



Appeal Decision

Site visit made on 9 April 2025

by Jennifer Wallace BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th July 2025

Appeal Ref: APP/M2515/W/24/3357161

12 Lindum Terrace, Lincoln, Lincolnshire LN2 5RS

- 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 Mr Mike Bullas of Brighter Construction Ltd against the decision of City of Lincoln Council.
 - The application Ref is 2023/0819/FUL.
 - The development proposed is two new buildings at No.12 Lindum Terrace, providing a total of 42 apartments; 21 in each block. Associated external landscaping, including provision of 36 parking spaces either within undercrofts or external surface parking. New soft landscaping to enhance the existing mature planting areas.
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Decision

1. The appeal is allowed and planning permission is granted for two new buildings at No.12 Lindum Terrace, providing a total of 42 apartments; 21 in each block. Associated external landscaping, including provision of 36 parking spaces either within undercrofts or external surface parking. New soft landscaping to enhance the existing mature planting areas at 12 Lindum Terrace, Lincoln, LN2 5RS in accordance with the terms of the application, Ref 2023/0819/FUL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs has been made by Mr Mike Bullas of Brighter Construction Ltd against City of Lincoln Council. This application is the subject of a separate decision.

Background and Main Issues

3. The application was accompanied by a viability appraisal which set out that the proposed development would not be viable were it to provide the contributions sought. This was independently assessed on behalf of the Council who do not dispute its findings. I have no reason to find otherwise.
4. The appeal has been accompanied by a completed Unilateral Undertaking under s106 of the Town and Country Planning Act 1990. This makes provision for a viability reappraisal, and financial contributions were that appraisal to show the development could sustain such contributions.
5. As a result, the main issues are:
 - whether the contributions sought with respect to affordable housing, health, education, green infrastructure and playing fields are reasonable and necessary to make the development acceptable; and

- if these contributions are reasonable and necessary, whether the proposal is in accordance with the development plan when read as a whole.

Reasons

Whether the contributions sought are reasonable and necessary

6. The Council's overarching approach to seeking developer contributions is set out in Central Lincolnshire Local Plan (adopted April 2023) (LP) Policy S45, with further detail provided in the Planning Obligations Supplementary Planning Document (October 2023) (SPD) and other relevant policies of the development plan. Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (CIL Regulations) and paragraph 58 of the National Planning Policy Framework (the Framework) set out three tests that planning obligations must meet.
7. Affordable Housing: LP Policy S22 confirms that there is a need for approximately 12,000 affordable dwellings over the plan period. While this also acknowledges that not all of this need will be met through the planning system, developments of this type and in this location should provide 20% affordable housing. In this case, a commuted sum was sought rather than on-site provision due to the flatted nature of the proposal. This is allowed for in both LP Policy S22 and the SPD. A drafting error as to the contribution sought in the Council's officer report has been clarified through the written statements, confirming that the affordable housing contribution would be £849,064.
8. Health: LP Policy S54 confirms that development will be expected to promote and enhance health and wellbeing and this can include through contributions to new or enhanced health facilities. It is not in dispute that the proposal would generate demand for NHS services. The response from the NHS Lincolnshire Integrated Care Board sets out how the contribution sought was arrived at based on the demand generated by the proposed dwellings. While the appellant has expressed concern as to where this contribution could be spent, the response also identified the practices where future occupiers of the development could register. The unilateral undertaking specifies the practices to which the contribution should be directed which is consistent with this and I have no reason to think that the contribution would not be appropriately allocated were it to be provided.
9. Education: LP Policy S45 confirms that contributions will be sought where there is a demonstrated shortfall in capacity. The response from the local education authority (LEA) set out how the contribution sought was arrived at based on the demand generated by the proposed dwellings. It confirms that while there are surplus places at primary to meet the demand generated by the two-bedroom dwellings proposed, there are not at secondary or sixth-form. The appellant has not substantiated their claims regarding falling birth rate so I have no reason to doubt the findings of the LEA.
10. Green Infrastructure and Playing Fields: LP Policy S59 expects development to contribute towards green infrastructure. Further detail is provided in the SPD as to how the requirement is worked out. The Council has provided a breakdown of how the figures have been arrived at, based on the dwellings proposed.
11. I conclude that the above contributions would be reasonable and necessary to make the development acceptable. They would be directly related to the

development and would be fairly and reasonably related in scale and kind to the development. As such they would accord with the provisions of Regulation 122 of the CIL Regulations and the tests for planning obligations set out in the NPPF.

Development Plan as a Whole

12. LP Policy S2 confirms that housing land supply and housing delivery test monitoring will be carried out on the basis of the whole area of the Central Lincolnshire Local Plan. This approach is allowed for in the Planning Practice Guidance (PPG). The Council has set out that a 7.9 year supply of housing land and HDT results of 178% can be demonstrated. However, these are not a reason to refuse further proposals for housing.
13. The proposal would involve the erection of dwellings on previously developed land within the urban area of Lincoln. This is entirely consistent with the spatial strategy of the LP which places the Lincoln Urban Area as the principal focus for development in Central Lincolnshire, with around 64% of dwellings being accommodated within the Lincoln Strategy Area. Delivering a policy compliant scheme is to be expected of all development and so would not represent a benefit *per se*. However, national policy as set out in paragraph 61 of the Framework is to significantly boost the supply of housing. The delivery of 47 dwellings would make a modest, but important contribution to this. These factors all weigh strongly in favour of the scheme.
14. The need for affordable housing is high, at around 50% of the total housing required over the plan period and it is important that the delivery of affordable housing should be maximised. However, LP Policy S22 confirms that the level of affordable housing will be negotiated where an accurate viability assessment consistent with the approach in the PPG shows that the full contribution cannot be made. The Council accepts that the submitted viability appraisal is consistent with that guidance and that it shows that even with no contributions, the scheme would generate a residual land value below the benchmark land value. The proposal is, therefore, entirely in accordance with LP Policy S22.
15. The NHS contribution is a very small amount. As set out in the SPD, it is to address the time lag between the availability of mainstream NHS funding and the on-the-ground provision of facilities. This contribution, while important, is addressing a short term issue which would in time be addressed by mainstream NHS funding.
16. The proposal would generate a demand for two additional secondary school places and one additional sixth form place. Paragraph 100 of the Framework is clear that sufficient choice of education places should be available and that great weight should be given to the need to expand educational facilities. However, the absolute number of spaces required to support this development is very small. The Council has not set out what the shortfall in secondary or sixth-form spaces is or how the additional demand generated by this proposal would unacceptably harm the provision of education.
17. The proposal would generate additional demands on green spaces within the area by increasing the number of residents. The rationale for seeking such contributions is set out in LP Policy S59, which is entirely consistent with paragraph 98 of the Framework which is clear that planning decisions should plan properly for the use of open spaces to enhance the sustainability of residential environments.

18. The SPD sets out the process for viability review and confirms this can be in a manner which is appropriate for the scheme proposed. The submitted UU makes provision for a review of the viability of the scheme and the Council has not expressed any concerns with this. This would allow improvements in the viability of the scheme to be recouped as it progresses.
19. The proposal would deliver housing in the most sustainable location within the plan area. It has been demonstrated that the scheme would not be able to deliver contributions and a mechanism provided to allow this to be reviewed during the lifetime of the project. Consequently, the proposal would be in accordance with LP Policy S22 which specifically addresses viability in relation to affordable housing. While there would be conflict with respect to LP Policies S45, S54 and S59, the harms would be limited, given the relatively low level of demand generated by future occupiers of the proposed development. Consequently, I conclude that the proposal complies with the development plan when read as a whole.

Other Matters

20. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. The site lies within the setting of two Grade II listed buildings.
21. St Annes Bedehouses date from the mid-19th century and are constructed in the Tudor Revival style. Their significance arises from their architectural interest given the design and materials, and their historic interest from their original use as bedehouses. 27 and 29 Sewell Road are an elaborate pair of semi-detached villas built in the mid-19th century also listed grade II. Their attached boundary wall is also included in the listing. Their significance is also derived from their architectural interest given the design and use of materials.
22. The site also lies within the Lindum and Arboretum Conservation Area (CA) where s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area. The area is, notwithstanding the areas of smaller terraced properties, predominantly characterised by large, individually designed buildings set in commensurately spacious plots with this spaciousness enhanced by the arboretum.
23. The proposal would involve the construction of two substantial blocks of flats. These have been designed in such a manner as to respect the positioning of the surrounding buildings. Although larger in scale than the surrounding properties, the proposed design would reflect some architectural features found in the area, interpreted in a more contemporary fashion. The designs provide articulation to the elevations to reduce the visual perception of the mass of the buildings. Parking would be provided in visually discrete locations. Sufficient open space would be retained around the buildings to maintain the spacious character of the area, and the retention of the boundary wall and some mature landscaping would integrate the proposal into the surrounding area which is characterised by these features. I therefore conclude that the proposal would have a neutral effect on the character

and appearance of the CA and on the setting of both listed buildings and so would preserve both.

24. The Heritage Statement identified that there are remains of a pulhamite grotto in the grounds, a remnant of the landscaping scheme of the original dwelling on the site. Part of these would be lost as they are located within the footprint of the proposed development. The remaining aspects could be retained and incorporated into the landscaping scheme for the site. This could be secured by condition. The Council considers the grotto to be a non-designated heritage asset (NDHA). Paragraph 216 of the Framework sets out that the effect of an application on the significance of a NDHA should be taken into account, and a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. I consider the significance of the remains of the grotto to be limited given they are remnant remains and so the harm would be limited, despite the loss, as some could be retained. In light of the benefits of the scheme, a balanced approach means this would not outweigh the benefits of the scheme.
25. The scheme proposes 35 car parking spaces and 26 cycle parking spaces. The local highway authority is satisfied with this given there are controls on on-street parking, the good public transport connections and location of the site with good pedestrian links to services and facilities within Lincoln. I am satisfied the proposal makes appropriate provision for parking.

Conditions

26. The Council has suggested conditions should the appeal be allowed. I have had regard to these in light of the tests set out in paragraph 57 of the Framework and the PPG. I have made amendments to some of them for consistency and clarity purposes. Conditions 1 and 2 are standard conditions relating to the commencement of development and approved plans to define the terms of the permission.
27. As the proposal is for a sensitive end use, it is reasonable and necessary to ensure the risk of contamination is assessed as per condition 3. Provision for remediation if required and verification is necessary to ensure the site is suitable for the proposed end use. As the PPG advises the number of conditions should be kept to a minimum, I have combined two of the suggested conditions into condition 4. As the site is previously developed, it is also reasonable and necessary to provide for the circumstance that previously unidentified contamination is found as set out in condition 16.
28. It is reasonable and necessary to ensure that appropriate provision is made for effective surface water drainage and to ensure the risk of flooding is not increased elsewhere. I have removed the requirement from condition 5 that the scheme must be complete prior to any occupation as implementation forms part of the required details. It is not reasonable to require a separate surface water management strategy as that information would form part of the drainage scheme.
29. The site is close to the centre of Lincoln so there is the potential for there to be archaeological remains within the site. It is therefore reasonable and necessary in the interests of archaeology to impose condition 6 to secure an appropriate scheme of investigation and its implementation would be secured through condition 17. I have removed the requirement for the developer to notify the

Council they intend to commence works as it is not necessary, and repetition of details that are to be included in the submitted scheme.

30. It is reasonable and necessary to ensure that the effects of construction are managed to minimise the effects on neighbouring occupiers and the public highway. I have removed the requirement in condition 7 for construction vehicle routing as this aspect would not be enforceable. A separate scheme, to ensure the effects of construction on ecology are managed (condition 8), is also reasonable and necessary. It has been demonstrated that biodiversity net gain can be delivered on site and it is reasonable and necessary for this to be secured as per condition 9.
31. Given the heritage assets in the vicinity of the site and its prominent position, it is reasonable and necessary for samples of some materials to be provided (condition 10), and details of others (condition 11) to be agreed in the interests of the character and appearance of the area. It is not necessary to require the retention of the approved materials given the flatted nature of the development. Condition 12 secures improvements to the public highway through the provision of an off-site pedestrian crossing. This is reasonable and necessary in the interests of highway safety given the proposal will increase pedestrian footfall in the area. In the interests of the living conditions of existing and future occupiers, it is necessary to ensure that any fixed plant will not result in adverse levels of noise as addressed through condition 13.
32. Requiring the assessment of the off-site impact of lighting is not sufficiently precise. I have therefore amended condition 14 to require submission of a lighting scheme to ensure there would not be an adverse effect on the living conditions of neighbouring occupiers. This condition is also reasonable and necessary to ensure that the potential for there to be an adverse effect on bats is minimised. Condition 15 is reasonable and necessary in the interests of supporting biodiversity. It is reasonable and necessary in the interests of the character and appearance of the area to secure the implementation of tree protection measures (condition 18).
33. Condition 19 is reasonable and necessary to ensure appropriate regard is had to protected species. I have amended the wording of this condition to ensure it is precise and enforceable. The recommendation regarding lighting is addressed by condition 14. It is reasonable and necessary to control the hours of works on the site in the interests of the living conditions of neighbouring occupiers (condition 20). It is a requirement of the LP that water consumption be limited to 110 litres or less per person per day, therefore the condition is reasonable and necessary. I have amended the condition to require the details of the measures to be approved by the local planning authority to ensure that the condition is enforceable and to require their retention to ensure the measures are effective.

Conclusion

34. For the reasons given above the appeal should be allowed.

Jennifer Wallace

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following drawings: 1000 Rev.P1; 2200 Rev P2; 2201 Rev P3; 2202 Rev P3; 2203 Rev P2; 2204 Rev P2; 3701 Rev P2; 3702 Rev P2; 0001 Rev P1; 0002 Rev P1; 0003 Rev P1; 3575 Rev P2; 1200 Rev. P10; 1202 Rev. P10; 1203 Rev. P4; 1215 Rev. P5; 1216 Rev. P5; 3200 Rev. P3; 3210 Rev. P3; 2250 Rev P3; 2251 Rev P3; 2252 Rev P4; 2253 Rev P4; 2254 Rev P4; 3751 Rev P2; 3752 Rev P2; 0050 Rev P1; 0052 Rev P1; 0053 Rev P1; 0054 Rev P3; 0055 Rev P3; 0056 Rev P1; and C4338-HSP-00-00-DR-C-001.
- 3) Before the development commences, an assessment of the risks posed by any contamination (including gases and water quality) shall be submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site.

The assessment shall include:

- i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 4) No development shall take place where following the risk assessment required by condition 3, land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The development shall be carried out in accordance with the approved scheme. Upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is first occupied.
- 5) Before the development commences, a surface water drainage scheme shall be 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 hydrogeological context of the site;
- provide flood exceedance routing for storm event greater than 1 in 100 year;
- provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
- provide attenuation details and discharge rates which shall be restricted to greenfield run off rates;
- provide details of the timetable for and any phasing of implementation for the drainage scheme; and
- provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

The development shall be carried out in accordance with the approved scheme. The approved scheme shall be thereafter retained and maintained in accordance with the approved details.

- 6) Before the development commences, a programme of archaeological work as set out in a Written Scheme of Investigation (WSI) shall be prepared by a competent person/organisation, submitted to and approved in writing by the local planning authority.

This scheme must provide:

- An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements);
 - A methodology and timetable of site investigation and recording;
 - A methodology for archaeological monitoring and recording during all groundworks, including foundations, utilities, services, and surface water drainage;
 - A methodology for a measured and photographic survey of the Pulhamite Grotto;
 - Provision for an appropriate contingency of time and resources in the event of unforeseen circumstances;
 - Provision for site analysis;
 - Provision for publication and dissemination of analysis and records; and
 - Provision for archive deposition.
- 7) Before the development commences, a Construction Management Plan and Method Statement (CMPMS) shall be submitted to and approved in writing by the local planning authority. The CMPMS shall include;
- Any phasing of the development to include construction access;

- Provision for the on-site parking of all vehicles of site operatives and visitors;
- An area for the on-site loading and unloading of all plant and materials;
- An area for the on-site storage of all plant and materials used in constructing the development;
- wheel washing facilities; and;
- a strategy demonstrating how surface water run off will be managed during construction and protection measures for any sustainable drainage features. This should include drawing(s) showing how the drainage systems (temporary or permanent) connect to an outfall (temporary or permanent) during construction.

The development shall be carried out in accordance with the approved CMPMS.

- 8) Before the development commences, a Construction Ecological Management Plan (CEcMP) shall be submitted to and approved in writing by the local planning authority. The CEcMP should set out the safeguards and appropriate working practices, which will be informed by the final site design and ongoing ecological survey works. It should include as a minimum:

- Development standoffs and safeguards for all retained habitats;
- Robust measures to prevent the spread of invasive species (including Japanese knotweed);
- Construction timetables to avoid sensitive periods such as nesting bird season;
- Vegetation management measures to minimise the risk to protected or notable species (including bats, terrestrial mammals and birds); and
- Compliance with any specific mitigation measures that will be required to acquire a Development Licence for works affecting protected species.

The approved CEcMP shall be adhered to at all times throughout the construction period.

- 9) Prior to the development progressing beyond damp proof course level, a Landscape and Ecological Management Plan (LEMP) in accordance with Recommendation R1 of the Biodiversity Metric Assessment shall be submitted to and approved in writing by the local planning authority. The development shall be carried out and thereafter retained and maintained in accordance with the approved LEMP.
- 10) Prior to the development progressing beyond damp proof course level, samples of a roof tile, roof slate, chimney pot and a brick sample panel shall be submitted to and approved in writing by the local planning authority. The sample panel shall demonstrate the mortar mix and the use of an English Garden Wall bond. The development shall be carried out in accordance with the approved materials.
- 11) Prior to the development progressing beyond damp proof course level, details of the colour/finish of the standing seam cladding, aluminium framed windows, projecting balcony fascia, feature corbel and metal railings shall be submitted to and approved by the Local Planning Authority. The development shall be carried out in accordance with the approved materials.

- 12) No part of the development hereby permitted shall be occupied before the works to improve the public highway (by means of a tactile crossing point at the junction of Lindum Terrace and Eastcliff Road) have been certified complete by the Local Planning Authority.
- 13) Prior to the installation of any fixed plant or machinery, a noise impact assessment report shall be submitted to and approved in writing by the Local Planning Authority. The report shall identify any mitigation measures that are necessary to minimise the impact of noise from the fixed plant or machinery and any necessary maintenance schedule. The approved mitigation measures shall be implemented prior to the installation of the plant and shall be retained and maintained thereafter.
- 14) Prior to its installation, details of any external lighting shall be submitted to and approved in writing by the local planning authority. The details shall include the position, angles, illumination levels and light spread of all proposed lighting and how the proposed lighting accords with recommendation R2 of the Preliminary Bat Roost Assessment dated September 2024. The lighting shall only be installed in accordance with the approved details.
- 15) Prior to the development first being brought into use, details of bird and bat boxes, including specifications and their locations, shall be submitted to and approved in writing by the local planning authority. The approved measures shall be implemented in full prior to the development first being occupied and shall be retained thereafter at all times.
- 16) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority in writing. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume or continue until remediation and verification schemes have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 17) The programme of archaeological work shall be completed in accordance with the approved Written Scheme of Investigation (WSI), including any necessary fieldwork, post-excavation analysis, report writing and archive deposition, as detailed in the approved scheme.
- 18) Prior to work commencing on site the tree protection measures within the Arboricultural Method Statement shall be implemented and shall be retained thereafter at all times for the duration of the construction.
- 19) The development shall be carried out in accordance with recommendation R1 of the Preliminary Bat Roost Assessment dated September 2024. Any further surveys required in accordance with this shall be submitted to and approved in writing by the local planning authority.
- 20) The construction of the development hereby permitted shall only be undertaken between the hours of 07:30 to 18:00 Monday to Friday (inclusive) and 07:30 to 13:00 on Saturdays and shall not be permitted at any other time, except in relation to internal plastering, decorating, floor covering, fitting of plumbing and electrics and the installation of kitchens and bathrooms; Any deliveries associated with the construction of the development hereby permitted shall only be received or

despatched at the site between the hours of 07:30 to 18:00 Monday to Friday (inclusive) and 07:30 to 13:00 on Saturdays and shall not be permitted at any other time.

- 21) Prior to any above ground works taking place, a scheme setting out measures to ensure a water efficiency standard of 110 litres (or less) per person per day shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and the approved measures thereafter retained.