



Appeal Decision

Site visit made on 25 March 2025

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th April 2025

Appeal Ref: APP/A3010/W/24/3356236

Tuxford North Goods Yard, Lincoln Road, Tuxford, Nottinghamshire NG22 0JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Peter Chojnacki against the decision of Bassetlaw District Council.
 - The application Ref is 24/00874/OUT.
 - The development proposed is described as “change of use from storage yard to residential development inc 3 new dwellings”.
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Decision

1. The appeal is allowed and outline planning permission is granted for change of use from storage yard to residential development including the erection of 3 new dwellings at Tuxford North Goods Yard, Lincoln Road, Tuxford, Nottinghamshire NG22 0JQ in accordance with the terms of the application, Ref 24/00874/OUT, subject to the conditions in the attached schedule.

Preliminary Matters

2. The appeal site address in the header and my decision comes from the appeal form and the Council's decision notice. It is different to that on the planning application form but it accurately describes the location of the site.
3. The description of development in the header is from the application form. This refers to the change of use of the site but it is evident from the submissions the proposal would include the erection of 3 new dwellings. In the interests of clarity, I have added the phrase “the erection of” into the description of development in my decision. I am satisfied this change causes no injustice to any party.
4. This appeal seeks outline planning permission with all matters reserved. Submitted drawings show a layout for the proposal as well as elevations and floor plans for the 3 dwellings. I have treated these drawings as illustrative, in accordance with statements to that effect in the appellant's submissions.
5. A Biodiversity Net Gain Report (the BNG Report) has been provided that was not with the Council at the time of its decision on the planning application leading to this appeal. The Council has had the opportunity to respond to the BNG Report through the appeal process. The BNG Report does not change the proposed development and so I am satisfied no injustice would be caused by taking it into account in my assessment.
6. A revised version of the National Planning Policy Framework (the Framework) has been issued since the appeal was lodged. The main parties have had the

opportunity to submit comments on the amended document. I have had regard to the Framework in my assessment.

Main Issues

7. The main issues are (i) the effect of the development on the character and appearance of the area, (ii) its effect on biodiversity and features of ecological interest, and (iii) whether it would be in a suitable location having regard to policies of the Bassetlaw Local Plan adopted 2024 (the LP) and the Framework.

Reasons

Character and appearance of the area.

8. The appeal site is a storage yard next to a railway line at the end of a spur road off the A6075. Houses on the other side of the railway are visible as you approach the site along Lincoln Road. On the other side of the site to the railway is a public right of way leading along the boundary to fields at the rear. The car park to a small hotel with bar and restaurant lies on the other side of the footpath and there is a line of dwellings along the same side of Lincoln Road to its junction with the main road. The local buildings tend to face onto the street but there is a care home that is set well back from the road as well as a large dwelling behind the hotel.
9. The submitted drawings indicate 1 of the proposed houses towards the front of the site and the other 2 towards the rear. Access would be off the turning circle at the end of Lincoln Road. It seems likely the development would be visible from the highway, the railway and from the public right of way along the side of the site.
10. The development would generally be in keeping with the character of the area as most local properties are residences. Also, when approaching along Lincoln Road, the elements of the development visible from the street would be seen as a continuation of the line of properties, despite the gap formed by the hotel car park and public footpath. Furthermore, the development would not appear isolated due to the proximity of the properties on Lincoln Road as well as views of the dwellings on the other side of the railway. Dwellings set back from the road would be similar to the nearby care home and the house behind the hotel in terms of their relationship to the highway and so the indicative layout would be appropriate.
11. For these reasons, I conclude the proposal would have an acceptable effect on the character and appearance of the area. In these regards, it would accord with LP policy ST33 and policy 3 of the Tuxford Neighbourhood Plan 2016. Amongst other things, these require development to respect local context and character.

Biodiversity and ecological features.

12. The BNG Report explains that roughly half of the site is covered by bare ground or containers. There is an area of ruderal vegetation towards the rear and smaller areas of grassland and hawthorn scrub elsewhere on the site. Also, it notes the presence of a single cherry tree in poor condition.
13. While details of landscaping are not before me for consideration, the BNG Report describes the habitats to be provided through the proposed development. These would include retained hawthorn shrub, new shrub planting, vegetated garden land and several urban trees as well as areas covered by buildings and hardstanding. By using Natural England's statutory biodiversity metric, the BNG Report claims

the landscaping associated with the development would lead to a 65.37% increase in habitat units compared to the existing situation. The Council has not sought to dispute these claims. Landscape works that secure a similar increase in the biodiversity value of the site could be secured through the reserved matters process.

14. The Council's refusal reason includes a concern that the development may harm features of ecological interest although no particular fauna or flora species is identified as being at risk. The BNG Report indicates the habitats on the site are in a poor condition and there is little evidence before me to indicate the development would cause risk of harm to protected or other significant species.
15. Therefore, I conclude the development would not have a detrimental effect on biodiversity or features of ecological importance. In these regards, it would accord with LP policy ST38. Amongst other things, this looks to ensure development avoids adverse effects on important ecological features and makes provision for biodiversity gain.

Suitability of location.

16. LP policy ST1 sets out a spatial strategy for Bassetlaw. Part 1 of the policy refers to managed sustainable development and growth that is appropriate to the size of each settlement so as to meet the need for new homes. Also, it promotes the efficient and effective re-use of previously developed land in sustainable locations. Part 2 of LP policy ST1 sets out the aim to provide land for new housing at various categories of settlement. Tuxford is defined as one of the large rural settlements.
17. Part 2 of LP policy ST2 goes further in setting out criteria for the assessment of residential development proposals within large rural settlements. Part 3 of the same policy says that residential schemes outside of development boundaries will be supported if they conform with the part 2 criteria as well as meet one of the situations as set out under sub-paragraphs 3(a), (b), (c) or (d).
18. The appeal site is adjacent to but outside the development boundary for Tuxford. There is no evidence to indicate the residential development on the site is supported under a neighbourhood plan. Also, the scheme does not involve the replacement of an existing dwelling nor conversion of a building. I am taken to no other LP policy that would specifically support residential development on the site. None of the circumstances as set out under 3(a), (b), (c) or (d) of LP policy ST2 apply and so the proposal would not accord with part 3 of the policy.
19. The appellant contends the proposal would meet all of the criteria under part 2 of LP policy ST2. I have already found the scheme would not cause harm to the character of the area and through the reserved matters process a development that is sympathetic to the locality could be secured. Moreover, the site does not appear as part of the countryside as it is a storage yard between the railway line and properties along Lincoln Road. Given its location and close relationship to existing properties, the development would be seen as part of the Tuxford and it would maintain the physical separation between settlements. Moreover, the definition for previously developed land in Annex 2 of the Framework includes land comprising large areas of hardstanding. The site would accord with this definition given the sealed surface on most of the front part of the site. Therefore, the proposal would accord with criteria (a) through to (e) of part 2 to LP policy ST2.

20. Furthermore, residents of the houses would have fairly convenient access by foot or cycle to facilities within Tuxford. The development would also be within short walking distances of bus stops on the A6075. Therefore, the location of the residences would promote walking, cycling and the use of public transport.
21. Consequently, I find the proposal would accord with all of the criteria set out under part 2 of LP policy ST2. Also, it would be in line with the provisions of section 9 of the Framework that support patterns of growth to promote sustainable modes of travel and that seek to ensure developments provide suitable access for all users. Furthermore, the proposal gains support from LP policy ST1 as it favours the efficient and effective use of previously developed land in sustainable locations.
22. In summary, the proposal would not fully accord with LP policy ST2 as it would be outside the defined settlement boundary for Tuxford and it would not fall within any of the categories of development set out under part 3 of the policy. Therefore, I conclude the proposal would be in an unsuitable location when having regard to the LP as a whole. However, the harm caused by this policy conflict is limited as the proposal would accord with part 2 of LP policy ST2 and it would be on previously developed land adjacent to Tuxford settlement boundary. As such, the development would be in an appropriate sustainable location in line with LP policy ST1 and the provisions of the Framework.

Other considerations and planning balance.

23. The proposal would be acceptable in terms of the first and second main issues. However, it would not fully accord with the LP given the identified conflict with part 3 of LP policy ST2. It follows to consider whether other factors justify granting planning permission contrary to the LP.
24. The proposal would support the Government's aim to boost the supply of homes, as set out under paragraph 61 of the Framework. The appellant has not sought to dispute the Council's claim that it can demonstrate 7.2 years' supply of housing sites, in excess of the 5 year minimum target figure as set out in paragraph 78 of the Framework. Even so, the submitted Council officer's report refers to a minimum need for a further 78 houses to be delivered at Tuxford during the LP period. The appeal scheme would help meet this local housing requirement.
25. Moreover, paragraph 73 of the Framework recognises that small sites such as the appeal site make an important contribution to meeting the housing requirement of an area as they are often built out quickly. Sub-paragraph 73(d) of the Framework states that local planning authorities should support the development of windfall sites. Also, paragraph 124 of the Framework states that planning decisions should promote the development of under-utilised land, especially if this would help meet identified needs for housing. This adds support to the proposal as the site appears to be largely disused and the proposed units would help address the identified need for more housing in Tuxford.
26. Paragraph 11(d) of the Framework is not engaged in the assessment of this appeal proposal. Nonetheless, the benefits of the development as identified above attract sufficient weight so as to outweigh the limited harm due to the conflict with part 3 of LP policy ST2. Therefore, I find there are other factors that clearly indicate planning permission should be granted despite the identified conflict with the LP.

Conditions

27. I have had regard to the planning conditions as suggested by the Council in light of the advice on conditions as set out in the Framework. I have made amendments to the wording of the conditions where necessary in the interests of precision.
28. I have imposed conditions that require the submission and approval of reserved matters as well as the implementation of the development within the prescribed period. There is no need for a condition that requires the development to accord with the submitted drawings as these have been provided for indicative purposes. Also, there is no need for a separate condition on details of parking and turning areas and wheelie bin collection points as these would be covered by the usual condition on reserved matters.
29. I have included conditions on the hours of construction and a construction method statement to protect living conditions at nearby residents and to minimise the impact of the development on the public highway. In the interests of public safety and to safeguard the environment, a condition is imposed that requires an assessment of ground contamination and remediation if necessary. To ensure a satisfactory living environment, I have included conditions on noise attenuation to the houses and gardens.
30. A condition on visibility across the site frontage is required in the interests of highway safety. However, there is no need for the suggested condition that would require the extension of the footway along Lincoln Road. The existing pavement stops only a short distance from the site access and the low level of traffic using the turning head at the end of the cul de sac is unlikely to pose a significant risk to pedestrian movement associated with the development.

Conclusion

31. The proposal would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it. Therefore, I conclude the appeal should be allowed.

Jonathan Edwards

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout, and scale (hereafter referred to as "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) No development hereby permitted shall commence until a Construction Method Statement (CMS) has been submitted to and approved in writing by

the local planning authority. The CMS shall confirm parking arrangements for site operatives and visitors, arrangements for loading/ unloading of plant and materials plus storage areas of plant and materials. The approved CMS shall be adhered to throughout the construction works. All vehicles preparing to leave the site during the construction period shall have their wheels thoroughly washed should they be displaying signs of mud or debris and a mechanically propelled road sweeper shall be employed if mud or debris be transported onto the public highway during construction works.

- 5) Any construction work and ancillary operations which are audible at the site boundary, including deliveries to and removal of plant, equipment, machinery and waste from the site shall be carried out only between 8.00 am and 6.00 pm on Mondays to Fridays, 8.00 am and 1.00 pm on Saturdays and at no time on Sundays and Bank Holidays.
- 6) No development hereby permitted shall commence until a stage 1 risk assessment for ground contamination, as well as a stage 2 options appraisal if required, has been submitted to and approved in writing by the local planning authority. These shall include information to assess the risks through the development to the environment and to human health resulting from any contamination on the site as well as any remediation measures to address identified contamination risks. The development shall be carried out in accordance with the approved assessment and appraisal before the development hereby permitted is first occupied.
- 7) None of the dwellings hereby permitted shall be first occupied unless they have been constructed in accordance with a scheme that has been submitted to and approved by the local planning authority so as to ensure that the building envelope provides sound attenuation against external noise, with windows shut and other means of ventilation provided, to achieve an internal noise level of no greater than 35 dB(A) Leq, 1 hour, measured at the midpoint in any bedroom and 45 dB(A) Leq, 1 hour, measured at the midpoint in any living room.
- 8) None of the dwellings hereby permitted shall be first occupied unless they have been constructed in accordance with a scheme that has been submitted to and approved by the local planning authority so as to ensure that boundary structures provide sound attenuation against road and rail noise to achieve an external garden noise level of no greater than 55 dB(A) Leq, 0700 - 2300 hours, measured at any point on the property boundary at a height of 1.5m above ground level, in free field conditions.
- 9) Across the site frontage there shall be no obstructions to vision above 600mm in height, other than approved apparatus located within the public highway, within 2.4m of the adjacent nearside carriageway edge.