



PL.04 15/16

Planning Committee

26 August 2015

Subject: Review of planning application 132726 - Outline planning application for proposed residential development of up to 65no. dwellings, to include public open space, affordable housing and staff car park for St Chad's Primary School-access to be considered and not reserved for subsequent applications-resubmission of 131516. Land at Ryland Road Dunholme Lincoln LN2 3NE

Report by:

Chief Operating Officer

Contact Officer:

Russell Clarkson: Principal Development Management Officer

Purpose / Summary:

To assess planning application 132726 and ascertain the views of the Committee in advance of a planning appeal against the non-determination of the application.

RECOMMENDATION: That the Council would have been minded to refuse planning permission on the following grounds:

- 1. The development would take place in the narrow undeveloped break between the settlements of Dunholme and Welton. The development would be a perceptible and permanent intrusion within the gap that would lead to the perception of coalescence and significantly harm the character and setting of the two villages. This would significantly undermine the objective and principle of saved policy STRAT13 of the West Lindsey Local Plan First Review. It is concluded that this severe harm would outweigh the benefits of development, and that the development does not therefore meet the NPPF presumption in favour of sustainable development.*

IMPLICATIONS

Legal: N/a

Financial : The applicant could apply for an award of costs against the Council if they consider unreasonable behaviour has occurred.

Staffing : N/a

Equality and Diversity including Human Rights :
N/a

Risk Assessment : The applicant could apply for an award of costs against the Council if they consider unreasonable behaviour has occurred.

Climate Related Risks and Opportunities : N/a

Title and Location of any Background Papers used in the preparation of this report:

National Planning Policy Framework (NPPF)
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

National Planning Practice Guidance (NPPG)
<http://planningguidance.planningportal.gov.uk/>

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes

No

Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes

No



1. Introduction

The Planning Inspectorate (PINS) has given notice that they have received an appeal against the failure of the Authority to give notice of its decision for planning application 132726 within the appropriate period, and in the absence of the written agreement of the parties to extend the decision making period.

Planning permission had been sought for outline permission for residential development of up to 65 no. dwellings (including affordable housing), with associated public open space (POS). A staff car park to serve the St Chads Primary School on Ryland Road was proposed with vehicular access taken from the residential development and pedestrian access to Ryland Road.

The application sought planning permission in outline with access to be considered. Matters of appearance, landscaping, layout and scale were all reserved for subsequent approval ('reserved matters').

The main access to the site would be taken directly from Ryland Road, to the north of Cottingham Court.

The target date to determine the application was 01 June 2015. An extension was agreed in writing with the applicant until 14 July, granting the applicant further time to provide a Noise Impact Assessment relating to the proposed access and its relationship to neighbouring properties. This was received by the Authority on 01 July. A further extension was consequentially sought by the Planning Authority to enable those properties which the Assessment identifies could be affected to be notified and to provide them with adequate opportunity to comment. The applicant however, refused to agree to a further time extension and has instead opted to appeal to the Planning Inspectorate on the grounds of non-determination.

The purpose of this report is to determine what decision would have been made by the Local Planning Authority if a decision had been made. This will be used in evidence for the appeal.

2. Site Description

The site measures approximately 4.5ha in total area and comprises an agricultural field. The site is not in active agricultural use and appears as a grassed paddock (no livestock were present during the case officer's site visit). A telegraph line traverses the site.

The southern boundary is interspersed with hedgerow planting and beyond this are residential properties within Dunholme.

A hedgerow boundary to the west separates the site from an open larger field in active agricultural use. The southern part of this field (south-west of the application site) is the subject of outline planning permission for 49 dwellings (reference 131087).

To the north is another separate field. This adjoining site was last year the subject of a Public Inquiry into the refusal of outline planning permission for residential development (application 130168). The appeal (reference APP/N2535/A/13/2207053) was dismissed in June 2014. A copy of the appeal decision is contained at appendix A. It is currently the subject of planning applications for residential development for 12 dwellings (reference 133064) and for formalised public open space (reference 132426).

To the east, the site surrounds (but excludes) Cottingham Court, a collection of five dwellings. Three are served off Cottingham Court, although two of the properties take their access directly from Ryland Road.

The north eastern and south eastern parts of the site bound Ryland Road. The north eastern corner forms a separate but connected paddock, to the main field, and is served by a gated access (recently granted planning permission for agricultural purposes). The south eastern corner includes a wooded copse, with a National Grid substation. On the opposite side of Ryland Road are detached bungalows set in long plots.

A local shopping centre, including a convenience store, is situated approximately 280m north of the proposed access point, on the opposite side of Ryland Road. The St Chads Church of England Primary School is situated approximately 175m south along Ryland Road, on the opposite side of the road.

A public footpath (1647) runs between 36 and 38 Ryland Road, on the opposite side of the road to the site. Public footpath 1649 runs in a broadly east-west direction approximately 150m north of the site, on the opposite side of the neighbouring field. Public footpath 1662 runs in a north-south direction approximately 250m to the west, on the opposite side of the agricultural field.

Within the West Lindsey Local Plan First Review, the site is situated outside the development boundary for Dunholme, which runs immediately along its southern edge. The settlement boundary also includes Cottingham Court, and Ryland Road properties on the east side. The boundary for Welton is approximately 150m to the north, on the opposite side of the adjacent field. The site is in an area designated as an Undeveloped Break between Settlements (policy STRAT13 applies).

3. Town and Country Planning (Environmental Impact Assessment) Regulations 2011:

The development has been assessed in the context of Schedule 2 of the Regulations and after taking account of the criteria in Schedule 3 it has been concluded that the development is not likely to have significant effects on the environment by virtue of its nature, size or location. Neither is the site within a sensitive area as defined in Regulation 2(1). Therefore the development is not 'EIA development'.

It should be noted that the proposals would no longer qualify as schedule 2 development under the terms of The Town and Country Planning (Environmental Impact Assessment) (Amendment) Regulations 2015 although

for the purposes of regulation 5 the development shall continue to be treated as schedule 2 development for the purposes of the 2011 regulations.

4. Relevant history:

Of particular relevance is the decision to refuse outline planning permission for residential development in October 2014. Details are as follows:

Application 131516 - Outline planning application with access to be considered for proposed residential development. Maximum 65no. dwellings, to include public open space, affordable housing and staff car park for St Chad's Primary School. **Planning permission refused 09 October 2014.** The reasons for refusal were as follows:

- 1. The development would take place in the narrow undeveloped break between the settlements of Dunholme and Welton. The development would be a perceptible and permanent intrusion within the gap that would lead to the perception of coalescence and significantly harm the character and setting of the two villages. This would significantly undermine the objective and principle of saved policy STRAT13 of the West Lindsey Local Plan First Review. It is concluded that this severe harm would outweigh the benefits of development, and that the development does not therefore meet the NPPF presumption in favour of sustainable development.*
- 2. The proposed access road would be expected to lead to noise and nuisance to the detriment of the residential amenities enjoyed at properties within Cottingham Court. This would be contrary to saved policy STRAT1 of the West Lindsey Local Plan First Review June 2006 and the core principle of the NPPF to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.*

Also within the application site the following relevant history is recorded:

- **130395** - Planning application for proposed agricultural field access. **Approved 29th October 2013.**
- **99/P/0517** – Erect stable for use by occupants of the house. **Refused 22nd November 1999.** This related to land in the south-eastern corner of the site, adjacent to Providence House.
- **98/P/0527** – Outline application to erect one dwelling. **Permission refused 5th August 1998. Appeal dismissed 23rd March 1999.** This related to land in the north-eastern corner of the site.

