



Appeal Decision

Site visit made on 29 April 2025

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 June 2025

Appeal Ref: APP/R2520/W/24/3355040

Land Rear of 48 Rectory Road, Ruskington, Sleaford NG34 9AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr Hugo De Savary of Housing 35 Ltd against North Kesteven District Council.
 - The application Ref is 24/0322/FUL.
 - The development proposed is described as a “the demolition of existing detached garage and erection of 3no. supported housing units (Class C3(b)) including new parking area”.
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Decision

1. The appeal is dismissed, and planning permission for the demolition of existing detached garage and erection of 3no. supported housing units (Class C3(b)) including new parking area is refused.

Preliminary Matters

2. Since the appeal was submitted, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and amended on 7 February 2025. Those parts of the Framework most relevant to the appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the Framework, and I am satisfied that no parties interests would be prejudiced by my taking this approach.
3. While in the appellant’s ownership, 48 Rectory Road (No 48) lies outside of the planning application site red line boundary and, as such, forms a separate planning unit to the appeal scheme.
4. At the time of my site visit a parking area had been laid out, which appeared to broadly accord with the submitted plans. For the avoidance of doubt, my decision is based on the description of development and the submitted plans.
5. The description within the banner heading above has been amended to omit wording that is not a description of development.
6. The Council failed to determine the application to which this appeal relates. The Council has, however, submitted an appeal statement which provide reasons that the Council would have refused planning permission for, had they retained jurisdiction to do so. The appellant has responded to these reasons within their appeal statement. I have therefore had regard to the reasons provided by the Council when forming the main issues in this case.

Main Issues

7. The main issues are:

- the effect of the proposed development on highway safety, with regards to parking provision,
- whether the proposal demonstrates a net gain in biodiversity,
- whether the proposed development would be energy efficient,
- the effect of the proposed development on the living conditions of the occupiers of No 48, with particular regard to noise and disturbance, and
- whether appropriate living conditions would be provided for the future occupiers of the development, having regard to noise and disturbance.

Reasons

Highway Safety

8. The appeal site is located within Ruskington, identified as a large village. Policy S49 of the Central Lincolnshire Local Plan 2023 (LP) states that planning permission for new residential development will only be granted if the proposal makes appropriate and deliverable parking provision in accordance with the standards in Appendix 2. The supporting text to this policy highlights that an under provision of parking can lead to unsuitable or unsafe on-street parking.
9. The appeal scheme seeks to site three dwellings to the rear of No 48. Access to the appeal site would be from Rectory Road, via an existing driveway located to the side of No 48. Nine parking spaces are proposed within the appeal site to serve the appeal scheme.
10. The appeal scheme seeks to provide specialist residential accommodation, under Use Class C3(b). The evidence indicates that occupants would live as single households while in receipt of care. Evidence provided during consideration of the planning application indicated that there would be a maximum need for two visiting caring staff. On this basis, the Council were satisfied that nine car parking spaces would be sufficient.
11. However, the appeal documentation explains that each occupant would commission care to support their own independent living. As such, there is the possibility that there could be three caring staff at any one time across the appeal site. While the provision of nine off-street parking spaces may be sufficient to serve the appeal proposal, No 48 and a single parking space are shown on the submitted plans within land edged blue.
12. The evidence indicates that No 48 is a four bedroomed property, with the existing plans indicating that a driveway provided access to a garage building. It is understood that investigations are ongoing with regard to its current use. The appellant contends that a planning obligation would not control the quantum of vehicular movements associated with the appeal proposal and that the use of the appeal scheme can be controlled through the imposition of a suitably worded condition. While such matters are noted, nevertheless, the effect of the appeal proposal would be that No 48 would be left with a single off-street parking space. Consequently, irrespective of whether No 48 is within Use Class C3 or C3(b), there would be a shortfall in parking provision. In view of this, it is likely that parking would be displaced onto adjacent roads.

