



Appeal Decision

Site visit made on 22 September 2025

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2025

Appeal Ref: APP/Z2505/W/25/3365660

London Road, Boston PE21 8TJ

- 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 I Sharpe, Thames Industrial Estates Ltd, against the decision of Boston Borough Council.
 - The application Ref is B/24/0522.
 - The development proposed is an outline planning application for a storage and distribution site (Use class B8) at site at London Road, Boston PE21 8TJ.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr I Sharpe against the decision of Boston Borough Council. That is the subject of a separate decision.

Preliminary Matters

3. Outline planning permission was sought for the use of the site for storage or as a distribution centre within the B8 Use Class¹. All matters are reserved. The site is situated between Spalding Road and London and would be accessed from the latter.
4. Planning permission was granted in 1999 for the construction of warehousing and distribution units under planning reference B/99/0393 (the 1999 Permission). This showed the site with an internal access route, and parking for serving several units.

Main Issues

5. The main issues are:
 - the effect of the proposal on the living conditions of the occupiers of nearby homes;
 - whether it has been shown that the site is suitable for the proposed development in relation to flood risk;
 - whether the proposed development makes adequate provision for Biodiversity Net Gain (BNG); and

¹ The Town and Country Planning (Use Classes) Order 1987

- whether it has been shown that the site is suitable for the proposed development in relation to the effect on the significance of any archaeological interests on the site.

Reasons

Living Conditions

6. The appeal site comprises a narrow parcel of land, approximately 240 m long by 40 m wide. It is situated on the western side of London Road and extends westward, terminating near Spalding Road. The site is largely open and flat, with scattered small trees around the site and along the southern and western boundaries. Land uses in the area are mixed, and there is commercial development to the north. There are residential homes to the south of the appeal site, which were approved in 2004 under reference B/04/0261.
7. The homes at 1 to 13 Redbourne Terrace and 1 and 2 Alford Terrace have rear gardens sited next to the southern boundary of the site. These comprise three and two-storey homes. The Council has identified that the three-storey dwellings are located between 12.5 m and 16 m from the common boundary with the application site. The homes at two-storeys at Alford Terrace have been identified as approximately 10 m from the common boundary. Their boundaries consist of standard height close boarded fencing. The Council are concerned that the living conditions of existing occupiers of these homes would be adversely affected by the proposal.
8. The proposed use would involve activities that generate noise from vehicular movements, loading, staff parking, people talking, and activity within any buildings or the open site. This could result in disturbance in the early morning and later parts of the day when residents would reasonably expect a quieter environment. However, noise and activity could also occur throughout the day and given the length and narrowness of the site, vehicular movements are likely to be highly visible from the first and second floor of all properties. This has the potential to be intrusive, and would draw the eye from within homes, making the living accommodation less relaxed and enjoyable to use as a result.
9. Whilst it is known that the proposed employment uses would fall within Use Class B8, no information has been provided to demonstrate background noise levels for the area. This could potentially accurately assess whether or not noise from the proposal would be absorbed into background noise levels. Whilst screening could be enhanced on the southern boundary there are no details of clearly defined mitigation and, there is no certainty that it would be successful during the times of the year when the trees are not in leaf or whether there would be sufficient space to accommodate this.
10. It is evident that the 1999 Permission had not expired when the housing scheme to the south was granted. However, although the site was allocated in the Boston Local Plan, that is not the development plan in force now. Nor does that negate the need for the proposal to be considered against current local and national planning policy, which has subsequently changed.
11. I note the Council's Environmental Health Officer in their consultation response considered that this type of use is highly likely to affect residential living conditions. However, with the proposal being in outline there are no certainties on matters on

any number of units and their location or the layout of the site which could potentially screen activity and noise. Furthermore, the type of uses and hours of operation could be controlled.

