
Appeal Decision

Site visit made on 29 April 2025

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd June 2025

Appeal Ref: APP/R2520/W/24/3355256

Land at Holmeleigh, Fen Road, Heighington, Lincoln LN4 1JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Mr Gary Burnett against the decision of North Kesteven District Council.
 - The application Ref is 22/0977/FUL.
 - The development proposed is: erection of 5 no. detached two storey dwellings and 2 no. affordable dwellings, with associated garaging including formation of associated access road and junction with Fen Road and provision of footway connection.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the above banner heading has been taken from the decision notice and appeal form as this accurately and concisely describes the proposed development.
3. Reason for refusal one as set out on the Council's decision notice cites the Central Lincolnshire Local Plan, 2017. However, this version of the Local Plan was superseded in April 2023 by the Central Lincolnshire Local Plan, 2023 (CLLP) and the Council has confirmed that the application was determined against the revised and adopted set of Local Plan Policies. I have determined this appeal accordingly.
4. An update to the National Planning Policy Framework (the Framework) has been published dated 12 December 2024 but there are no material changes relevant to the substance of this appeal.

Main Issues

5. The main issues are:
 - Whether the site location is suitable for residential development, having regard to development plan policy governing proposals within the open countryside;
 - The effect of the proposed development on the character and appearance of the site and surrounding area;
 - Whether the proposed development would provide satisfactory living conditions for future occupiers with particular regard to privacy;

- Whether sufficient information has been submitted in respect of energy performance; and
- The effect of the proposed development on trees.

Reasons

Location

6. The appeal site relates to land which is associated with the property known as 'Holmleigh' and comprises a backland plot. It is located to the east of the village of Heighington, to the south of Fen Road. It comprises grassland, encompassed within the green and rural landscape. The site is occupied by mature trees, hedgerows and shrubs with the trees predominately denoting the western boundary extending into and scattered across the remainder of the appeal site. It contributes to the rural landscape through the green infrastructure on site.
7. The site levels rise in gradient from north to south via a gentle but consistent slope. An area of hardstanding comprising 'yard area' is also included within the proposals along with an outbuilding.
8. The proposed development seeks planning permission for the construction of 5 detached dwellings together with 2 no. affordable units with associated garages, access works and provision of a public footpath.
9. Policy S1 of the CLLP relates to the spatial strategy and settlement hierarchy, where Heighington is classified as a large village (tier 4). To maintain and enhance the role of a large village which provides housing, employment, retail, and key services and facilities for the local area, the Policy places a focus on accommodating an appropriate level of growth via sites allocated in the Local Plan. Beyond site allocations, development will be limited to that which accords with Policy S4 relating to housing development in or adjacent to villages.
10. The appeal site is not allocated within the CLLP and thus Policy S4 is relevant. Policy S4 is divided into two parts, the first of which establishes an appropriate location test where support will only be offered to those proposals which are located within the developed footprint of the village and adhere to the maximum dwelling threshold introduced within the policy (up to 10 dwellings in large villages and medium villages and up to 5 dwellings in small villages). An appropriate location is defined in the CLLP as a location which does not conflict with national policy or policies in the Local Plan. In addition to qualify as an 'appropriate location', the site, if developed, would: retain the core shape and form of the settlement; not significantly harm the settlement's character and appearance; and not significantly harm the character and appearance of the surrounding countryside or the rural setting of the settlement.
11. Developed footprint of a settlement is defined as the continuous built form of the settlement and excludes: individual buildings or groups of dispersed buildings which are clearly detached from the continuous built up area of the settlement; gardens, paddocks and other undeveloped land within the curtilage of buildings on the edge of the settlement where land relates more to the surrounding countryside than to the built up area of the settlement; agricultural buildings and associated land on the edge of the settlement; and outdoor sports and recreation facilities and other formal open spaces on the edge of the settlement.

