



Appeal Decision

Site visit made on 22 November 2018

by D Guiver LLB (Hons) Solicitor

an Inspector appointed by the Secretary of State

Decision date: 24 December 2018

Appeal Ref: APP/N2535/W/18/3209967

Ambrose House, 40 Lodge Lane, Nettleham, Lincoln LN2 2RS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Gelder Limited and Mr D Tate against the decision of West Lindsey District Council.
 - The application Ref 137531, dated 8 March 2018, was refused by notice dated 31 May 2018.
 - The development is described as proposed development of vacant land with 7no. detached bungalows.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the date of the Council's decision, the National Planning Policy Framework 2018 (the Framework) has been published and has effect. The parties have had the opportunity to make representations on the effect of the Framework on the application and I have taken all comments into consideration in this decision.

Main Issue

3. The main issue is whether the proposal would be acceptable having regard to its location outside the developed footprint of the village.

Reasons

4. Policy LP2 of the Central Lincolnshire Local Plan 2017 (the Local Plan) seeks to ensure that developments are concentrated in identified settlements, including large villages. The Policy states that development in large villages should be within allocated sites or on infill or previously developed sites within the existing developed footprint. Development on other sites in appropriate locations outside developed footprints would be considered in exceptional circumstances.
5. The developed footprint is defined as the continuous built form of the village excluding individual buildings or groups which are clearly detached from the continuous built up area, agricultural buildings and open land such as gardens, paddocks and outdoor sports and recreation facilities. Appropriate locations are those which, when taken as a whole, do not conflict with the Framework or

the Local Plan and, if developed, would retain the core shape and form of the settlement and not significantly harm its character and appearance or the character and appearance of the surrounding countryside. The Policy does not define exceptional circumstances but suggests that it requires the development to deliver benefits over and above those ordinarily required.

6. The appeal site comprises an open field outside the main built form of the developed footprint of Nettleham, which is identified as a large village. The field is not an allocated development site. The site is located between an ongoing development that has expanded the developed footprint south towards the appeal site, and a solitary dwelling at 40 Lodge Lane. No. 40 is clearly detached from the village and therefore does not form part of the developed footprint for the purposes of infill. Accordingly, the appeal site is located in the open countryside.

Appropriate Location

7. The proposal would result in a significant built form being introduced into the countryside on the periphery of the village. Because of the proximity of No. 40 the overall impact of the proposal would be to fundamentally alter the core shape and form of the settlement on its southern side. The site is not connected to the village by any footpath and the road is a relatively narrow unclassified road that is unlit and subject to the national speed limit. Therefore, while the site is relatively close to services within the village it would not provide adequate pedestrian permeability as required by Policy LP26 of the Local Plan. Therefore the appeal site would not be in an appropriate location and would not accord with Policy LP2 of the Local Plan.

Exceptional Circumstances

8. The appellants have offered to voluntarily deliver all of the properties to the higher accessibility standards of M4(2) of the Building Regulations. This would exceed the requirements of Policy LP10 of the Local Plan for 30% of the houses to meet this standard. However, a similar voluntary undertaking could be given at a site within the developed footprint of a large village. Given the number of houses proposed the scheme would make a very modest additional contribution over and above the requirements of the Policy which would be insufficient to overcome the harm to the spatial strategy and settlement hierarchy.
9. The appellants stated a willingness to provide a footpath to the front of the site and extend it to the entrance to the Rugby Club. However, this would require development of land in third-party ownership and no evidence has been provided that the footpath would be deliverable and I therefore give little weight to the stated willingness to provide the path.
10. The appellants also stated an intention to market the houses in the development to persons over 55 years of age which would satisfy a need for housing of older persons identified in Policy H-3 of the Nettleham Neighbourhood Plan 2015 (the NNP). However, the appellants say that while they would be agreeable to market the housing as described, they would prefer not to be required to do so by way of a planning obligation.
11. In the absence of a planning obligation the marketing of housing specifically to older persons would not be an enforceable requirement. The offer to market

houses on this basis does little more than comply with the policy requirements of the NNP. While the appellants would ultimately accept a planning obligation of required, no such obligation has been provided.

12. Planning obligations should only be sought where they satisfy the three tests in paragraph 56 of the Framework. The provision of housing for older persons would be directly related to the development and a contribution determined in accordance with Policy H-3 of the NNP would be fairly and reasonably related in scale and kind to the development. Given the requirements of Policy H-3, a planning obligation would be necessary to make a similar development acceptable in planning terms.
13. The proposals for accessible housing, a footpath and marketing to older persons could be achieved at other sites and therefore do not constitute exceptional circumstances. In the absence of a planning obligation the proposal for marketing to older persons would not be enforceable despite the policy requirement in the NNP. Therefore, the proposed development would not accord with Policy LP2 of the Local Plan

Other Matters

14. The appellants state that the decision notice does not reflect the Council's determination of the matter at its planning committee. However, notwithstanding comments made by individual members, the recommendation and resolution to refuse was clearly based on the facts and assessment in the officer's report which does reflect the reason for refusal.
15. Policy LP11 of the Local Plan provides that developments should make a provision for affordable housing where the proposal is for eleven or more dwellings or where the total floor space of the proposed units exceeds 1,000 square metres. The appellant has indicated a total gross internal floor space of 1,266 square metres and therefore the proposal falls within the scope of Policy LP11 for the provision of affordable housing. Paragraph 63 of the Framework states that affordable housing should not be sought for residential developments that are not major developments.
16. Policy LP11 identifies qualifying housing development sites by reference to floor space, which is not directly replicated in the definition of major developments in the Framework. However major developments are clearly identified by reference to their overall area so Policy LP11 should not be considered out of date if the appeal site would otherwise be within the definition. Major developments are defined for housing purposes as those where ten or more homes will be provided or where the site has an area of 0.5 hectares or more. The appellant states that the appeal site has an area of 0.6831 hectares. Accordingly, the scheme would be a major development and therefore would require a contribution towards affordable housing secured by way of a planning obligation.
17. The provision of affordable housing would be directly related to the development and the level of contribution determined in accordance with Policy LP11 of the Local Plan would be fairly and reasonably related in scale and kind to the development. Given the requirements of Policy LP11, a planning obligation would be necessary to make a similar development acceptable in planning terms but would not be sufficient in this case to overcome the want of exceptional circumstances required to justify the development.

18. I have been referred to an earlier appeal decision relating to a proposed development on the site¹. Although the decision was made before the adoption of the current Local Plan and the Framework, the main issue was broadly similar to the main issue in this appeal. Having reached similar conclusions to the Inspector I do not consider it necessary to further address the appeal decision.

Conclusion

19. For the reasons given and taking account of all material considerations, I conclude that the appeal should be dismissed.

D Guiver

INSPECTOR

¹ APP/N2535/W/15/3133902