13. The appeal site is located close to a pedestrian crossing and to High Street, which includes many key facilities and services. In this context, while subject to a 30mph speed limit, I observed a moderate flow of traffic along Rectory Road. While this was only a snapshot in time, during a quieter part of the day, traffic is likely to increase during morning and evening rush hours and, noting the proximity of the school, at school opening and closing times. In addition, there are several properties within the vicinity of the appeal site with driveways leading onto Rectory Road.
14. While on-street parking demand appeared low at the time of my visit, any parking along Rectory Road would be detrimental to the free and safe flow of vehicles using the highway. Moreover, given the proximity of neighbouring driveways and the pedestrian crossing, one of the effects would be to restrict the visibility of drivers egressing drives of neighbouring properties and drivers approaching the crossing. Consequently, the effects of the parking demand that would be created by the appeal proposal would be prejudicial to highway safety.
15. For these reasons, the proposed development would result in unacceptable harm to highway safety, with regards to parking provision. This is contrary to LP Policies S49 and S53 which collectively seek, among other things, to ensure development proposals make appropriate and deliverable parking provision. It also conflicts with the Framework which states development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Biodiversity

16. Biodiversity Net Gain (BNG) has commenced for planning permissions granted in respect to an application for non-major development made on or after 2 April 2024. The planning application, the subject of this appeal, was made prior to this date. As such, it is exempt from the mandatory BNG requirements.
17. However, LP Policy S61 seeks to ensure development proposals deliver measurable net gains in respect to biodiversity. With regard to BNG, the policy states that it applies unless, and until, subsequently superseded, in whole or part, by national regulations or Government policy associated with the delivery of mandatory BNG arising from the Environment Act 2021.
18. Given that the proposed development benefitted from the BNG temporary exemption for small development at the time the planning application was made, the proposal falls to be considered in accordance with the development plan.
19. In this regard, LP Policy S61 requires development proposals to deliver at least a 10% measurable BNG attributable to the development, with BNG being provided on-site wherever possible. It further states that off-site measures will only be considered where it can be demonstrated that, after following the mitigation hierarchy, all reasonable opportunities to achieve measurable net gains on-site have been exhausted or where greater gains can be delivered off-site where the improvements can be demonstrated to be deliverable and are consistent with the Local Nature Recovery Strategy.
20. During consideration of the planning application, on-site BNG provision was proposed. Notwithstanding the Council's concerns in respect of the details provided, the appellant, as part of the appeal, confirms that an off-site BNG solution is now proposed. The appellant contends that such an approach would comply with

the BNG hierarchy, as the proposed development would make effective use of the land for a type of development which is needed in the area.

21. However, no further details have been provided, including how such measures would be secured. Consequently, I cannot be certain whether the proposed development demonstrates a net gain in biodiversity. Therefore, the proposal conflicts with LP Policy S61.

Whether energy efficient

22. LP Policy S7 requires all new residential development proposals to include an Energy Statement to demonstrate how the specified standards of performance and the design principles outlined within LP Policy S6 for energy efficient buildings would be met. None of the 'exceptional basis clauses' apply in this instance.
23. While noting the Government does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned building regulations, the main thrust of LP Policies S6 and S7 is to ensure new development proposals have been appropriately designed to reduce energy consumption.
24. In assessing compliance in respect of these policies, the Council refer to the Good Home Alliance Building Standards Comparison 2020 and Providing an Energy Statement: A Guide for Applicants November 2023. Such documents are not referenced by the policies and there is limited evidence to confirm that they have been formally adopted by the Council. As such, I can only give them limited weight in my decision. They are however useful guidance in the consideration of whether the proposed development would be energy efficient, in accordance with the requirements of the adopted development plan.
25. The main parties agree that the calculation of unregulated energy use is difficult, with no recognised Government standard or methodology available. The appellant highlights that the Standard Assessment Procedure (SAP) calculations provide a standard methodology, which is used by the government to estimate the energy performance of homes. The SAP methodology is required by Part L of Building Regulations and to generate Energy Performance Certificates (EPC).
26. While noting this and the appellants contention that it is not for the planning system to control the number of appliances a household utilises, an Energy Statement has been submitted. This includes an assessment of unregulated energy in respect of the appeal scheme.
27. However, while Part L does not calculate or set targets for unregulated energy, the Energy Statement does not robustly substantiate the calculations provided in respect of unregulated energy use. For instance, appliances listed include a washing machine, tumble dryer, microwave, toaster and fridge freezer, but no quantities or energy outputs have been provided in respect of these appliances.
28. Moreover, there is limited substantive evidence to explain the assumptions made, including the times and days of the year in which appliances are likely to be in use. For example, the fridge freezer is anticipated as being in use for 5 hours per day and not every day of the year. Given the nature of such an appliance, it would not be unreasonable to expect it to be in use 24 hours per day, every day of the year.
29. With regard to the number of proposed solar PV panels, the Energy Statement includes a post construction verification process. Should the 'as built' EPC rating

fall short of the design stage EPC rating, this process seeks to secure a scheme of mitigation, to address any such shortfall.

30. However, the introductory text to LP Policies S6 and S7 highlights that it is significantly cheaper and easier to install energy efficiency and low carbon heating measures when homes are built, rather than retrofitting them afterwards. Consequently, as I cannot be certain that the appeal scheme would be capable of generating sufficient renewable energy generation on-site to meet all electrical energy demands over the course of a year, and noting the deficiencies in respect of the unregulated energy contained within the Energy Statement, it is not appropriate to defer these matters to post construction.
31. For these reasons, it has not been adequately demonstrated that the proposed development would be energy efficient. This is contrary to LP Policies S6 and S7, which seek, among other things, to ensure development proposals have been designed and include measures to reduce energy consumption.

Living conditions existing occupiers

32. The proposed dwellings would be located to the rear of No 48. They would be accessed via a driveway located to the side of No 48. The driveway would run the full depth of, and immediately adjoin, the side boundary, including side elevation of No 48.
33. The Council's comments were based on two care staff being present at any one time and operating on a 24 hour, 7 days a week basis. With regards to this, the Council consider that a suitably worded condition would ensure that staff movements do not occur between the hours of 23:00 and 07:00. On this basis, the Council were satisfied that the living conditions of occupiers of neighbouring properties would be safeguarded against noise and disturbance from vehicular movements associated with the appeal scheme. I see no reason to disagree with this.
34. However, the appeal documentation indicates that there may be a maximum of three staff present at any one time. The vehicular movements associated with one additional member of care staff across the appeal site are not likely to materially increase noise and disturbance.
35. Therefore, I am satisfied that the proposed condition would suitably restrict staff movements to and from the appeal site. As planning permission runs with the land, the condition would continue to take effect even if the proposed dwellings were split into multiple ownerships or care providers.
36. I therefore conclude that the proposed development would not result in unacceptable harm to the living conditions of the occupiers of No 48, through noise and disturbance. This accords with LP Policy S53 which seeks, among other things, to ensure development proposals are compatible with neighbouring land uses.

Living conditions future occupiers

37. No 48 is a two storey detached property that fronts onto Rectory Road. While investigations are ongoing with regard to its current use, the appellant indicates that it would provide a further property within Use Class C3(b). The evidence indicates

that it would be staffed by a maximum of three carers, 24 hours per day, 7 days per week.

38. Even if I were to accept that the current use of No 48 falls within Use Class C3(b), with unrestricted staffing movements, the property has four bedrooms. In view of this, a family could also occupy it and potentially generate considerable levels of activity and associated noise and disturbance. This could include some variation in pattern and activity undertaken by different generations of a family, for example parents going to work at different times of the day and separate activities associated with the children, especially if the children were young adults.
39. Moreover, the appeal properties would be located to the rear of the appeal site, some distance from No 48 and separated from it by the car park associated with the appeal scheme.
40. Consequently, I am satisfied that appropriate living conditions would be provided for the future occupiers of the development, having regard to noise and disturbance. In this regard, the proposal accords with LP Policy S53 which seeks, among other things, to ensure development proposals are compatible with neighbouring land uses.

Planning Balance and Conclusion

41. The provision of three dwellings would contribute towards housing supply in the area. The development would allow occupants to live in the community with an element of care being provided. The provision of specialist housing, of the type proposed, would also contribute towards meeting the needs identified within the Central Lincolnshire Housing Needs Assessment 2020. Such benefits would carry limited weight, having regard to the modest amount of development proposed. An absence of harm in respect of design, sustainability and flood risks are neutral matters.
42. I have had due regard to the Public Sector Equality Duty and the associated benefits in terms of eliminating discrimination against persons with protected characteristics, advancing equality of opportunity for those persons and fostering good relations between them and others through the provision of a home environment and the provision, as required, of support, supervision or care.
43. However, it has not been demonstrated that the site location is specifically necessary for the use, or that there are no other locations where supported living units could be provided. This tempers the weight I afford to the benefits of the scheme. Overall, I find that the planning harm I have identified outweighs the identified benefits and a refusal of planning permission is proportionate and necessary.
44. For the above reasons I conclude that, while the proposal would not result in harm to the living conditions of existing and future occupiers, with regard to noise and disturbance, the harm I have identified in respect of highway safety, BNG and energy efficiency is determinative. Therefore, the appeal proposal would conflict with the development plan as a whole. There are no material considerations that indicate I should conclude other than in accordance with it. Consequently, the appeal is dismissed.

S Pearce INSPECTOR