12. Heighington is characterised by a central core of higher density development and Newcot Lane delineates the extent of the built form of the settlement to the eastern edge where the continuous development pattern comes to an abrupt end upon the southern aspect of Fen Road. Despite development extending beyond Newcot Lane to the north of Fen Road in a linear form, there is undeveloped agricultural land with sporadic development to the south of the road.
13. The appeal site lies approximately 150m east of Newcot Lane where the host dwelling comprises one of the scattered residential dwellings in this location which are somewhat divorced from the built form of Heighington through interspersed agricultural land. The cluster of dwellings in this location does not meet the dwelling threshold to be considered a Hamlet (15 dwellings) under Policy S1 of the CLLP.
14. The site lies within an area characteristically representative of the open countryside and cannot be defined as being within the developed footprint of the village as per Policy S4 of the CLLP. The well maintained and tended nature of the appeal site and the sporadic development does not alter the feeling of a rural countryside location.
15. Part 3 of Policy S4 of the CLLP states that, proposals for residential development on unallocated land immediately adjacent to the developed footprint will be supported where this is a First Home exception site in accordance with the Framework or the scheme is exclusively for a rural affordable housing exception site.
16. A large parcel of undeveloped land and sporadic development along with associated amenity land lies between the appeal site and the continuous built form of Heighington to the west. Such a separation and break between continuous built form means that the site cannot be concluded to be immediately adjacent to the developed footprint. The scheme does not propose a First Home exception site nor a rural affordable housing exception site. On this basis, the site is therefore categorised as open countryside where there are general constraints to development in such locations. Having considered the nature of the proposals, it would not fall within any of the exceptions such as new dwellings where they are essential to the effective operation of existing rural operations set out at Policy S5 of the CLLP which is the relevant Policy relating to development in the countryside.
17. Paragraph 84 of the Framework relates to rural housing and states that isolated homes in the countryside should be avoided unless one or more of a number of circumstances apply. This includes, e) the design is of exceptional quality, in that it: i. is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and ii. would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.
18. The scheme adopts a sustainable/contemporary building design, including the use of renewable energy sources. However, paragraph 84 establishes a high bar in relation to criteria e requiring groundbreaking design/technologies appropriate for and informed by the site in question. Although the use of renewable energy sources are encouraged, they are already a requirement in satisfying the energy requirements of the CLLP and thus cannot fall within the 'truly outstanding' bracket. Additionally, I have limited detail to demonstrate that the development

would reflect the highest standards in architecture where the scheme would be read as a benchmark for future development. I am also not sufficiently satisfied that the development has been informed by the qualities of the site nor specifically relate to the landscape setting or context which I discuss further as part of my decision. Consequently, I cannot conclude that the scheme would significantly enhance its immediate setting.

19. A 200m footpath is proposed to extend from the site access to the Scholar estate to the west which would establish a link into the village. This would be facilitated by the removal and excavation of an existing grass verge, a feature which provides a green infrastructure across the length of Fen Road. The footpath would be to the detriment of the character of the area and rural qualities of the location by introducing a form of urbanisation.
20. My attention has been drawn to a recently constructed building at the nearby residential property known as Harbydale to the west of the appeal site which the appellant describes as a building of 'habitable use'. The building is situated to the rear (south) of the property although the Council's Statement of Case confirms that this building received planning permission in 2019 for a garage under reference 19/1130/HOUS. A condition was also imposed to restrict its use to that which is ancillary to the main dwelling. As such, there is no intensification of the domestic use upon the land which remains as a single planning unit and there is no precedent for new residential development in this area. This would not therefore alter my findings in relation to the scheme before me.
21. My attention has also been drawn to a previous application for 3 dwellings on land to the north side of Fen Road close to the appeal site. This was refused and dismissed at appeal under reference APP/R2520/W/17/3184084. The Inspector explained that the site is clearly dislocated from the continuous built-up footprint of the settlement and is essentially rural in character with sporadic development only. It was noted that the appeal site was not at a significant distance in terms of its accessibility to services being those within the settlement of Heighington, but that the lack of footpath, narrow road and lack of street lighting in this location may deter some people from walking or cycling, particularly at night or in poor weather conditions. I appreciate that the proposed scheme includes the provision of a footway to link with an existing footway along Fen Road into Heighington village, but this would not sufficiently overcome the harm identified as the appeal was still dismissed on the grounds of the rural location being contrary to the spatial strategy which is the same for the scheme before me.
22. For the above reasons, I conclude on this issue that the proposed development would not be a suitable location for residential development, having regard to development plan policy governing proposals within the open countryside. It would therefore be contrary to Policies S1 and S5 of the CLLP. For the same reasons, the proposed development would also be contrary to paragraphs 8, 11, 48 and 84 of the Framework.

