



**Guildhall Gainsborough
Lincolnshire DN21 2NA
Tel: 01427 676676 Fax: 01427 675170**

This meeting will be webcast and published on the Council's website

AGENDA

**Planning Committee
Wednesday 18 November 2015 at 6.30 pm
The Council Chamber, Guildhall, Gainsborough**

Members:

Councillor Stuart Curtis (Chairman)
Councillor Ian Fleetwood (Vice-Chairman)

Councillors Owen Bierley, David Bond, David Cotton, Hugo Marfleet, Giles McNeill, Jessie Milne, Roger Patterson, Judy Rainsforth, Thomas Smith, Vacancy.

1. Apologies for absence.
2. Public Participation Period. Up to 15 minutes are allowed for public participation. Participants are restricted to 3 minutes each.
3. Minutes.
Meeting of the Planning Committee held on 21 October 2015, previously circulated.
4. Members' Declarations of Interest.

Members may make any declarations of interest at this point but may also make them at any time during the course of the meeting.
5. Update on Government/Local Changes in Planning Policy

Agendas, Reports and Minutes will be provided upon request in the following formats:

Large Clear Print: Braille: Audio Tape: Native Language

6. Planning Applications for Determination
(Summary attached at Appendix A)
Print herewith PL.08 15/16

PAPER A

7. To note the following determination of appeals:

- i) Appeal by Obam Lifts against the decision of West Lindsey District Council to refuse planning permission for the erection of six detached dwellings, four semi-detached dwellings and two detached garages on land adjacent to Obam Lifts, Tillbridge Road, Sturton by Stow.

Appeal Allowed with Costs - See copy letters attached as Appendix Bi.

Officer Recommendation – Grant with legal agreement.

M Gill
Chief Executive
The Guildhall
Gainsborough

10 November 2015

Agendas, Reports and Minutes will be provided upon request in the following formats:

Large Clear Print: Braille: Audio Tape: Native Language

1 – 132286 - Saxilby

PROPOSAL: Hybrid planning application to include outline planning application for the erection of up to 133 dwellings with all matters reserved and change of use of agricultural land to cemetery on land Off Sturton Road, Saxilby

RECOMMENDED DECISION: That the decision to grant planning permission, subject to conditions and be delegated to the Chief Operating Officer upon the completion and signing of an agreement under section 106 of the Planning Act 1990 (as amended) pertaining to:-

- The provision 14 affordable housing units,
- £500 000 for additional classrooms at primary and secondary schools,
- £56 525 for health centre improvements.
- £100 000 towards a MUGA within the village; and
- Details of the provision and the management of the open space and cemetery and £50 000 for maintenance of the open space and cemetery if the Parish were to adopt them
- The undertaking to fund highway and drainage improvements off site in conjunction with the Local Highways Authority and Anglian Water.

And, in the event of the s106 not being completed and signed by all parties within 6 months from the date of this Committee, then the application be reported back to the next available Committee meeting following the expiration of the 6 months.

2 – 133025 – Normanby by Spital

PROPOSAL: Planning application to erect three dwellings on land rear of Bottle and Glass Public House, 46 Main Street, Normanby by Spital.

RECOMMENDED DECISION: That the decision to grant permission subject to conditions be delegated to the Chief Operating Officer upon the completion and signing of an agreement under section 106 of the amended Town & Country Planning Act 1990 which secures an off-site contribution for affordable housing.

And, in the event of the s106 not being completed and signed by all parties within 6 months from the date of this Committee, then the application be reported back to the next available Committee meeting following the expiration of the 6 months.

3 – 132401 – Market Rasen

PROPOSAL: Planning application for the erection of a boar stud and artificial insemination collection unit to house 150 boars at Watermill Farm, Station Road, Moortown, Market Rasen.

RECOMMENDED DECISION: Grant permission subject to conditions

4 – 130739 - Ingham

PROPOSAL: Planning application for 31 dwellinghouses and 3 live-work units-mixed use of C3 dwellinghouses and B1 light industrial - associated roads, drainage and landscaping and footway on Stow Road at The Old Scrapyard, Stow Lane, Ingham.

RECOMMENDED DECISION:

That the decision to grant planning permission subject to conditions be delegated to the Chief Operating Officer upon the completion and signing of an agreement under section 106 of the Planning Act 1990 (as amended) pertaining to:-

- a. The delivery and maintenance and management thereafter of the off-site enhancements to surface water drainage and the public footpath as marked on drawing 4151T/11/45 Rev A.
- b. The delivery of a residential travel plan.
- c. The delivery of on-site public open space unless adopted by Anglian Water.
- d. The occupancy criteria of the live-work units.

And, in the event of the s106 not being completed and signed by all parties within 3 months from the date of this Committee, then the application be reported back to the next available Committee meeting following the expiration of the 3 months.

5 – 133450 - Gainsborough

PROPOSAL: Planning application to erect single storey rear and side extension at 1 Ulster Road, Gainsborough

RECOMMENDED DECISION: Grant permission subject to conditions

Appeal Decision

Site visit made on 3 August 2015

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 6 November 2015

Appeal Ref: APP/N2535/W/15/3024069

Land adjacent to Obam Lifts, Tillbridge Road, Sturton by Stow, Lincoln LN1 2BP

- 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 Obam Lifts against the decision of West Lindsey District Council.
 - The application Ref 132257, dated 16 December 2014, was refused by notice dated 2 April 2015.
 - The development proposed is the erection of 6 no. detached dwellings, 4 no. semi-detached dwellings and 2 no. detached garages.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 6 no. detached dwellings, 4 no. semi-detached dwellings and 2 no. detached garages at Land adjacent to Obam Lifts, Tillbridge Road, Sturton by Stow, Lincoln LN1 2BP in accordance with the terms of the application, Ref 132257, dated 16 December 2014, subject to the conditions set out in Annex A.

Application for costs

2. An application for costs was made by Obam Lifts against West Lindsey District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application was submitted in outline with access and layout to be determined at this stage.
4. In determining the application the Council had indicated that given the changes to the Planning Practice Guidance (PPG) in November 2014, they would not be seeking a contribution for affordable housing from the scheme. In the light of the High Court judgement of the 31 July 2015¹ and the subsequent amendments to the PPG, I sought the views of both parties regarding the need for affordable housing. I have taken those views submitted into account in determining the appeal.

¹ West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government [2015] EWHC 2222 (Admin)

Main Issues

5. The main issues in the appeal are whether or not:
- the loss of employment land would affect the sustainability of the village;
 - the proposed development would provide satisfactory living conditions for future residents with particular regard to the effect of lighting from the adjacent depot; and
 - the proposal would make adequate provision for affordable housing.

Reasons

Employment Land

6. The appeal site is currently vacant open land. The surrounding area is mixed in character and includes commercial units, residential properties and agricultural land. Three houses are currently under construction on land immediately to the north of the site adjacent to Tillbridge Road, and the appeal scheme would utilise the same access.
7. The site forms part of an employment allocation designated in Policy STRAT 15 of the *West Lindsey Local Plan First Review (adopted June 2006)* (WLLP). This policy allocates a range of employment sites that vary in size and location across the borough. Whilst I understand that parts of this allocation have been developed for employment purposes, including by the appellants, other parts of the site remain vacant.
8. The proposal would allow the development of 10 dwellings. The village of Sturton on Stow is defined as a 'Subsidiary Rural Settlement' in Policy STRAT 3 of the WLLP. Within subsidiary local settlements Policy STRAT 7 of the WLLP restricts new infill housing development to that which meets a local need, or is otherwise required to accommodate a local resident with a connection to the settlement. As such, the proposal would conflict with these policies. However, the Council have acknowledged that the number of services has increased within the village in recent years, and as such the village could be considered to be a 'Primary Rural Settlement'.
9. However, the National Planning Policy Framework (the Framework) sets out in paragraph 47 that to boost significantly the supply of housing, local planning authorities should be able to demonstrate a 5 year supply of deliverable housing sites. At the time the application was determined the council acknowledged that they could not demonstrate this, but in October 2015 the Central Lincolnshire Five Year Land supply Report was published. The Council have indicated that as a result of this Central Lincolnshire is now able to identify a deliverable five year supply of housing, although this is disputed by the appellant. Notwithstanding this, the Council still acknowledge that the spatial strategy of the current Local Plan is out of date as it does not have sufficient allocations to meet the five year supply and departures from the Plan are necessary to make up that shortfall. Consequently, the council have stated that they consider that their housing supply policies are still out of date. I am mindful in this respect that the Framework (paragraph 14) has a presumption in favour of sustainable development unless the adverse impacts would significantly and demonstrably outweigh the benefits.

10. This is clearly a matter of significant weight. Nevertheless, the reason for refusal indicates that the Council is concerned that the loss of the site for employment purposes would be detrimental to the future sustainability of the village.
11. Whilst the proposal would result in the loss of the site for use for employment purposes, I understand that other land within the allocation would remain available to be developed in this way. Moreover, I observed that there were also some vacant commercial premises within the village which would enable employment generation to take place. In addition, the appellant points out that a number of businesses are located within the village, including a large haulage/distribution firm. As a result, the loss of this site would not significantly impact on the ability of the village to provide a modest range of employment opportunities which helps to avoid unsustainable travel patterns to jobs and services elsewhere.
12. Furthermore, paragraph 22 of the Framework indicates that planning policies should avoid the long term protection of sites allocated for employment uses where there is no reasonable prospect of the site being used for that purpose. Whilst I have not been made aware of what marketing of the site has taken place, the wider site has been allocated for employment purposes for a considerable period of time, in fact the Parish Council suggest it has been allocated for industrial uses "for decades".
13. There is no evidence to indicate that the Council have reviewed the employment allocations in the WLLP since it was adopted over 9 years ago as suggested by the Framework. Furthermore, I have not been supplied with any information on how much employment land has been developed in recent years, or the current supply of such land in the borough. However, in the absence of any evidence to the contrary and given the length of time the site has remain undeveloped, I am satisfied that there is no reasonable prospect of it being used for employment purposes.
14. In the light of this the Framework indicates that applications for alternative uses should be treated on their merits, having regard to market signals and the relative need for different land uses. As highlighted above, there is a clear need for housing land within the borough and the development of this site for 10 houses would contribute towards this.
15. I observed that the village has a range of services and facilities that are within easy walking distance of the site, and future residents would help support these local services. The village is also served by a bus service that operates 6 days a week during the daytime that links it to Lincoln, Gainsborough and Scunthorpe.
16. Thus, whilst the development would result in the loss of around 0.7ha of employment land, I consider that this would not be detrimental to the future sustainability of the village. Accordingly, it would not conflict with Policy STRAT 1 of the WLLP which sets out general criteria to ensure that development is sustainable.

Living Conditions

17. Part of the site lies adjacent to the County's Highway Depot which includes a grit store on the land closest to the site. At certain times of the year this will

- operate 24 hours a day, generating both noise and light. The layout of the site has been designed to maximise the distance between the houses and the depot, and the plans show that high fencing and vegetation would be provided along the common boundary. The provision of this can be controlled at reserved matters stage when landscaping is to be considered.
18. A noise impact assessment was submitted with the application and concluded that, subject to a scheme of sound insulation, the proposed development would be adequately protected from noise.
 19. The appellant has indicated that the access road for the development would be served by street lighting. I observed that the grit store, and the yard in front of it, is served by a modest number of external lights both on the buildings and freestanding. These all faced down onto the yard area rather than onto the adjacent site.
 20. The nearest house to the depot site would be around 35m from it and has a gable wall facing towards it. When the detailed design is determined at reserved matters, it would be possible to ensure that this elevation contained no windows. Although the front elevation of the houses on plots 7-9 would face towards the depot site, they would be located even further away from it, and would have street lighting located closer to the houses. Given this, and the proposed screening proposed along the boundary, I am satisfied that the lighting in the depot would not cause significant levels of light pollution to the appeal site.
 21. Consequently, I consider that the proposed development would provide satisfactory living conditions for future residents with particular regard to the effect of lighting from the adjacent depot. As such, there would be no conflict with Policy RES 1 of the WLLP which seeks to ensure that an adequate layout and design is provided for new housing developments.