The recent planning history of Cottingham Court to the immediate east of the application site, can be summarised as follows:

- **98/P/0494** – Planning application to demolish existing dwelling and range of outbuildings and erect 2no. detached houses and garages. **Granted 5th May 1999.**
- **98/P/0461** - Planning application to erect 3no. houses with associated garages (resubmission of 98/P/0098). **Approved 23rd July 1998.**

- **98/P/0098** - Planning application to erect four no. houses. **Refused 12th March 1998.**
- **97/P/0464** Outline application to erect three dwellings. **Granted 31st October 1997.**

The neighbouring field to the north has an extensive planning history of planning permission having been refused for residential development, but of most recent relevance is:

- **130168** - Outline planning application for erection of 74no. dwellings – including 30no. affordable units – with associated access arrangements and open space provision – access to be considered and not reserved for subsequent applications. **Permission refused 20th September 2013. Appeal APP/N2535/A/13/2207053 dismissed 27th June 2014.** A copy of the appeal decision is contained at appendix A.
- **132426** - “Planning application for change of use from agricultural land to public open space”. **The application is under consideration.**
- **133064** - “Outline planning application for the erection of 12no. dwellings- access to be considered and not reserved for subsequent applications- resubmission of 132425”. **The application is under consideration.**

Both Dunholme and Welton have recently been subject to a number of applications for major residential development, which are demonstrated on plan at appendix B and can be summarised below:

Dunholme

- **131087** - “Outline planning application for erection of 49no. dwellings, sports facility and additional car parking area-all matters reserved”. Land North of Honeyholes Lane, Dunholme. **Approved 14/05/2015.**
- **131882** - Outline planning application for residential development of up to 275no. dwellings and associated works-access to be considered and not reserved for subsequent applications. Land at Lincoln Road/Honeyholes Road, Dunholme. **Planning Committee minded to approve, subject to completion of S106 obligation.**

Welton

- **130995** - Planning application for erection of 50no. residential dwellings, to include 31no. affordable and 19no. open market dwellings. Land to the East of Halfpenny Close, and North of The Hardings, Welton. **Approved 05/03/2015.**
- **131681** - Outline application for residential development of up to 350 dwellings, including specialist retirement housing, with means of access to be considered. "Land off Prebend Lane", Welton. **Planning Committee minded to approve, subject to completion of S106 obligation.**
- **130150** - Outline planning application for erection of 63 dwellings-all matters reserved. (Additional information received regarding drainage and archaeology). "Land east of", Hackthorn Road, Welton. **Approved 22/10/2014. Subject of appeal APP/N2535/W/15/3023013 to extend time limit for commencement.**

- **131492** - Outline planning application for a residential development with all matters reserved. "Land off", Cliff Road/Heath Lane, Welton, Lincoln. **Refused 05/02/2015. Subject of appeal APP/N2535/W/15/3103245.**
- **131940** - Outline planning application for erection of up to 151no. dwellings, landscaping and open space, including the demolition of the Jays. Access to be considered and not reserved for subsequent applications. "Land At", Hackthorn Road, Welton. **Refused 05/06/2015.**

5. Representations:

Cllr S England (Ward member): This application is little changed from refused application 131516 other than the inclusion of a noise assessment that does nothing to address resident's concerns. The remainder of the application does not materially or substantially differ in any way from the previous submission nor does it improve alter or address the many concerns of either the residents or Parish Council. It will only serve to increase the burden on a totally inadequate infrastructure of Dunholme and severely impact on neighbouring Welton, and must be taken into account. Given the extent of granted permissions in both villages this application must be determined by the planning committee.

Dunholme Parish Council:

Object to the development. In summary: (1) Flooding in this area is a proven issue; (2) Ryland Road is often congested with school traffic; (3) Only agreed to agricultural access if to be used for agricultural purposes only; (4) Highway safety concerns – access is at a bend; (5) Car park access is considered dangerous; (6) Too many houses proposed for size of site; (7) It will dramatically reduce the historical green belt between Dunholme and Welton; (8) There are pylons within the site; (9) Strain on village infrastructure – roads, health provision and schools; (10) site is within 20m of a pond and beck; (11) A15 and A46 junctions are already dangerous.

Welton Parish Council:

(14 April) Respectfully request that the application be refused.

WLDC has granted permission for developments of 463 houses in Welton and 324 in Dunholme, a total of 787 new homes with the potential for another 2,500 people using the infrastructure in Welton which is already stretched to capacity.

Dunholme is dependent on Welton for most of its infrastructure including doctors surgery, dentist, shopping and other facilities. Any new development will have a major impact on the facilities in Welton.

Not only will new developments in the surrounding villages place greater pressure on health facilities, but also any new developments within the surgery boundary will have a major effect.

Problems of traffic flow and parking are a continual and an ever increasing dilemma in the centre of Welton and further development will only add to this, particularly with the Post Office closure in Dunholme.

There are serious concerns regarding the junctions at the A46 and A15. Ryland Road will see a greater increase in traffic, particularly at the junction on Lincoln Road. At school times Ryland Road is particularly busy and cars parking along it cause further congestion, the planned car park will

not be sufficient to solve the problem and additional traffic turning in and out of another junction will only escalate the problem.

Drainage systems and sewers in both villages are at full capacity with constant problems being encountered; in particular when there is heavy rainfall, flooding on Ryland Road is a common occurrence.

This site is not within easy walking distance to the shops and other amenities particularly for those who are elderly or disabled, although it is on a bus route. William Farr CofE Comprehensive School is at capacity and constantly oversubscribed.

The only difference between this application and that which was refused in October 2014 is the access to the car park and in our view that is not a sufficient change for this application to be granted.

(15 July) Providing developer adheres to the proposed acoustic barrier, has no additional comments to add to 14 April comments.

LCC Highways: A 2m wide frontage footway is required to link to the existing footway on Ryland Road (south of the site). The available visibility from the pedestrian link from the proposed car park onto Ryland Road, should be detailed and an uncontrolled pedestrian crossover point (with tactile surfacing) to the footway on the opposite side of Ryland Road provided.

Lincolnshire Fire and Rescue: Object on grounds of inadequate water supply for fire fighting purposes. Recommend installation of two fire hydrants.

Trees and Woodlands: Should consider mixed native hedgerow shrubs to strengthen existing hedgerows, particularly northern boundary. Proposed balancing pond should not intrude on root protection areas (RPAs) for five Lombardy on north side of Cottingham Court. Concerned with erosion of undeveloped break between Welton and Dunholme.

LCC Education: Calculate that some 7 secondary places and 1 school-based sixth form place will be required within the locality as a direct consequence of this development, and that as there is insufficient capacity available should mitigate the effect of the proposal by payment of a capital contribution to create more capacity.

Environment Agency: Has no objection. Recommend conditions to secure surface water drainage scheme, and to secure proposed remedial works to culvert.

NHS England: The average number of patients per square metre at Welton practice is below the Lincolnshire average. However, the impact of this development and other applications causes great concern. Seek a capital contribution as an option to fund towards a new health care facility, subject to a full business case and NHS approval.

Witham Third District Internal Drainage Board: Has no further observations.

Archaeology: No archaeological input is required.

Lincolnshire Police: Acknowledges it is an outline application but considers overall this is a good indicative layout making effective use of cul-de-sac style which has proven to help reduce the opportunity for crime and is conducive to the development of neighbourhood cohesion and community. Offers further advice on defining space, property orientation and landscaping.

Lincolnshire Wildlife Trust: Satisfied there should not be any significant impact on protected species. Generally pleased with indicative provision of green space. Some concerns that roads surrounding pond could put animals at risk. Recommend native species-rich grassland is incorporated. Recommend biodiversity enhancements (i.,e. bird boxes; bat bricks; hedgehog passages).

Local residents:

Objections received from **1, 2 (c/o 66A Scothern Lane Sudbrooke), 3 Cottingham Court, 3 Dunholme Close, Manor Lane, 40, 42, 44 Ryland Road;**

- Land is designated as necessary to retain a buffer between Welton and Dunholme. Contrary to policy STRAT13;
- Contrary to local plan policies STRAT12, STRAT13 and NBE10;
- Road infrastructure will not be able to cope;
- Increase in traffic will result in highway safety concerns;
- School car park is not necessary;
- Dangerous access to proposed school car park;
- Cumulative impacts with Honeyholes lane developments;
- Schools and Welton Health practice are oversubscribed;
- Development is too close to Cottingham Court properties;
- Cottingham Court properties will be overlooked;
- Proposed pond will be health hazard;
- Pond will affect stability and health of nearby trees;
- Visibility splay crosses third party land;
- Site becomes waterlogged;
- Developer has been underhand – application 130395 stated access was for agricultural purposes only;
- Concerned with noise from traffic;
- Where are the details on the acoustic barriers – who will maintain them?
- Will be visible from Dunholme Close

6. Relevant Planning Policies:

National guidance

National Planning Policy Framework, March 2012 (NPPF)

<http://planningguidance.planningportal.gov.uk/blog/policy/>

Planning Practice Guidance

<http://planningguidance.planningportal.gov.uk/blog/guidance/>

West Lindsey Local Plan First Review 2006

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The saved policies of the **West Lindsey Local Plan First Review 2006** (WLLP) remains the statutory development

plan for the district. Paragraph 215 of the National Planning Policy Framework (NPPF) states that due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

- **STRAT1:** Development requiring planning permission;
<http://www2.west-lindsey.gov.uk/localplan/written/cpt3a.htm#strat1>
- **STRAT3:** Settlement Hierarchy;
<http://www2.west-lindsey.gov.uk/localplan/written/cpt3a.htm#strat3>
- **STRAT9:** Phasing of housing development and release of land;
<http://www2.west-lindsey.gov.uk/localplan/written/cpt3b.htm#strat9>
- **STRAT12:** Development in the open countryside;
<http://www2.west-lindsey.gov.uk/localplan/written/cpt3b.htm#strat12>
- **STRAT13:** Undeveloped breaks between settlements and green wedges around Lincoln;
<http://www2.west-lindsey.gov.uk/localplan/written/cpt3b.htm#strat13>
- **STRAT19:** Infrastructure Requirements;
<http://www2.west-lindsey.gov.uk/localplan/written/cpt3b.htm#strat19>
- **SUS1:** Development proposals and transport choice;
<http://www2.west-lindsey.gov.uk/localplan/written/cpt4.htm#sus1>
- **SUS4:** Cycle and pedestrian routes in development proposals;
<http://www2.west-lindsey.gov.uk/localplan/written/cpt4.htm#sus4>
- **RES1:** Housing layout and design;
<http://www2.west-lindsey.gov.uk/localplan/written/cpt6.htm#res1>
- **RES2:** Range of housing provision in all schemes
<http://www2.west-lindsey.gov.uk/localplan/written/cpt6.htm#res2>
- **RES5:** Provision of play space / recreational facilities in new residential developments;
<http://www2.west-lindsey.gov.uk/localplan/written/cpt6.htm#res5>
- **RES6:** Affordable Housing;
<http://www2.west-lindsey.gov.uk/localplan/written/cpt6.htm#res6>
- **CORE10:** Open space and landscaping within developments;
<http://www2.west-lindsey.gov.uk/localplan/written/cpt8.htm#core10>
- **NBE14:** Waste water disposal;
<http://www2.west-lindsey.gov.uk/localplan/written/cpt11.htm#nbe14>
- **NBE20:** Development on the edge of settlements.
<http://www2.west-lindsey.gov.uk/localplan/written/cpt11.htm#nbe20>

The **Welton Village Design Statement** (2003) is listed as Supplementary Planning Guidance within the Local Plan. It's guidance for future development states that "Existing views in and out of the village should be preserved, as indicated along Ryland Road..."

Emerging Planning Policy

The NPPF (paragraph 216) states that decision-takers may also give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan (the more advanced the preparation, the

greater the weight that may be given); the extent to which there are unresolved objections to relevant policies and the degree of consistency with the NPPF.

The **Preliminary Draft Central Lincolnshire Local Plan¹** (CLLP) was released in October 2014 and has been subject to public consultation. The final adopted CLLP will replace the West Lindsey Local Plan. It is anticipated to be submitted for examination in 2016 with adoption towards the end of that year. The second draft of the Plan is anticipated October / November 2015. However, at this early stage in its development, it can only be afforded very limited weight, in accordance with NPPF paragraph 216.

Neighbourhood Plans

Both Dunholme and Welton Parish Councils are in the process of preparing Neighbourhood Plans. The application site is within the Dunholme Neighbourhood Plan area.

The **Dunholme Neighbourhood Plan** is at the first formal stage of evidence gathering and consultation. Although it should only be attached very limited weight at this early stage, it is worthy of note even at this stage that the draft Dunholme Plan (January 2014)² sets out at Policy 1C that “the open spaces between Dunholme and Welton must be preserved as such to maintain their separate identities.”

The **Welton by Lincoln Neighbourhood Plan 2015-2035 Pre-examination / Consultation Draft³** (November 2014) is at a more advanced stage. It has been recently subject to a pre-submission consultation period (“reg.14”) of 1st December 2014 to 12th January 2015. The plan is now with a consultant to undertake its ‘basic conditions’ check and will then be submitted to WLDC for its formal six week (“Reg-16”) public consultation. It is considered limited weight should be attached to its policies at this stage, in accordance with NPPF paragraph 216.

Draft Policy EN5 seeks “The continued protection of the established green buffer zone between Welton and Dunholme in line with the saved policies of the WLDC Local Plan 2006.”

7. Main issues

- Loss of undeveloped break
- Noise Impact and residential amenity

(i) Loss of Undeveloped Break

¹ <http://www.lincolnshire.gov.uk/central-lincolnshire/local-plan>

² <http://parishes.lincolnshire.gov.uk/Dunholme/section.asp?catId=26050>

³ <http://www.west-lindsey.gov.uk/residents/planning-and-building/planning-policy/neighbourhood-planning/neighbourhood-plans-being-prepared-in-west-lindsey/welton-neighbourhood-plan/119901.article>

The application site lies outside the settlement boundary for Dunholme as defined within the statutory development plan. It is in an area allocated as 'undeveloped breaks between settlements'. Policy STRAT13 states:

“Development involving buildings, means of enclosure, or other works, will not be permitted if it would detract from the open rural character of undeveloped land which provides open breaks, maintains the physical identity or prevents the coalescence, of settlements...”

Within the areas defined on the Proposals Map, unless such development is essential for agricultural or other essential countryside uses and cannot be located elsewhere, it will be refused. If such development is exceptionally permitted it shall be located and designed so as to minimise harm to the character and appearance of the area.”

The development of 65 dwellings with associated infrastructure within this designated land is not for agricultural or other essential countryside uses. It would narrow the 300m wide undeveloped break between Dunholme Close properties to the north and those properties on the southern side of the application site. Development would be directly contrary to the provisions of the statutory development plan, most particularly policies STRAT12, STRAT13 and NBE20.

It would take place on undeveloped land. Policy STRAT9 has a sequential approach to prioritise the reuse of previously developed land which would accord with the NPPF (paragraph 17) core principle to “encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value”.

Planning law requires applications to be determined in accordance with the development plan, unless material considerations indicate otherwise.

A material consideration is the Inspector's decision on land to the immediate north of the application site, following a Public Inquiry held in March 2014. A copy of the decision is contained at appendix A. This recently considered the principle of residential development within the undeveloped break between Welton and Dunholme.

The Inspector considered (paragraphs 36 and 49):

“36. I accept the appellant's position that the spatial application of Policy STRAT 13 should be seen as out of date. If the appeal proposal is to avail of the presumption in favour of sustainable development, the second bullet point of NPPF paragraph 14 on decision making must apply. Planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.”

“49. The policy objective of protecting the gap remains an important element of the current development plan, whose principle is consistent with the guidance of the NPPF. The policy's out of date spatial application means that

the particular circumstances of any development proposal must be carefully assessed and weighed in the balance set by paragraph 14.”

“50. In this case, taking account of the extent of development proposed, I find the effect on the gap between villages would be significantly harmful, and would have permanent effect. The direct conflict with the principle outlined by Policy STRAT 13 is a matter of great weight. On balance, the proposal’s adverse impacts would significantly and demonstrably outweigh its benefits. The proposal would not comprise a sustainable form of development in accordance with national and local policy.”

The relevant considerations are substantially the same – the statutory development plan remains the West Lindsey Local Plan First Review 2006. The Council remains unable to demonstrate a five year supply of housing land.

The applicant has submitted a Landscape and Visual Impact Assessment (LVIA) along with the application. The LVIA does not set out a clear measurable methodology as to assessing the impacts of the development, but does provide the views of its author, a Chartered landscape architect. The LVIA claims:

“In the case of the development of the application site, due to the dense boundary hedges and existing mature trees, and the existing partial residential frontage to the Ryland Road boundary (Cottingham Court), on the whole this boundary vegetation blocks views into and across the open space to such a degree that it can’t be viewed as open space at all. In some respects, the fact that views into the open field are blocked by the boundary vegetation means that the field does not afford a great deal of visual amenity to the area.”

It is arguable that the application site does benefit from greater boundary screening than the adjacent appeal site. Nonetheless, the development would necessitate a formal road, bearing traffic, into and out of the site from Ryland Road. Development would be perceptible from the public footpath network within the undeveloped break. Glimpses would be afforded of roof tops. A development of 65 houses would not be invisible from within the public realm.

In place of an unlit and undeveloped paddock field, currently dark at night, would be an active living environment necessitating vehicle and people noise and movements, street lighting. Unnatural light sources would intrude into the gap. Despite the applicant’s suggestion that the impact of development would be negligible due to screening, it would be perceptible as a ready encroachment into the undeveloped break.

Whilst the indicative layout suggests a strip of public open space along the northern boundary, the actual gap between the development and Dunholme Close would be reduced to no more than 200m.

Unlike the appeal site, this application site does benefit from a small collection of dwellings (Cottingham Court) at its frontage onto Ryland Road. This collection of dwellings was built out in the late 1990’s on a previously

developed site of rural buildings and did not per se introduce an intrusion into the gap. Whilst a visible presence within the gap, the field beyond is perceptible, giving the impression of a small collection of buildings set within a rural setting. To develop this site out with up to 65 dwellings would result in a much more intensive form of urban development and much more extensive intrusion into the gap. It is considered that the presence of the Cottingham Court properties do not set a precedent that would visually mitigate the presence of the proposed development.

The Council has recently granted outline planning permission for 49 dwellings on land off Honeyholes Lane, immediately to the south-west of the application site. This would take place within STRAT13 land. However the effect of that development on the purpose of the gap was carefully assessed in knowledge of the Ryland Road appeal. In that instance, the development was not found to reduce the gap between Welton and Dunholme and was therefore found not to undermine the primary purpose of STRAT13. It is not considered to set a precedent in favour of this development.

By contrast, the additional development of this site with 63 dwellings would, when taken cumulatively with the Honeyholes Lane development, add to that massing and appear as urbanisation of the gap and creep towards Welton.

Both Dunholme and Welton have been subjected to a number of recent planning applications for major residential developments. As set out in the relevant history section, planning permission has been granted for 324 new dwellings across two sites within Dunholme, and 463 new dwellings across three sites within Welton (a total of 728 new homes). Both villages are contributing significantly towards the identified need for additional housing land.

Indeed, the Planning appeal Inspector had remarked:

“46. The planning history shows the consistency with which the objective of protecting the space between settlements has been pursued, and upheld by previous Inspectors. While some of these former decisions are now too old to be seen as compelling precedents, they illustrate the value that has been attached to this policy aim over time.

47. By contrast, it is to be hoped that the current housing shortfall will be relatively short-term. The Council’s evidence suggests that moves are afoot to bring forward other potentially more suitable sites to address the need for housing, both market and affordable. By allowing coalescence of the two villages to begin, approval of the appeal proposal could be a watershed moment in the pattern of development. It would become increasingly difficult to resist further development between the villages, particularly adjacent to Ryland Road. I endorse the view taken in the Devon appeal decision referred to by the Council that a change of this significance ought to be subject to formal policy review.”

Both villages will be subject to growth as they make ample contribution towards the housing land shortfall. To allow intrusion into the gap now will define that watershed moment – the distinction between two historical but expanding villages will be lost.

It is concluded that development as proposed would undermine the very principle of STRAT13 and its measures to prevent the coalescence of two distinctive villages which are both subject to growth. It is in direct conflict with the policy and this is a matter to attach great weight.

(ii) Noise Impact and residential amenity

The second stated reason for the refusal of planning application 131516, was that the proposed access road would be expected to lead to noise and nuisance to the detriment of the residential amenities enjoyed at properties within Cottingham Court, contrary to STRAT1 and the NPPF.

To address this, the indicative layout was amended to bring the access road further away from Cottingham Court properties, although it still would come within 5 metres of 3 Cottingham Court's curtilage.

A Noise Impact Assessment was requested and finally provided on 01 July. The report does find that it is considered undesirable for noise levels to increase by 6dB(A) within residential gardens and that this impact is considered to represent a moderate impact.

It proposes that 1.8m high acoustic fencing is used in mitigation, to the north of Cottingham Court and around no.3's garden. Further details are not provided.

Based on the Assessment's findings, it is concluded that mitigation is required, and this (along with ongoing maintenance, could be secured by planning condition.

Matters of layout, scale, appearance and landscaping are all reserved. Care would be needed to ensure the development did not unduly encroach upon the amenities enjoyed at residential properties within Cottingham Court and to those along the southern boundary.

(iii) Ecology / Biodiversity

An Extended Phase 1 Ecological Appraisal and Hedgerow Survey has been submitted with the application. The Survey found no evidence of any protected species. It found the biodiversity value of the site to be low, with only the boundary hedgerows identified as having any significant ecological value in terms of species present and the potential to provide foraging and access for wildlife. The report assumes the retention of the boundary trees and hedgerows, which is indicated on the indicative masterplan.

It is considered that planning conditions can be employed to secure a biodiversity enhancement strategy in accordance with paragraph 118 of the NPPF.

A Tree Report has been submitted which includes tree management and mitigation measures – this can be secured through a planning condition. The Trees and Woodlands Officer has advised the need to ensure that the

proposed balancing pond does not encroach into the root protection area (RPA) of five poplar trees on the boundary with Cottingham Court properties.

(iv) Archaeology

An archaeological investigation has been undertaken on site, as the wider area is known to be archaeologically sensitive. However, no deposits or features of an archaeological nature were revealed during the evaluation. LCC Archaeology has advised further investigation or mitigation is not required.

(v) Flood Risk and Drainage

The site is in an area identified by the Environment Agency as Flood Zone 1 (low probability). Development in this location would therefore meet the NPPF Sequential Test (paragraph 103).

Members of the public and the Parish Council have raised concerns with localised flooding within Ryland Road following heavy rainfall. A Flood Risk Assessment (FRA) has been submitted with the application.

It proposes a Sustainable Urban Drainage System (SUDS) to cater for a 1 in 100 year (plus 30% climate change allowance) event. National Planning Practice Guidance (Paragraph: 051 Reference ID: 7-051-20140306) sets out that priority should be given to SUDS.

The indicative strategy suggests the use of dry swales alongside the public open space and roadways (50% storage), which would discharge into a balancing pond (50% storage) close to the site entrance. This would then have a controlled discharge into a culvert at Ryland Road.

The Environment Agency raise no objections subject to planning conditions to secure final surface water drainage details and to secure remedial works to the culvert to clean and repair the pipework as proposed within the FRA.

It is considered that a sustainable drainage solution should be feasible and at this outline stage there is subsequent flexibility to address this when the detailed layout has been formalised.

(vi) Highways

The Highways Authority has raised no objections on highway safety grounds, but do require the provision of a 2m frontage footway within Ryland Road and an uncontrolled pedestrian crossover point from the proposed car park. These could be secured through a "Grampian" style planning condition.

(vii) Health and Education Provision

LCC Education has advised that the William Farr Secondary school at Welton is already predicted to fill to capacity. A financial contribution to provide 7 additional secondary places and 1 school-based sixth form places will be necessary to accommodate the development. The applicant has confirmed

that they are willing to make such a contribution, to be secured through the S106 obligation. This would accord with Local Plan policy STRAT19 and paragraph 72 of the NPPF.

Residents and the Parish Council have raised concerns with the capacity of the Welton Family Health Centre to accommodate the development. NHS England has confirmed that there are capacity concerns with the local health care provision and seek a capital contribution towards increasing future capacity. The applicant has agreed to make such a contribution.

8. Overall Balance and Conclusions

Development would take place outside the settlement boundary and within an area defined as an undeveloped break between settlements. The development would be contrary to the provisions of the West Lindsey Local Plan First Review 2006, particularly saved policies STRAT9, STRAT12 and STRAT13.

It would also fall contrary to the provisions of the emerging Dunholme and Welton Neighbourhood Plans.

The principle of development within the undeveloped break has been explored within an appeal decision issued last year. The relevant considerations have not significantly changed.

The Inspector found the spatial application of STRAT13 to be out of date and to apply the second strand of the NPPF presumption in favour of sustainable development - granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Development would contribute up to 65 dwellings towards the housing land shortfall. It would contribute 25% (up to 16 units) as affordable housing. These are matters which can be attached significant weight.

Nonetheless, development would take place within the undeveloped break between settlements – an area which has been subject to planning applications on this and the adjoining site to develop for residential development. The undeveloped break is placed under increasing pressure. A development of 65 dwellings would create a busy living environment within the gap – it would be perceptible from public vantage points and would undoubtedly lead to the perception of an erosion of the gap and less distinction between two separate and individual settlements. Both settlements are already subject to proposals for growth and the relevance of the gap is arguably greater than ever.

It is considered that the principle of policy STRAT13 would be significantly undermined and that this is a considerable harm that is considered to significantly and demonstrably outweigh the benefits of development.

It is therefore recommended that, should the Council have determined the application, it would have been minded to refuse planning permission on the following ground:

- 1. The development would take place in the narrow undeveloped break between the settlements of Dunholme and Welton. The development would be a perceptible and permanent intrusion within the gap that would lead to the perception of coalescence and significantly harm the character and setting of the two villages. This would significantly undermine the objective and principle of saved policy STRAT13 of the West Lindsey Local Plan First Review. It is concluded that this severe harm would outweigh the benefits of development, and that the development does not therefore meet the NPPF presumption in favour of sustainable development.*

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report

Appeal Decision

Inquiry held on 25, 26 and 27 March 2014

Site visit made on 27 March 2014

by Brendan Lyons BArch MA MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 June 2014

Appeal Ref: APP/N2535/A/13/2207053

Land west of Ryland Road, Dunholme, Lincolnshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Charles Pickering against the decision of West Lindsey District Council.
 - The application Ref 130168, dated 26 June 2013, was refused by notice dated 20 September 2013.
 - The development proposed is the erection of 74 dwellings (including 30 affordable units) with associated access arrangements and open space provision.
-

Decision

1. The appeal is dismissed.

Preliminary matters

2. The application that has given rise to this appeal was submitted in outline form, with only the principle of development and the means of access to the site for full approval at this stage. Other matters, including the layout and landscaping of the site and the scale and appearance of development were 'reserved' for later approval by the Council.
3. However, the application was supported by an 'Illustrative Masterplan'¹ that shows how the 74 dwellings for which permission is sought might be laid out on the site. An updated version of this layout² was submitted in evidence to the Inquiry, together with some photomontages giving an indication of the possible appearance of the proposed development.
4. The appeal is accompanied by a Statement of Common Ground ('SoCG') which sets out a description of the site, its planning history, and the policy context for consideration of the appeal proposal, including the Government guidance of the National Planning Policy Framework ('NPPF'). Matters not in dispute between the appellant and the Council are identified.
5. The SoCG also includes heads of terms for a planning obligation under S106 of the Town and Country Planning Act 1990. A copy of a draft obligation, in the form of a planning agreement between the Council, Lincolnshire County Council and the landowners, was submitted before the Inquiry. Following discussion at

¹ Plan Ref 130620-3

² Evidence of Brian Duckett: Plan Ref 714.1/10A HDA6

the Inquiry, a copy of a completed amended agreement was provided before the Inquiry closed. The agreement sets out covenants in respect of the provision and management of affordable housing on the site, a contribution towards education provision, the implementation of highway and footpath improvements, and the provision and management of on-site open space. The merits of the obligation are considered later in this decision.

6. Since the appeal was submitted, the Government has published new planning practice guidance, and much former guidance has been cancelled. The parties were given the opportunity at the Inquiry to draw upon any relevant aspects of the new guidance.
7. After the close of the Inquiry, the appellant drew attention to a recently issued decision by the Secretary of State on appeals for housing development and associated open space at a site in Rothley, Leicestershire³. As the decision appeared to be relevant to the current appeal, written submissions on the matter were invited and were subsequently received from both main parties. These submissions and the decision itself have been taken into account in the determination of this appeal.

Proposal

8. The appeal site comprises a field of some 4.22ha in area that is no longer in active agricultural use. The field has a frontage to Ryland Road, which links the neighbouring villages of Dunholme and Welton. The space between the villages is narrow at this point. The appeal site adjoins the southernmost projection of the built-up area of Welton, which is the larger of the two villages. This projection, like the appeal site and the remainder of the gap between the villages, actually lies within the parish boundary of Dunholme. A public footpath runs from Ryland Road along the northern edge of the site, next to the built-up area, and carries on to the west.
9. Permission is sought to erect 74 houses, of which 30 (40%) would be reserved for affordable occupation. The Design and Access Statement ('DAS') that accompanied the application indicates that the majority of the houses should be two-storey, with a small number of three-storey and single-storey units. The illustrative plan proposes that the houses would be set back from Ryland Road behind an open space, described as a 'village green' open to residents of both villages. Access would be taken at the south-eastern corner of the site, where there would be a small car park available for use in connection with the open space and the nearby primary school. The intended highway improvements would include a new footway along the site frontage, linked to a crossing of Ryland Road.

Main Issue

10. It was agreed at the Inquiry that the main issue in the appeal is whether the proposal would amount to a sustainable form of development in accordance with national and local policy, having particular regard to the effect on the gap between Dunholme and Welton.

³ Appeals Ref APP/X2410/A/13/2196928 & 2196829 Land off Mountsorrel Lane, Rothley, Leicestershire

Reasons

11. For the purposes of this appeal, the development plan comprises the saved policies of the West Lindsey Local Plan First Review ('LP') adopted in 2006. Work was well advanced on the preparation of a new-style plan, with the Central Lincolnshire Local Plan Core Strategy having been submitted to the Secretary of State for examination in October 2013. The subsequent withdrawal of that draft document in January 2014 means that little or no weight can be attached to its provisions. The Council has instead embarked on the preparation of a district-wide Local Plan, to include site allocations, but this is at too early a stage to influence the current appeal.
12. Initial public consultation has taken place on a Dunholme Parish Council Neighbourhood Plan, which would ultimately form part of the development plan. The Neighbourhood Plan is also at too early a stage to be given significant weight in the determination of the appeal. Welton Parish Council intends to adopt a Neighbourhood Plan. An existing Parish Plan has been rolled forward to cover the period from 2010-2015, but very limited weight can be given to this document, which does not have statutory force as part of the development plan and does not in any event cover the appeal site.
13. The planning application was refused because of conflict with saved LP Policy STRAT 13, which seeks to protect the open rural character of undeveloped gaps between settlements. The site lies outside the development boundaries of the two villages, within the area allocated for protection under this policy. Statutory duty requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise⁴. Should the proposed development for housing be contrary to the LP it should be refused unless material considerations are found to outweigh the conflict with the plan.

Compliance with development plan

14. The conclusion of the appellant's case rests on two alternative propositions. The first of these is that the proposal would meet the aims of Policy STRAT 13 and hence would accord with the development plan. Paragraph 14 of the NPPF states a presumption in favour of sustainable development and advises that proposals that accord with the development plan should be approved without delay.
15. The aims of the policy are to maintain undeveloped land between neighbouring villages that provides open breaks, maintains the physical identity or prevents the coalescence of settlements. The policy justification refers to the importance of such land to the character of the individual settlements and their setting, its role in providing access to the countryside and its value for nature conservation.
16. As the appellant's analysis shows, the area between Dunholme and Welton protected by the STRAT 13 designation forms a discrete part of a much wider landscape setting of the two villages. This relatively small area comprises one very large arable field, immediately to the west of the appeal site, several smaller fields, of which the appeal site is one, a playing field and a patch of woodland. The appeal site thus represents a not inconsiderable proportion of

⁴ Planning and Compulsory Purchase Act 2004 s38(6)

the protected land. Its loss to development would significantly reduce the area of the gap between the villages.

17. Development of the site would also be significant in visual terms, and to the perception of a break between settlements. Ryland Road provides the main link between the two villages, and along which the experience of leaving one place and entering another most commonly happens. The site is located at a critical point immediately adjoining the built-up area of Welton. Its open character can be clearly perceived from Ryland Road, particularly with the recent removal of some trees. The landscape here is relatively small scale, as assessed by the appellant, without expansive links to the wider landscape beyond the villages. Nevertheless, the lack of indication of development further to the west of the field reinforces the perception of an important open break.
18. The appeal site is not of high quality in landscape terms and it does not provide a memorable gateway feature, but its openness provides the contrast with the existing development to define the village edge and maintain the settlement's rural context. The critical factor is the absence of a developed frontage to Ryland Road. It is particularly important that the undeveloped frontage is here reflected by the small field on the east side of Ryland Road. The two fields are not entirely opposite one another, so that the extent of the space they offer does not coincide. But the absence of built development to both sides of the road and the ability to perceive the open land beyond provides a critical clear break between the two villages.
19. Further to the south, the northern edge of Dunholme has been allowed over time to extend outwards into the gap, with a ribbon of residential development on the east side of the road and the more isolated enclave at Cottingham Court on the west side. There remains a clear perception of being outside the village core, but the setting is more difficult to appreciate, despite glimpsed views of fields to the east and the impression of open land to the west. The appeal site and the field opposite provide a better expression of the gap from Ryland Road.
20. Important perception of the gap is also gained from Footpath 169 along the appeal site's northern boundary. The role of the appeal site and the field to the south as a buffer to the northern limit of Dunholme can be readily appreciated. This path allows access to the countryside at the village edge, which LP Policy STRAT 13 seeks to protect. Further to the west, the appeal site and the adjoining field add depth to views from Footpath 785 across the large arable field, and define the extent to the clear gap between the settlements.
21. Should the proposed development proceed, Footpath 169 would be contained by residential development on both sides, other than a short length near Rylands Road. Its value as an accessible outlet to space at the village edge would be greatly reduced. The new houses would be clearly visible from Footpath 785, even with mature edge planting, and would reduce by half the gap between the built edges of the villages.
22. The change from open land to developed housing area would be clearly discernible from Ryland Road. The extent of the open gap between settlements would be significantly reduced.
23. The appellant considers that an acceptable gap would be retained by leaving adequate space between buildings. This would rely on the setting back of the built development behind the proposed green space. Although the Council

objects that layout is not for decision at this stage, some weight can be given to the DAS and the illustrative plan, which could then be taken into account at the reserved matters stage to ensure that this level of setback was incorporated.

24. Even so, the dimensions on which the appellant's judgement is based would seek only to replicate current minimum distances between buildings, from the northernmost house on the east side of Ryland Road. The appeal site forms part of a wider block of open land, whose space between built form is considerably greater. While I note that the Secretary of State was willing to allow a reduction to minimum dimensions of a green wedge in the recent Rothley appeal⁵, that case rested on its own particular facts, and the overall integrity of the green wedge was held to be preserved. The Secretary of State has taken a different view where the purpose of a green wedge was compromised⁶.
25. In this case, an important issue is whether the proposal would be seen from Ryland Road as a developed frontage. In the indicative layout, the houses and their access drive would be set back from the road by less than 100m, and would be closer than that to the footway to be provided in accordance with the planning obligation. This depth, which would be less than that of the small field to the east, would provide insufficient separation to divorce the houses from the road.
26. The later version of the indicative layout shows less formal design for the proposed 'village green'. But as public open space, even if designed to somehow resemble a meadow, it would be seen in conjunction with the houses as a part of the development. The proposed car park, which is not shown on the appellant's photomontages, would emphasise the developed character of the space, which would be markedly different from the tightly enclosed traditional village greens found at the core of the two villages.
27. The effect of this would be to change the character of most of the west side of Ryland Road to a perceived developed frontage. Only the narrow intervals to the north and south of Cottingham Court would remain unbuilt. Crucially, for the first time the developed frontages to both sides of the road would overlap. There would be the beginnings of coalescence of the two villages.
28. For the reasons set out above, I conclude that the proposal would be contrary to LP Policy STRAT 13. For the appeal to be allowed, the conflict with the development plan would have to be outweighed by other considerations.

Consistency with NPPF

29. The appellant's second proposition is that the designation of the site's location under Policy STRAT 13 should be seen as out of date in the context of current development needs, such that any conflict with the development plan would be outweighed by other considerations, and that planning permission should be granted in accordance with the guidance on out of date policies of paragraph 14 of the NPPF.
30. The LP was adopted to cover the period to 2016. Those policies saved by ministerial direction in 2009 are therefore not strictly time-expired. However,

⁵ Paragraph 7 above

⁶ Appeal Ref APP/G2435/A/11/2158154

the higher order regional and county-level plans on which the LP was founded have since respectively been replaced and revoked, and the subsequent Regional Plan of 2009 also cancelled. I agree with the Council that the tests of soundness of a local plan set out in paragraph 182 of the NPPF are specifically directed to the examination of emerging plans. Nevertheless, for any plan to be regarded as up to date, it should reflect current objectively assessed needs for development. The adopted LP no longer reflects such needs, particularly for housing.

31. It is common ground that, allowing the 20% buffer for persistent past under-delivery advised by the NPPF⁷, the Council cannot currently demonstrate a 5 year supply of deliverable housing land. Although the precise level of shortfall is not fully agreed, the difference between the parties is not of great consequence for the appeal, and the shortfall is clearly significant. In these circumstances, the NPPF advises that the housing supply policies of the development plan cannot be regarded as up-to-date⁸. The unmet need for additional housing becomes a consideration of substantial weight in the appeal.
32. In accordance with the judgement of the High Court in the case of *William Davis*⁹, the appellant accepts that STRAT 13 is not a policy relevant to the supply of housing, and is not therefore out of date because of the absence of a 5 year land supply.
33. The appellant also accepts that the principle of protecting space between settlements set by Policy STRAT 13 is consistent with the guidance of the NPPF, but argues that the spatial application of the policy must now be seen as out of date, so that the weight to be given to the policy restriction must be diminished, in accordance with NPPF paragraph 215.
34. For the Council to continue to resist that argument appears to be inconsistent with its position on other LP policies. In particular, the Council considers that the appeal proposal would be contrary to LP Policies STRAT 9, on the sequence of release of housing land, and STRAT 12, on protection of the open countryside, but has not treated either policy conflict as a reason for refusal. The committee report explains that the Council's inadequate housing land supply means that neither policy can currently be strictly applied, despite compliance in principle with NPPF guidance. The acceptance of encroachment beyond boundaries designated by Policy STRAT 12 effectively recognises that the policy protection has been rendered out of date, and that greater weight must be given to other considerations.
35. The distinction drawn by the Council to justify a different approach to the protection offered by Policy STRAT 13 appears to be based on the consistent history of its application and the very specific locations affected. But these are matters to be taken into account when applying weight, rather than to the judgement of whether the policy protection is now fully consistent with the NPPF.
36. Therefore, I accept the appellant's position that the spatial application of Policy STRAT 13 should be seen as out of date. If the appeal proposal is to avail of the presumption in favour of sustainable development, the second bullet point

⁷ paragraph 47

⁸ paragraph 49

⁹ *William Davis Limited and Jelson Limited v Secretary of State for Communities and Local Government and North West Leicestershire District Council* [2013] EWHC 3058 (Admin)

of NPPF paragraph 14 on decision making must apply. Planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.

Balance of considerations: main issue

37. The NPPF enjoins the planning system to seek joint and simultaneous gains across the three mutually dependent dimensions of sustainable development: social, economic and environmental. The overall balance must look across all three strands. The Council accepted at the Inquiry that weakness in one dimension did not automatically render a proposal unsustainable.
38. For that reason, I do not agree with the Council that wider application should be given to the judge's remarks in the recent *Bloor Homes* High Court judgement¹⁰, in which development in a green wedge was considered patently unsustainable. That conclusion related to the particular facts of that case, and should not be read across to the current appeal.
39. Both Welton and Dunholme are recognised by LP Policy STRAT 3 as Primary Rural Settlements and accepted by the Council as sustainable locations for new housing. The appeal site would be well located with regard to access to local services and to public transport links to larger service centres. This would accord with the social dimension of sustainable development.
40. The provision of market housing would also address the social dimension. In the light of the Council's severe deficit in supply, this is a consideration of substantial weight. There has been some local support for this provision as part of a process of growth and renewal of the villages.
41. The proposed provision of affordable housing also attracted some strong local support in written submissions and at the Inquiry. The number of units proposed would exceed the local policy minimum level and would go some way towards meeting the currently identified need from both villages. This would provide positive weight in favour of the proposal.
42. The Council does not dispute the economic benefits outlined by the appellant in terms of job creation during construction, spending power of future residents and the one-off income received under the New Homes Bonus. Moderate weight would attach to these economic benefits.
43. Subject to later approval, biodiversity enhancements and open space provision could produce modest environmental gains. Cumulatively, the benefits of the proposal attract substantial weight.
44. Set against these would be the harm, both environmental and to a certain extent social, caused by development between the villages. Environmental harm would arise from the loss of open land as a buffer to the two built-up areas and from the curtailed landscape setting of the two villages, while residents' access to undeveloped open land leading to the wider countryside would be adversely affected.
45. The extent of the proposed developed frontage to Ryland Road would be significantly harmful. The proposal would appear primarily as an extension of

¹⁰ *Bloor Homes East Midlands Limited v Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council* [2014] EWHC 754 (Admin)

the built-up area of Welton, but the overlap of development would make it considerably less clear that, as put by the appellant in closing, 'Welton is Welton; Dunholme is Dunholme'.

46. The planning history shows the consistency with which the objective of protecting the space between settlements has been pursued, and upheld by previous Inspectors. While some of these former decisions are now too old to be seen as compelling precedents, they illustrate the value that has been attached to this policy aim over time.
47. By contrast, it is to be hoped that the current housing shortfall will be relatively short-term. The Council's evidence suggests that moves are afoot to bring forward other potentially more suitable sites to address the need for housing, both market and affordable. By allowing coalescence of the two villages to begin, approval of the appeal proposal could be a watershed moment in the pattern of development. It would become increasingly difficult to resist further development between the villages, particularly adjacent to Ryland Road. I endorse the view taken in the Devon appeal decision¹¹ referred to by the Council that a change of this significance ought to be subject to formal policy review.
48. There is clearly a good degree of mutual interrelationship between the two villages and shared use of some facilities. But their historic separate identities, dating back to Domesday and beyond, are clearly valued by many local residents and by the two parish councils who have objected to the proposal. Maintenance of the physical gap between the villages is the most obvious way of preserving the separate identities of the two communities.
49. The policy objective of protecting the gap remains an important element of the current development plan, whose principle is consistent with the guidance of the NPPF. The policy's out of date spatial application means that the particular circumstances of any development proposal must be carefully assessed and weighed in the balance set by paragraph 14.
50. In this case, taking account of the extent of development proposed, I find the effect on the gap between villages would be significantly harmful, and would have permanent effect. The direct conflict with the principle outlined by Policy STRAT 13 is a matter of great weight. On balance, the proposal's adverse impacts would significantly and demonstrably outweigh its benefits. The proposal would not comprise a sustainable form of development in accordance with national and local policy.

Fallback position

51. The appellant states that four agricultural buildings could be erected on the site, their construction having been started in 1991 in accordance with 'permitted development' rights for farm buildings in force at that time. It is suggested that, in the event of the appeal being dismissed, these buildings, each up to 465 sqm in area and 12m in height, would be completed and used for agricultural storage.
52. Letters sent by the Council to the appellant in 1992 and 1993 confirm that holes dug for foundations constituted commencement of development. But apart from that, information about the extent of the works and the location of

¹¹ Appeal Ref APP/U1105/A/13/2202124

the buildings appears extremely sketchy, and no sign of them could be discerned at the site visit. A statutory declaration by the appellant merely confirms that some foundations were laid, but work was otherwise delayed. Other evidence suggests that a building was at least partly erected close to Ryland Road, but subsequently taken down.

53. Therefore, there is considerable uncertainty over what precisely could be implemented under the claimed deemed permission, and whether, in the absence of further implementation over the long period of time since commencement, that permission would still have effect. The lack of progress also suggests that the provision has not up to now been seen as necessary for the appellant's agricultural operation. The weight to this proposition as a realistic fallback with a reasonable likelihood of implementation is greatly reduced.
54. But even if any or all of the proposed buildings could be implemented, and if associated hardstandings could also be provided as now claimed, the development would be agricultural in character and not out of keeping with the rural context. It would be well dispersed around the field and would be unlikely to alter the appearance of the site to that of a busy farmyard. The impact on the open character of the site would be significantly less detrimental than that of residential development. The potential fallback does not provide compelling support for approval of the appeal scheme.

Other matters

55. The Council's second reason for refusal of the application related to inadequate assessment of the potential impact of development on the archaeological significance of the site. Site investigations carried out after the refusal confirmed the presence of archaeological remains, but concentrated at the eastern end of the site, in the area identified as intended open space. The SoCG confirmed the Council's satisfaction that this issue could now be addressed by the imposition of conditions, and I have found no reason to disagree.
56. Objectors to the proposal raise a number of other concerns, primarily concerned with the capacity of local infrastructure to absorb additional development. The effect on schools has been assessed and additional places where required would be funded by the planning obligation. There is no evidence to conclude that the proposal would exacerbate any existing flooding or traffic problems on Ryland Road. The proposed car parking might have some benefit in easing any congestion caused by parking on Ryland Road for school drop-off and collection, but could also merely serve to encourage more car-borne trips for this purpose. There would seem to be little need for a car park to serve the proposed village green, which would aim to provide local open space.
57. The effect on nearby residents, including those living opposite the proposed site access, would not be sufficiently adverse to justify rejection of the proposal and would be subject to further detailed consideration in the event of the appeal being allowed.
58. The provisions set out in the S106 agreement would not in themselves alter the planning balance to render the proposal acceptable, nor could the balance be redressed by the imposition of conditions.

Conclusion

59. For the reasons set out above, and having taken careful account of all representations made, both in writing and at the Inquiry, I conclude that the appeal should be dismissed.

Brendan Lyons

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY West Lindsey District Council:

Stephanie Knowles of Counsel

Instructed by Charlotte Lockwood,
Senior Planning Solicitor,
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She called:

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Senior Development Management Officer, Cofely

FOR THE APPELLANT:

Christopher Boyle QC

Instructed by
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He called:

Brian Duckett
BSc(Hons) BPhil CMLI
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Planning Consultant

INTERESTED PERSONS:

Robert Jones

Resident of Dunholme

Catherine Cullen

Resident of Welton

Matthew Barber

Resident of Welton

Joanna Pace

Resident of Dunholme

Rachel Jones

Resident of Dunholme

Peter Williams

Resident of Dunholme

Julie Murray

Clerk to Welton Parish Council

Suzanne Hollick

Resident of Welton

Peter Forman

Resident of Dunholme

Tony Pache

Resident of Dunholme

Councillor Sue Rawlins

Member, West Lindsey District Council

Andrew Hunt

Resident of Dunholme

Pamela Vaughan

Resident of Welton

DOCUMENTS

Submitted at Inquiry

- 1 West Lindsey District Council's letter of notification of the Inquiry
- 2 Central Lincolnshire Local Plan: Local Development Scheme
- 3 Welton-by-Lincoln Parish Plan 2010-2015
- 4 Saved Local Plan Policy NBE7
- 5 Welton-by-Lincoln Parish Plan 2007-2012
- 6 Local Plan Chapter 6
- 7 Section 106 Agreement with amendments flagged
- 8 Lincolnshire County Council letter dated 21 November 2013
- 9 Completed Section 106 Agreement
- 10 Responses to public consultation event
- 11 Closing Submissions on behalf of West Lindsey District Council
- 12 High Court Judgement: *Bloor Homes East Midlands Limited v Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council* [2014] EWHC 754 (Admin)
- 13 Closing Submissions on behalf of the appellant

Submitted after Inquiry

- 14 Secretary of State's Decision on Appeals Ref APP/X2410/A/13/2196928 & 2196829 Land off Mountsorrel Lane, Rothley, Leicestershire
- 15 Letter from Mr T Smith dated 30 April 2014
- 16 High Court Judgement: *Anita Colman v Secretary of State for Communities and Local Government and North Devon District Council and RWE NPower Renewables Limited* [2013] EWHC 1138 (Admin)
- 17 Letter from West Lindsey District Council dated 2 May 2014