Character and appearance

23. The site is located within part of Fen Road which is distinctly rural in character, influenced by the visual and physical separation between the existing dispersed dwellings and the presence and views of open fields within that setting. This is

reinforced by the spacing and severance created by the undeveloped paddock to the west of the appeal site.

24. The scheme proposes a largely linear development pattern extending along the eastern boundary from north to south from plots 1 through to 4 including the two affordable units with the 5th plot occupying land upon the southwestern boundary of the site. The access road would wind through the site to the west with spurring driveways. As previously set out, the site levels alter across the wider area where there is a gradual but significant gradient increase from north to south.
25. The dwellings proposed are two storey detached dwellings of substantial size. Two dwelling types have been submitted in relation to the dwellings identified for the open market. These adopt a contemporary design, with sections of overhanging first floors, use of glazing and installation of balconies. The additional two dwellings comprise affordable units and again adopt two storey proportions, finished in cladding below a metal profiled roof covering. The area is not subject to a strict local vernacular, but I find that the limited variety of dwelling type and overall design fails to relate to the rural context in which it is located.
26. The proposed development would extend built development in an otherwise rural street scene and the development in depth contrasts with the established frontage character of the sporadic development along this stretch of Fen Road. This would be emphasised by the stepped ridge height increase extending to the south of the site due to the site levels. The trees/vegetation would help to filter views, but when entering via the access road, plots 4 and 5 towards the southern boundary would appear rather prominent, towering above those on the entrance. It would therefore fail to respond to the positive features of the site sitting at odds with the landscape.
27. Overall, an intensification of residential development within this location would conflict with the characteristics of the open countryside, urbanising the rural qualities of the location. This is exacerbated through the introduction of the footpath as previously set out, facilitated by the removal and excavation of an existing grass verge.
28. For the above reasons, I conclude on this issue that the proposed development would unacceptably harm the character and appearance of the site and surrounding area. It would therefore be contrary to Policy S53 of the CLLP which amongst other matters, explains that all development must achieve high quality sustainable design that contributes positively to local character, landscape and townscape, and supports diversity, equality and access for all. For the same reasons, the proposed development would also be contrary to paragraphs 131, 135 and 139 of the Framework and paragraphs 41, 42, 43 and 53 of the National Design Guide.

Living conditions

29. Plots 1 and 2 are positioned in close proximity of one another where the northern elevation of plot 2 faces the southern elevation of plot 1. The openings which serve bedroom windows at first floor level would be almost directly opposite one another and plot 2 would sit higher in relation to plot 1. This would result in overlooking opportunities which would also be exacerbated by the addition of the balcony serving plot 2 which would allow unrestricted views across the southern most amenity space afforded to plot 1 which would affect its useability.

30. Plots 3 and 4 are orientated where the southern elevation of plot 3 lies adjacent to the side elevation of plot 4. This side elevation is denoted by the proposed balcony where views are afforded towards the garden area to the south of plot 3 and onto the elevation where a bedroom window is located at first floor level. This would lead to privacy issues which is again exacerbated by the change in levels where plot 4 would sit higher in relation to plot 3.
31. For the above reasons, I conclude on this issue that the proposed development would not provide satisfactory living conditions for future occupiers with particular regard to privacy. It would therefore be contrary to Policy S53 of the CLLP which amongst other matters, seeks to prevent harm to people's amenity either within the proposed development or neighbouring it through overlooking, overshadowing, loss of light or increase in artificial light or glare. For the same reasons, the proposed development would also be contrary to paragraphs 131, 135 and 139 of the Framework and paragraphs 41, 42, 43 and 53 of the National Design Guide.