Affordable Housing

22. The Council consider that an off-site financial contribution to affordable housing is required. Policy RES6 of the WLLP states that where there is a demonstrated need, in villages of this size, a contribution in the region of 25% would be required on sites accommodating 2 or more dwellings. More detailed guidance is provided in the *Off Site Contributions for Affordable Housing Supplementary Planning Guidance (adopted March 2006 (2010 Tariff Update))* (SPG). The SPG sets out the need for affordable housing in the district and the mechanism for fixing the contribution levels. On the basis of the SPG the Council have indicated that a contribution of £121,085 is required from the scheme.
23. From the evidence before me, I consider that the off-site financial contribution to affordable housing, is necessary, related directly to the development and fairly related in scale and kind. As such it accords with the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 and tests set out in paragraph 204 of the Framework. The appellant has submitted a signed Unilateral Undertaking for this contribution, and I am satisfied that through this the proposal would make adequate provision for affordable housing in accordance with policy RES6 of the WLLP and the SPG.

Other Matters

24. It has been argued that, in the light of the houses under construction adjacent to the road, the proposal now represents 'backland development'. However, even if this is considered to be the case, I am not aware of any national or local policies that preclude such development. In this case, as I have concluded no demonstrable harm would result from the development, I consider it would be acceptable.
25. The Parish Council has raised concerns that no archaeological survey has been provided to address the ridge and furrow field pattern. However, the County Archaeologist has indicated that there is no requirement for any archaeological work to be undertaken. In the absence of any substantive evidence to the contrary I can see no reason to disagree with this conclusion. Whilst I note the discrepancy between the application form and the plans in terms of the public right of way, I am satisfied that this has not unduly affected the determination of the application or the appeal in any way.

Conclusion and Conditions

26. The workings of the presumption in favour of sustainable development are set out in paragraph 14 of the Framework. For decision-taking, the presumption means approving proposals that accord with the development plan without delay, and where the development plan is absent, silent or relevant policies are out of date, 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; or specific policies in the Framework indicate development should be restricted.
27. Although the proposal would result in the loss of employment land, I have concluded that this would not be detrimental to the future sustainability of the village, nor to the supply of employment land in the borough as a whole. The benefits of the scheme include the provision of 10 dwellings in an accessible location, a contribution towards affordable housing off-site, and the opportunity to enhance the vitality of this rural community. Therefore adverse impacts do not significantly or demonstrably outweigh the benefits of the scheme, and the presumption in favour of sustainable development applies to the proposed development. For this reason, I conclude the appeal should be allowed.
28. In addition to the standard implementation and reserved matters conditions, it is necessary for the avoidance of doubt, to define the plans with which the scheme should accord. To ensure the satisfactory drainage of the site conditions are necessary to ensure the provision of the foul and surface water drainage in accordance with the drainage strategy, and to control the future maintenance of these systems. In addition, to ensure that the development does not affect drainage elsewhere, a condition is required to ensure that existing drainage routes on the site are maintained both during and after construction.
29. For reasons of highway safety a condition is required to ensure the provision of the access road, turning space, and drives before any of the dwellings are first occupied. A condition to ensure the provision of the noise mitigation measures is necessary in order to ensure adequate living conditions for future occupiers.

30. As the other conditions suggested by the Council relate to matters that are reserved for future consideration, I consider that it is neither necessary, nor appropriate, to apply them at this stage.

Alison Partington

INSPECTOR

Annex A

Conditions

- 1) Details of the appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the local planning authority before any development begins, and the development shall be carried out as approved. Landscaping shall include details of the size, species, and position or density of all trees to be planted, fencing and walling, measures for the protection of trees to be retained, a timetable for the implementation of the landscaping, and a methodology for its future maintenance.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan Drawing Number LDC 1024-PL-01; Existing Block Plan Drawing Number LDC 1024-PL-02; and Proposed Block Plan Drawing Number LDC 1024-PL-03 A.
- 5) No dwelling shall be occupied until the surface water regulation system and foul water system, detailed in the Drainage Strategy [Issue 2] produced by Cole Easdon Consultants Limited and dated December 2014, has been brought into use and retained as such thereafter.
- 6) No dwelling shall be occupied until the details of the maintenance of both the surface water and foul water drainage systems have been submitted to, and approved in writing by, the local planning authority. Maintenance shall proceed in accordance with the approved details.
- 7) All drainage routes through the site shall be maintained during the course of development, and following the completion of the works.
- 8) No dwelling shall be occupied until the access road, turning space, and private drives have been laid out within the site in accordance with Drawing Number LDC 1024-PL-03 A, and these shall be retained as such thereafter.
- 9) No dwelling shall be occupied until the noise mitigation measures contained in the report by Environmental Noise Solutions Limited, dated 17 November 2014, have been implemented on site. The measures shall be retained as such thereafter.

Costs Decision

Site visit made on 3 August 2015

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 6 November 2015

Costs application in relation to Appeal Ref: APP/N2535/W/15/3024069 Land adjacent to Obam Lifts, Tillbridge Road, Sturton by Stow, Lincoln LN1 2BP

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Obam Lifts for a full award of costs against West Lindsey District Council.
 - The appeal was against the refusal of planning permission for the erection of 6 no. detached dwellings, 4 no. semi-detached dwellings and 2 no. detached garages.
-

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. The *Planning Practice Guide* (PPG) advises that parties will normally be expected to meet their own costs in relation to appeals and that costs may only be awarded against a party who has acted unreasonably, and thereby caused the party applying for costs to incur unnecessary, or wasted, expense in the appeal process.
3. The application for an award of costs relies to a large extent on the fact that, following the decision of the Committee of the Council to refuse permission contrary to the recommendation of its Officers, the Council has failed to produce evidence to substantiate the reason for refusal. In so doing it is claimed they have prevented development which should have been permitted, having regard to the development plan, national policy and any other material considerations. Furthermore, the reason for refusal relating to lighting from the adjacent depot is a matter that was capable of being dealt with by way of condition. The PPG indicates that, in such circumstances, costs may be awarded against an authority.
4. The Council have not submitted an appeal statement nor have they responded to the costs claim. As such it has failed to provide any evidence or objective analysis to support and clarify either of the reasons for refusal. As outlined in my decision, I have concluded that having regard to the development plan, national policy and other material considerations, the proposal should be allowed. Therefore, in failing to produce any evidence to substantiate the reasons for refusal, the Council behaved unreasonably.
5. The second reason for refusal relates to the potential impact of lighting at the adjacent depot on the proposal. As set out in my decision letter, having

observed the lighting at the depot, and considered the layout of the proposed development, I am satisfied that this would not have a detrimental impact on the living conditions of future occupiers. Notwithstanding this, and bearing in mind that this is an outline application with the design, scale and landscaping of the scheme to be determined at reserved matters stage, I consider that any concerns the Council had regarding this could have been dealt with by way of a condition. As a result, the Council's approach in this matter does represent unreasonable behaviour.

6. Overall, I have found that the Council has not substantiated its reasons for refusal and has refused permission on a ground that could have been dealt with by way of condition. Thus it behaved unreasonably in refusing permission for the scheme. The applicant's costs in mounting the appeal were therefore unnecessarily incurred and a full award of costs is justified.

Costs Order

7. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that West Lindsey District Council shall pay to Obam Lifts, the costs of the appeal proceedings described in the heading of this decision.
8. The applicant is now invited to submit to West Lindsey District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Alison Partington

INSPECTOR