12. A detailed scheme could be drawn up at reserved matters stage that could be compatible with these dwellings in terms of outlook, sunlight and daylight and privacy. The proposal would not be wholly incompatible with land uses to the north. Nevertheless, in my view given the narrow dimensions of the site and proximity of homes, the aspects of the siting of buildings, parking, noise and disturbance from activity is likely to be a key consideration.
13. It has not been demonstrated that the proposed B8 Use would have fewer adverse effects upon residential neighbours than an office, research and development establishment, or industrial use within Use Class E². There are no substantive details before me in this proposal to take a view on this.
14. To conclude on this main issue, in the absence of sufficient information, it has not been demonstrated that the proposal would lead to no harmful effect upon the living conditions of the neighbouring occupiers of nearby homes to meet the objectives of Policies 2, 3 and 30 of the South East Lincolnshire Local Plan 2011 – 2036, adopted March 2019 (the Local Plan). Together, these seek to ensure matters of noise and disturbance are considered to secure amenity of the occupiers of neighbouring land.

Flood Risk

15. The appeal site is within Flood Zone 3. Policy 4 of the Local Plan seeks to steer development to areas at lower risk of flooding, development should only be considered following the Sequential Test (and, if required the Exception Test) and where, informed by a site-specific flood risk assessment (FRA), it can be demonstrated, among other things, that appropriate flood resistance and resilience measures to ensure the development maintains an appropriate level of safety for its lifetime; or demonstrates the proposal will not increase risk elsewhere.
16. Chapter 14 of the National Planning Policy Framework (the Framework) states development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. It also sets out the sequential risk-based approach, which steers development to areas with the lowest risk of flooding and indicates that development should not be permitted if there are reasonably available sites appropriate for the proposal in areas with a lower risk of flooding. The Framework in Footnote 63 also requires a site-specific flood risk assessment should be provided for all development in Flood Zone 3.
17. The appeal is not supported by any evidence that a sequential test has been undertaken, and I have no detailed FRA before me which would satisfy the Lead Local Flood Authority. This is a matter of importance given they have identified part of the development site is at risk of surface water flooding.
18. Whilst I acknowledge that this was not a requirement of the 1999 Permission, it is not a given that flood risk has not increased in the intervening 20 years since the 1999 Permission was granted. I must have regard to the development plan and national guidance in force now. It has not been demonstrated that there are no

² Class E. Commercial, Business and Service

suitable alternative sites at lower risk of flooding and in the absence of an FRA, the proposal fails to adequately address the safety of the development throughout or that the proposal would not increase flood risk elsewhere. The details regarding the drainage of the site are limited and I am not certain that given the surface water risk that they would be suitable.

19. The appellant contends that the FRA could be secured by condition and undertaken prior to the commencement of the development. However, this would not be appropriate as the sequential test, and exception test if needed, should be satisfied before planning permission is granted.
20. In the absence of any evidence to the contrary, I conclude that it has not been demonstrated that there are no reasonably available sites in areas at lower risk of flooding and that the proposal would not be acceptable in relation to flood risk requirements required by Policy 4 of the Local Plan and chapter 14 of the Framework referred to above.

Biodiversity Net Gain (BNG)

21. Schedule 7A of the Town and Country Planning Act 1990 (as amended) introduced a statutory framework for BNG, and it applies to all planning applications for non-major development submitted on or after 2 April 2024. As such, unless exempt, the proposed development would be subject to the mandatory BNG condition, which requires developers to deliver a BNG of at least 10%. The application was submitted after 2 April 2024. On that basis, and without any evidence to suggest that any other exemptions are applicable, then the proposal is subject to a requirement for 10% BNG.
22. The appeal is not accompanied by the minimum level of information stipulated in Article 7(1A) of the Town and Country Planning (Development Management Procedure) Order 2015. This includes information such as the pre-development biodiversity value of on-site habitat. Without this information, I have insufficient evidence that the appeal proposal, through the BNG condition, would secure the appropriate biodiversity net gain.
23. The application was submitted after 2 April 2024. On that basis, and without any evidence to suggest that any other exemptions are applicable, then the proposal is subject to a requirement for 10% BNG even in outline form. From the information before me I cannot be certain of the ecological baseline conditions, and therefore it would not be possible to condition any further surveys or mitigation as it is not known if this would be possible or effective.
24. For the above reasons, I conclude that the proposed development does not make adequate provision for BNG. The proposal would therefore conflict with the aims of chapter 15 of the Framework paragraph 193, which together and amongst other things seeks to ensure development enhances natural assets and secures measurable net gains for biodiversity.