Energy performance

32. Policy S6 of the CLLP sets out a number of design principles for efficient buildings whilst Policy S7 sets out specific energy efficiency standards that must be achieved for residential development to be acceptable which includes a requirement for on-site renewable energy generation.
33. The proposed development incorporates solar panels, air source heat pumps and a number of other energy efficient construction and operational technologies as summarised in the appellant's Energy Statement. However, despite some fabric first u-values accompanying the appeal, the appellant has failed to provide technical details relating to onsite energy generation and consumption, through site specific energy calculations. I am not therefore able to confirm that the total energy generated on site would tally with the on-site consumption (per plot, noting three house types are proposed), as per the energy thresholds as established within Policy S7 of the CLLP. In this regard, the appellant has failed to provide sufficient information to enable a thorough assessment of the impacts of the proposed dwellings and their energy performance relative to the net zero carbon requirements of the related policies. The proposal therefore fails to accord with Policies S6 and S7 of the CLLP.

Trees

34. As previously set out, the appeal site is occupied by mature trees, hedgerows and shrubs. The proposed development indicates the retention of the vast majority of existing features and extensive replacement planting for those to be removed is proposed. A number of trees including their root protection areas would be within close proximity of the access road and dwellings themselves with some minor encroachment. However, for the greater part, the layout provided shows that the retained trees would not be encroached upon and would remain largely unaffected by the works. The main encroachment appears to be where the outbuilding is located which would be converted to garages for the affordable units along with areas of hardstanding. This is an existing building, and a yard already forms this area to the front and side of the building. As such, I find that the level of encroachment over and above that of the existing would still be relatively minor where the protection measures proposed would not be unreasonable. I am also

not concerned regarding the canopy spread of the trees in this location given the extent of spread and the nature/use of the garages.

35. I note the Council's concerns regarding the ability to deliver the indicative replacement planting, due to the development of small/medium trees planted in close proximity of the access road. However, the areas are purely indicative, and I am mindful that the proposed replacement planting results in a net gain. The specific details of any replacement planting could be controlled via an appropriately worded planning condition were I minded to allow the appeal and based on the evidence before me, I am not sufficiently satisfied that the proposed access road would affect their sustainability longer term. The canopy spread being over the access at interspersed points would not result in pressure to prune/remove in the future given the nature of the access road as a movement corridor.
36. The layout shows that existing trees would not dominate the adjacent plots given the level of space surrounding them including T14-T17 and consequently, they would have sufficient room to mature. Provided care is taken during construction and managed sensitively in line with the Impact Assessment and Method Statement which has been submitted, then I do not find the trees location to be such where there would be significant pressure to prune/remove and I am not concerned regarding the future sustainability of such.
37. For the above reasons, I conclude on this issue that the proposed development would not result in harm to trees. It would therefore accord with Policy S66 of the CLLP which amongst other matters, explains that development proposals should be prepared based on the overriding principle that: the existing tree and woodland cover is maintained, improved and expanded; and opportunities for expanding woodland are actively considered, and implemented where practical and appropriate to do so.

Other Matters

38. I am aware of the location of the site in relation to services, amenities and local highway routes including the recently completed Lincoln Eastern By-Pass. I also note the retention/adaption of the existing swale/balancing pond and that the proposals would add to the available housing stock. However, such matters would not alter my findings in relation to the above main issues. There would be some minor economic, social and environmental benefits arising from the scheme particularly with the provision of affordable housing and the footpath link and I note the net gain in relation to replacement planting. However, the Council can demonstrate a deliverable housing supply of 7.8 years which is well above the required 5 year minimum and the modest contribution of 7 dwellings would make a small difference to the overall supply of housing. There is also no mechanism in place to secure the dwellings as affordable and thus, I am unable to attribute weight to this. In terms of the footpath and whilst it would provide a connection into the village which would benefit residents, it would serve a limited number of properties and would be to the detriment of the overall character and appearance of the area. Consequently, these benefits attract modest weight. Such benefits are insufficient to outweigh the significant harm which would be caused in relation to the above main issues.

Conclusion

39. Although I have found a lack of harm in relation to trees, I have found that the proposed development would not be a suitable location for residential development, having regard to development plan policy governing such proposals within the open countryside. It would unacceptably harm the character and appearance of the site and surrounding area and would not provide sufficient living conditions for future occupiers with particular regard to privacy. There is also insufficient information to enable a thorough assessment of the impacts of the proposed dwellings and their energy performance relative to the net zero carbon requirements of the related policies. It follows that the proposal conflicts with the development plan and there are no material considerations which would outweigh this conflict.
40. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR