



Appeal Decision

Site visit made on 24 October 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th April 2025

Appeal Ref: APP/Y2003/W/24/3346503

Land off Braithwaites Close, Barnetby-le-Wold DN38 6BF

- 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 Nick Hammond of Barnetby Developments Ltd against the decision of North Lincolnshire Council.
 - The application Ref is PA/2022/1852.
 - The development proposed is outline planning permission for 9 dwellings with associated access and public open space (appearance, landscaping, layout and scale reserved for subsequent consideration) on land off Braithwaites Close, Barnetby le Wold, DN38 6BF.
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Decision

1. The appeal is allowed and outline planning permission is granted for 9 dwellings with associated access and public open space (appearance, landscaping, layout and scale reserved for subsequent consideration) at Land off Braithwaites Close, Barnetby-le-Wold DN38 6BF in accordance with the terms of the application Ref PA/2022/1852, subject to the conditions set out in the Schedule at the end of this decision.

Preliminary Matters

2. The planning application was submitted in outline with all matters reserved. During the course of the planning application the proposal was amended to include access. I have proceeded to determine this appeal on that basis, treating the submitted layout plans as being indicative of the reserved matters.
3. The Government has published its Housing Delivery Test results alongside the publication of a revised National Planning Policy Framework (the Framework) in December 2024. Both main parties were given the opportunity to comment on any relevant implications for the appeal. I have had regard to the comments made in reaching my decision.
4. During the course of the appeal, I have been provided with an amended Indicative Proposed Layout plan¹. Compared to the plans submitted with the appeal the proposed amendments are of a minor nature, and no party would be prejudiced if I consider the appeal on the basis of the amended plan.

Main Issue

5. The main issue is whether the site is an appropriate location for the development proposed having regard to local and national planning policy.

¹ Indicative Proposed Layout, Drawing No RD:4735-04 D

Reasons

6. The council has specified that it cannot demonstrate a 5-year housing land supply of deliverable sites, although the scale of the shortfall has not been provided to me. On that basis, the 'tilted balance' of Paragraph 11(d) of the Framework is triggered. This sets out that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies of the Framework.
7. The great majority of the appeal site is located outside of the defined development boundary for Barnetby-le-Wold, with only part of the access being included within the boundary. Much of the appeal site is therefore considered to be in the open countryside for planning policy purposes. This includes the proposed dwellings, open space and a significant length of the access along Braithwaites Close.
8. Policy RD2 of the North Lincolnshire Local Plan 2003 (the Local Plan) sets out the forms of development which would be permitted in the open countryside, which does not include the type of permanent residential use proposed. The proposal would therefore conflict with Policy RD2.
9. In the vicinity of the appeal site, housing development has taken place beyond the defined development boundary. This includes the extent of housing along Braithwaites Close which projects towards the appeal site. In effect the appeal site is now enclosed on 3 sides including built development to the north, development along Braithwaites Close, and a railway line.
10. Within this context, Policy CS3 of the North Lincolnshire Core Strategy 2022 (the Core Strategy) refers to a number of considerations when drawing development limits. This includes existing development patterns and the character of the area, such as protecting areas of land with the characteristics of open countryside. Due to the extent of development beyond the development boundary, the degree of enclosure of the appeal site by development severely limits the function of the site in respect of its countryside character. Indeed, the site would now appear to be a logical infilling of the settlement's footprint rather than the projection of development into an area of countryside.
11. The proposal would result in the loss of an area of rough grassland which contributes to the soft edge of the settlement. However, the appeal proposal includes an extent of open space that would go some way to compensate for the loss of the existing grassed site.
12. Policy CS3 also refers to applying development limits based on the capacity of a settlement to accommodate future development. Barnetby-le-Wold includes a range of facilities as well as good public transport links including a rail station.
13. Comments from third parties refer to issues of sewage capacity and drainage, but the Council's Officer report specifies that conditions could address these issues. I also note that no objections to the proposal have been received from the Lead Local Flood Authority or Anglian Water, subject to conditions. Reference is made to flooding of an underpass in the village, however there is

no substantive evidence that the proposal would exacerbate this. Furthermore, it has not been demonstrated that any disruption to movement through the village due to flooding of the underpass would be sufficient to withhold planning permission for this proposal.

14. Based on the evidence before me, the village has the capacity, including infrastructure, to accommodate the proposed development and complies with the relevant criteria of Policy CS3.
15. I am mindful of the benefits of the proposal. It would add to the supply and mix of housing in an area with good access to services, which carries significant weight in favour of the proposal given the Council's inability to demonstrate a 5 year housing land supply. The proposal also includes highway improvements and an area of informal open space, but given the given the scale and form of the benefits these carry only moderate weight. The proposal would have an economic benefit during the construction period, but this would only be for a limited period of time.
16. In respect of the key policies referred to in paragraph 11(d) of the Framework, the proposed development would be in a location with good access to services by sustainable means of transport; it would make effective use of land; and having regard to the indicative plans it would complement the character of adjacent development and would include an area of open space. Although it would not include affordable housing, it has not been demonstrated that there is a planning policy requirement for this.
17. Considered cumulatively, and having regard to key policies of the Framework, the benefits arising from the proposal carry significant weight.
18. Due to its location outwith the development boundary defined in the development plan, the proposal would be contrary to Policy RD2 of the Local Plan and Policies CS2, CS3 and CS8 of the Core Strategy with regards to the development of housing beyond defined development limits. However, given the compromised development boundary in the vicinity of the appeal site and the very limited contribution of the site in respect of countryside character, I give the conflict with the development plan and the harm to the countryside limited weight.
19. Drawing the above together, the significant benefits arising from the proposal would outweigh the limited harm arising from the conflict with the development plan and the effect on the countryside. The adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole, and having particular regard to key policies. On the basis of the tilted balance of paragraph 11(d) of the Framework, the proposal represents sustainable development and the appeal should be allowed.

Other Matters

20. Concern has been expressed in third party comments about the potential for future development on the area of open space. However, I must determine this appeal on the basis of the development as proposed, and this matter can be considered as part of any future planning applications.
21. Comments have also been raised about the relocation of a bush shelter and visibility splays for traffic using the development. However, the Highways

consultee has not objected to the proposal, and in any event this issue can be addressed by conditions requiring the submission of details for approval.

Conditions

22. The Council and consultees have suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance. As a result, I have amended some of the conditions for clarity, accuracy and conciseness.
23. I have attached conditions relating to the submission of reserved matters and the associated time limits. I have included a condition specifying the relevant plans and documents in the interests of certainty.
24. Conditions in respect of the design and phasing of highways and associated infrastructure, surfacing, parking and a construction traffic management plan are appropriate in the interests of highway safety and sustainable transport. Conditions in respect of drainage (including foul and surface water) are required in the interests of highway safety, sustainable drainage and flood risk. A condition in respect of contamination is necessary in the interests of public safety. A condition requiring the submission of a construction methodology is required in the interests of public safety and the operation of the railway.
25. Conditions in respect of the hours of construction, noise attenuation and an acoustic barrier are appropriate in the interests of the living conditions of existing and future residents. Although boundary treatment may fall within the scope of the reserved matters, taking a precautionary approach a condition at the outline stage is appropriate in the interests of public safety due to the need for a trespass proof fence adjacent to the railway. Conditions in relation to archaeological investigation, work and recording are required in the interests of conserving the historic environment. Conditions requiring compliance with the Preliminary Ecological Appraisal and the submission of a biodiversity management plan are appropriate in the interests of conserving and enhancing the natural environment.
26. A separate condition on wheel cleaning facilities is not required as this would be addressed as part of the construction traffic management plan. A condition in respect of existing landscaping features is not required as this is addressed by the reserved matters.

Conclusion

27. For the reasons given above, I conclude that the appeal should be allowed.

David Cross

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale ("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 three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two 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 plans:
 - Site location plan RD:4735-03A
 - Indicative Proposed Layout (access details only) Drawing no RD:4735-04D
 - Section 278 General Arrangement 1115-1143-CIV-100 Rev P1.
- 5) No development shall start on site until details of the proposed works to bring Braithwaites Close up to an adoptable standard, including the access alterations, drainage, construction, services and lighting, have been submitted to and approved in writing by the local planning authority.
- 6) Prior to the occupation of the first dwelling, the works approved under condition 5 shall be completed in accordance with the approved details and Braithwaites Close offered up for adoption.
- 7) Prior to the occupation of the first dwelling, the within-highway improvements at the junction of Kings Road, the Kings Road Service Road and Braithwaites Close, including the reinstatement of the bus layby, relocated bus stop and provision of a footway connection to the bus stop, shall have been completed in accordance with details to be submitted to and approved in writing by the local planning authority.
- 8) No loose material shall be placed on any driveway or parking area within 10 metres of the adopted highway unless measures are taken in accordance with details to be submitted to and approved in writing by the local planning authority to prevent the material from spilling onto the highway. Once agreed and implemented these measures shall be retained.
- 9) No dwelling on the site shall be occupied until the vehicular access to it and the vehicle parking spaces serving it have been completed and, once provided, the vehicle parking spaces shall be retained.
- 10) No development shall begin until details of:
 - (i) the layout, drainage, construction, services and lighting of the proposed access road, including the junction with the adjacent highway; and
 - (ii) the number and location of vehicle parking space(s) on the site;have been submitted to and approved in writing by the local planning authority.
- 11) No dwelling on the site shall be occupied until the access road has been completed to at least base course level and adequately lit from the junction with the adjacent highway up to the access to the dwelling.

- 12) No other works shall be commenced on the site until the access road junction with the adjacent highway, including the required visibility splays, has been set out and established.
- 13) No dwelling on the site shall be occupied until the footway has been constructed up to base course level from the junction with the adjacent highway to the access to the dwelling.
- 14) The penultimate dwelling on site shall not be occupied until the access roads have been completed.
- 15) No development shall take place until a construction phase traffic management plan showing details of:
 - (i) a pre/post construction condition survey of the carriageway to identify any defects and how they will be rectified;
 - (ii) all associated traffic movements, including delivery vehicles and staff/construction movements;
 - (iii) any abnormal load movements;
 - (iv) contractor parking and welfare facilities;
 - (v) storage of materials; and
 - (vi) traffic management requirements, including the means of controlling the deposition of mud onto the adjacent highway, along with appropriate methods of cleaning the highway, as may be required;

has been submitted to and approved in writing by the local planning authority. Once approved the plan shall be implemented, reviewed and updated as necessary.

- 16) No development shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development.

The drainage scheme shall demonstrate that surface water run-off generated up to and including the 1 in 100-year critical storm (including an allowance for climate change which should be based on current national guidance) will not exceed the run-off from the existing site. It shall also include details of how the resulting completed scheme is to be maintained and managed for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime so that flood risk, both on and off the site, is not increased. SuDS must be fully considered in accordance with current PPG guidance. Reference should be made to North Lincolnshire Council's SuDS and Flood Risk Guidance Document. Should infiltration not be feasible at the site, alternative sustainable drainage should be used, focusing on above-ground solutions.

- 17) The drainage scheme shall be implemented in accordance with the approved submitted details required by condition 16 above, completed prior to the occupation of any dwelling or building within each phase or sub-phase of the development on site, and thereafter retained and maintained in accordance with the scheme for the life of the development unless otherwise agreed in writing with the local planning authority.

- 18) No development 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 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.
- 19) No development 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.
- 20) No development shall take place until a scheme for the disposal of foul water has been agreed in writing by the local planning authority and none of the dwellings shall be occupied until it is connected to the approved drainage system.
- 21) Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence 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

A Phase 1 desk study shall be carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk study shall establish a 'conceptual model' of the site and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/Quantitative Risk Assessment (or state if none required). Two full copies of the desk study and a non-technical summary shall be submitted to the local planning authority for approval prior to proceeding to further site investigation.

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 remedial options, and a proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the management of Land Contamination, CLR 11'.

Part 2: Submission of Remediation Scheme

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 (referred to in PPS23 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.

- 22) Before development commences on the site, a construction methodology shall be submitted to and approved in writing by the local planning authority. The construction methodology shall demonstrate consultation

with the Asset Protection Project Manager at Network Rail. The development thereafter shall be carried out in accordance with the approved construction methodology unless otherwise agreed in writing by the local planning authority.

- 23) Construction, demolition, and site clearance operations shall be limited to the following days and hours:

- 8am to 6pm Monday to Friday
- 8am to 1pm on Saturdays.

No construction, demolition or site clearance operations shall take place on Sundays or public holidays.

HGV movements shall not be permitted outside these hours during the construction phase without prior written approval from the local planning authority.

Installation of equipment on-site shall not be permitted outside these hours without prior written approval from the local planning authority.

- 24) Prior to the occupation of the development hereby permitted, a scheme of noise attenuation, including windows and ventilation as recommended in report reference NIA-10975-23- 11165-v2 Barnetby, dated 3 October 2023, shall be installed and maintained thereafter.
- 25) Prior to the occupation of the development hereby permitted, an acoustic barrier shall be erected on the site. A detailed technical specification of the acoustic barrier shall be submitted to and approved in writing by the local planning authority. The specification shall include details of the location, size and design of the barrier, with predicted noise reduction over the frequency spectrum. The approved acoustic barrier shall be installed prior to commencement of the occupation of this site and shall be maintained thereafter.
- 26) Following completion of the installation of the mitigation measures specified in conditions 24 and 25 above, and in accordance with the approved technical specifications, a verification report that demonstrates the effectiveness of the mitigation measures shall be undertaken. The verification report shall be submitted to and approved in writing by the local planning authority.
- 27) No dwelling shall be occupied until details of the positions, design, materials and type of boundary treatment to be built/planted including a trespass proof fence adjacent to Network Rail's boundary fence have been agreed in writing by the local planning authority. The agreed boundary treatment shall be built/planted before any dwelling is occupied and once built/planted it shall be retained.
- 28) At least 3 months prior to the submission of any application for the reserved matters, an archaeological mitigation strategy shall be submitted to and approved in writing by the local planning authority. The archaeological mitigation strategy shall provide for the following:
(i) measures to ensure the preservation in situ of the above and below-ground archaeology within the area of public open space in advance of, during and after construction of the dwellings permitted by this permission

- (ii) measures to interpret the archaeology within the public open space to enhance public understanding
- (iii) measures to ensure the preservation by record of archaeological features of identified importance within the footprint of the development
- (iv) methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts
- (v) methodologies for the recording of the historic buildings and recovery of archaeological remains, including artefacts and ecofacts
- (vi) post-fieldwork methodologies for assessment and analyses
- (vii) report content and arrangements for dissemination, and publication proposals
- (viii) archive preparation and deposition with recognised repositories including the digital archive with the ADS
- (ix) a timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy and the timely provision of site interpretation
- (x) monitoring arrangements, including the notification in writing to the North Lincolnshire Historic Environment Record of the commencement of archaeological works and the opportunity to monitor such works
- (xi) a list of all staff involved in the implementation of the strategy, including subcontractors and specialists, their responsibilities, and qualifications.

Thereafter, the development and archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

- 29) No development shall take place until the applicant or their agents or successors in title has secured the implementation of the approved archaeological mitigation strategy and has notified the planning authority in writing of the intention to commence the archaeological site works at least two weeks before commencement. Thereafter, the archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.
- 30) The final dwelling constructed shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved archaeological mitigation strategy, and provision made for analysis, publication and dissemination of results, and archive deposition secured, and until the approved site interpretation within the public open space is provided.
- 31) A copy of any analysis, reporting, publication, or archiving required as part of the approved archaeological mitigation strategy shall be deposited at the North Lincolnshire Historic Environment Record and the archive at the North Lincolnshire Museum within six months of commencement of the archaeological programme of work or such other period as may be agreed in writing by the local planning authority.
- 32) Works shall be carried out strictly in accordance with the recommendations set out in sections 5.1.2 to 5.5.2 of the submitted Preliminary Ecological Appraisal report dated July 2021.
- 33) Prior to the approval of reserved matters, a biodiversity management plan shall be submitted to and approved in writing by the local planning

authority. The plan shall cover a period of at least 30 years from the commencement of development and shall include:

- (a) details of at least three bat roosting features to be installed;
 - (b) details of nesting sites to be installed to support a variety of bird species;
 - (c) restrictions on lighting to avoid impacts on bat roosts, bat foraging areas, bird nesting sites and sensitive habitats;
 - (d) provision for hedgehogs to pass through any fencing installed between gardens and between areas of grassland;
 - (e) prescriptions for the eradication of invasive non-native species, including Japanese knotweed;
 - (f) prescriptions for the retention, planting and aftercare of native trees, scrub, shrubs and hedgerows of high biodiversity value;
 - (g) prescriptions for the enhancement and management of neutral grasslands;
 - (h) procedures for monitoring and on-going management of created habitats;
 - (i) details to confirm that the measures proposed will provide a measurable net gain in biodiversity value of least 1% in accordance with the Defra biodiversity metric 3.1;
 - (j) proposed timings for the above works in relation to the completion of the buildings.
- 34) 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 completion of the approved development, the applicant or their successor in title shall submit a report to the local planning authority, providing evidence of compliance with the biodiversity management plan. Thereafter, monitoring reports shall be submitted to the local planning authority every five years for thirty years to provide evidence of compliance with the biodiversity management plan and monitoring and management measures carried out to maintain target condition.

End of Schedule