Archaeology

25. The appellant has not disputed that the site for the proposed development lies in an area of archaeological interest, or that archaeological investigations in the vicinity of the site have revealed evidence for medieval and postmedieval period occupation.

26. The Framework and the Planning Practice Guide (the PPG) require that where a site has the potential to include heritage assets with archaeological interest, then an appropriate desk-based assessment and where necessary a field evaluation should be submitted³. No evaluation has been undertaken, and no evidence has been submitted with the appeal in relation to this matter.
27. Framework Paragraph 208 states that effects upon the significance of heritage assets need to be considered and paragraph 216 states the effect upon a non-designated heritage asset (NDHA) should be taken into account in determining an application. This is required to ensure assess proposal against the likely impact on the archaeological deposits present at the site and inform the archaeological mitigation strategy and potentially inform the layout of the proposal.
28. The Framework sets out that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. For the reasons set out above, without further evidence I cannot be certain of the effects of the proposal upon the significance of NDHAs of archaeological interest, or that there would not be unacceptable effects. This is of importance given the potential size and surrounding land use constraints of the site, which may need to inform the layout of the site.
29. I conclude that in the absence of sufficient evidence that the proposal would be harmful to the significance of any archaeological interests. The proposal therefore conflicts with Policy 2 and 29 of the Local Plan. Together and insofar as they are relevant to the appeal, these seek to ensure development considerations in relation to impact on heritage assets are met and that planning application are accompanied by an appropriate and proportionate assessment to understand the potential for and significance of remains, and the impact of development upon them. It would also conflict with paragraphs 207 and 208 of the Framework, the relevant provisions of which I have set out above.

Other Matters

30. The proposal has the potential to affect the Boston conservation area, located close to the site boundary on London Road. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. In relation to the area close to the appeal site, this draws its significance from its archaeological, historical importance and social development and the architectural quality of buildings nearby.
31. A number of listed structures are also located to the eastern extents of the site on London Road. I have had special regard to Section 66(1) of the Act. The listed buildings include 119 to 125 High Street (grade II) a group of terraced houses, a pair of houses at 2 and 3 London Road (grade II); and 4 London Road (grade II). On the basis of the evidence before me, their special interest is derived from their architectural quality and historic development and relationship to each other.
32. Despite the proximity of the conservation area and listed buildings, the appeal site is sited between relatively recent suburban housing and commercial buildings. In this context, there is no evidence that the site could not be developed for warehousing, storage and distribution whilst adequately preserving the setting of

³ Paragraph 207 and Paragraph: 041 Reference ID: 18a-041-20190723.

the nearby listed buildings and the conservation area or enhancement of the London Road frontage. I therefore see no reason to disagree with the Council's assessment in this regard, who also did not object to this aspect of the proposal.

33. The proposal could be designed to not harm the significance of the conservation area and preserve its setting, or the special architectural and historic interests of the listed buildings. The officer report identified that, subject to conditions and suitable details being submitted at reserved matters stage, the proposal could protect the character of the area, be acceptable in highway safety terms. Other aspects, apart from those referred to above could potentially be addressed through conditions. These are requirements all development should achieve, and weigh neither for nor against the proposal.
34. The application includes no details on the number of jobs the development could create as there is no information regarding future occupiers of any proposed development. Nevertheless, it is likely the scheme would support employment opportunities in a location close to the town centre, road network and transport links. Although there would be economic benefits of developing the site to achieve employment growth, and there were very few neighbour concerns raised, this does not alter my concerns in relation to the overall effect of the proposal on the living conditions of the occupiers of neighbouring dwellings, flood risk, BNG and archaeology, which substantially outweigh the positive benefits of the proposal.

Conclusion

35. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict. For the reasons given above I conclude that the appeal is dismissed.

K Williams

INSPECTOR