impact on the 'worst case' scenario, that those windows serve habitable rooms.
19. The existing 1.8 metre fence on the common boundary between By-Ni and the appeal site will already reduce the levels of daylight and sunlight reaching those windows to some degree. Further, there would be an adequate separation distance between the south elevation of By-Ni and the new dwelling on plot 1 which would ensure that there would not be a significant reduction in the levels of daylight and sunlight reaching those rooms. As such, the living conditions of the occupiers of By-Ni within their dwelling would not be materially harmed as a result of the proposal.

20. The dwelling on plot 1 would be positioned alongside the side gable of By-Ni, and whilst there would be some additional shadowing of its side passageway, the rear garden of By-Ni would continue to receive adequate levels of sunlight.
21. Homeword Cottage is positioned to the south of the appeal site, and the two storey dwelling on plot 6 would be separated from it by the mature hedge on the common boundary. Due to the separation distance between the first floor windows in the rear elevation of the proposed dwelling on plot 6 and the common boundary, any overlooking from the new dwelling would be sufficiently distant to ensure that adequate levels of privacy in the rear garden of Homeword Cottage would be maintained.
22. Overall, I conclude that the proposal would not cause material harm to the living conditions of the occupiers of By-Ni and Homeword Cottage. For this reason, there would be no conflict with saved LP Policies H5 and DS1 in so far as they seek to ensure that development does not cause a loss of amenity to existing dwellings. There would also be no conflict with the provisions of the Framework to ensure a high standard of amenity for existing and future users.

Other Matters

23. Other matters raised in representations include the effect of the proposal on the setting of the Old Vicarage which is a Grade 2 listed building. Due to the presence of intervening vegetation and other dwellings, there is limited intervisibility between that property and St Denys Church. I am satisfied that the appeal scheme would not adversely affect the setting of the Old Vicarage, and that its special architectural and historic interest would be preserved.
24. Concerns have also been raised about the impact of increased traffic on Vicarage Lane. The Highway Authority has not objected to the development, and the condition and maintenance of the carriageway is a matter for that Authority. Other matters relating to the construction and drainage of driveways and their connection to the adopted highway could have been satisfactorily dealt with by the conditions proposed by the Council, had the appeal been allowed.
25. I am also satisfied that had the appeal been allowed, matters relating to archaeology, ecology and drainage could all have been satisfactorily dealt with by the conditions proposed by the Council. As I am dismissing the appeal for other reasons, and since it will not affect the overall outcome, I make no further comments on those matters.

Other Considerations

26. The withdrawn LP has no weight in the determination of this appeal. For that reason, the fact that the appeal site was included within the development limit for North Killingholme in that Plan does not confer any weight in favour of allowing the appeal.
27. Outline planning permission for five dwellings¹ on the appeal site was approved in 2019 under the policies in the adopted development plan, but it has since expired. I have not been supplied with the evidence which informed that decision, and therefore I cannot be certain that the balance of considerations, including the position in relation to the five year housing land supply, are the same as the case

¹ Reference PA/2019/118

before me. As such, the 2019 permission has no material weight in the determination of this appeal.

28. At the time of the appeal submission, the most up to date Five Year Land Supply Statement covered the five year period 1 April 2023 to 31 March 2028 and dated from August 2023. It concluded that there was a supply of deliverable sites of 6 years and 10 months. With its comment on the implications of the revised Framework, the Council submitted an updated, but undated, Five Year Land Supply Statement for the period 1 April 2024 to 31 March 2029, prepared in accordance with the revised Framework and reflecting the changes to the standard method of assessing housing need in the Planning Practice Guidance. Based on the revised standard method figure of 637 dwellings per year (dpy), the report concludes that against a 5 year requirement of 3344 dwellings there is a deliverable supply of 3389 dwellings, which is a 5 year and 1 month supply.
29. The appellant disputes that a 5 year deliverable supply can be demonstrated, with particular reference to two sites. The first is part of the Lincolnshire Lakes Area Action Plan site where there is a full application pending for 599 dwellings, but no further information has been supplied about the timescale for the determination of that application, relevant constraints and lead-in times for delivery. The second site reference SCUH-C7 is Phase 2 of the Land at Former South Leys School, Enderby Road which is identified for 120 dwellings in the 5 year period. The appellant indicates that this site is not an allocation, does not have outline planning permission or permission in principle and is not on the brownfield register.
30. Based on the evidence before me, the 5 year supply set out in the Council's updated report is very marginal. If either of the two sites disputed by the appellant were found to be not deliverable, the supply would be less than 5 years. Based on the evidence before me, I intend to determine this appeal based on the position that a 5 year supply of housing land has not been demonstrated and that the relevant policies for the supply of housing are out of date.
31. There are no assets of particular importance that would be harmed by the proposed development and paragraph 11(d)(i) is therefore not engaged. The tilted balance in paragraph 11(d)(ii) of the Framework applies, which I return to in the planning balance section below.

Planning Balance

32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations, which include the Framework, indicate otherwise.
33. The appeal scheme would be contrary to CS Policies CS2, CS3 and CS8 and saved LP Policies H2 and H5 which seek to direct new housing to within defined settlement limits and to limit development outside them to specified development types. However, as I have concluded that a five year supply of housing land has not been demonstrated, the conflict with those policies, which are most important for determining the appeal, carries reduced weight in the planning balance.
34. There are services and facilities in nearby South Killingholme, and the development would be in close proximity to employment sites at Immingham. It would make a modest contribution to overall housing supply and given the shortfall in the housing

land supply I give significant weight to that benefit. The economic benefits from construction and spending by new residents attract moderate weight. The absence of harm to living conditions, highway safety, archaeology, ecology and drainage is neutral in the overall planning balance.

35. However, the harm to character and appearance is contrary to the development plan read as a whole and, in my judgement, confers significant weight against the scheme. Overall, I conclude that the adverse impacts to the character and appearance of the village would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole, having particular regard to paragraph 135 which seeks to ensure that development adds to the overall quality of an area and is sympathetic to local character including the surrounding built environment.

Conclusion

36. For the reasons outlined above and having had regard to all other matters raised, the appeal is dismissed.

Sarah Housden

INSPECTOR