



Appeal Decision

Site visit made on 6 November 2019

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/N2535/W/19/3235466

Land to the east of Laughton Road, adjacent to Irwin Road, Blyton, Gainsborough, 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 Philip Marris against the decision of West Lindsey District Council.
 - The application Ref 138971, dated 30 January 2019, was refused by notice dated 9 April 2019.
 - The development proposed is described as: 'Outline application for up to 9 dwellings with all matters reserved'.
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Decision

1. The appeal is allowed, and outline planning permission is granted for the erection of up to 9 dwellings with all matters reserved at Land to the east of Laughton Road, adjacent to Irwin Road, Blyton, Gainsborough, Lincolnshire in accordance with the terms of application Ref 138971, dated 30 January 2019, and subject to the conditions set out in the schedule attached to this Decision.

Procedural Matters

2. For clarity, I have taken the name of the appellant from the appeal form as it is more precise. I have also inserted 'Lincolnshire' in to the address in the banner heading as it is listed on the appeal form.
3. Outline planning permission is sought, with all detailed matters reserved for future consideration. Plans showing possible layout and access have been submitted. However, given that layout, scale, appearance, landscaping and access are reserved matters, I have treated the plans solely as an indication of how the site might be developed. I have determined the appeal on this basis.
4. Policy LP1 of the Central Lincolnshire Local Plan 2017 (LP) has not been cited on the Council's decision notice. However, the Council have supplied a copy of LP Policy LP1 with their Questionnaire. I will therefore not prejudice any party in taking this policy into consideration in the determination of this appeal.

Application for Costs

5. An application for costs was made by Mr Philip Marris against West Lindsey District Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues of this appeal are:

- whether the proposed development is consistent with the objectives of policies relating to housing in rural areas, including the effect on the character and appearance of the area; and,
- whether the proposed development would be in an appropriate location with respect to matters of flood risk.

Reasons

Character and appearance

7. The appeal site comprises an almost, rectangular plot of land, adjacent to a modern residential development on Irwin Road. The site would front onto Irwin Road, where access would be taken and would abut the existing residential development to the south. The site comprises a Grade 3 agricultural field that is located entirely within Flood Zone one.
8. LP Policy LP1 repeats the presumption in favour of sustainable development from the National Planning Policy Framework (the Framework). LP Policy LP2 provides for a spatial strategy and settlement hierarchy which categorises Blyton as a 'Medium Village' which can accommodate a limited amount of development in 'appropriate locations'. It is common ground between the main parties that Blyton is a sustainable village for potential new development.
9. An appropriate location is defined within LP Policy LP2 as 'a location which does not conflict, when taken as a whole, with national policy or policies in the Local Plan'. In addition, to qualify as an 'appropriate location', the site, if developed, would: i. Retain the core shape and form of the settlement; ii. Not significantly harm the settlement's character and appearance; and, iii. not significantly harm the character and appearance of the surrounding countryside or the rural setting of the settlement. The term 'appropriate location' is used throughout LP Policies LP2 and LP4.
10. LP Policy LP4 states that in each settlement in categories 5-6 of the settlement hierarchy, a sequential test will be applied with priority given as follows: i. Brownfield land or infill sites, in appropriate locations, within the developed footprint of the settlement; ii. Brownfield sites at the edge of a settlement, in appropriate locations; and, iii. Greenfield sites at the edge of a settlement, in appropriate locations. Proposals for development of a site lower in the list should include clear explanation of why sites are not available or suitable for categories higher up the list. This applies to the appeal site as it comprises a greenfield site in the third category, located in a 'Medium Village'. However, the Council do not dispute the appellant's findings regarding the sequential test in the Officer Report or its Statement of Case. On the evidence before me on this matter, I have little reason to disagree with the main parties on this issue.
11. Additionally, LP Policy LP4 highlights that settlements such as Blyton in the settlement hierarchy will be permitted to grow by 10% in the number of dwellings over the plan period, which is identified as a figure of 56 dwellings by the Council. The Council identify that the remaining growth in Blyton is 18no. dwellings in its submission taken from data, dated 7 October 2019. This figure has decreased by one dwelling since the publication of the Officer Report,

which stipulated a figure of 19 dwellings taken from data, dated 28 February 2019. On this basis the development as proposed would not require a demonstration of local community support. Furthermore, I note concern from the Council and interested parties that the proposed development would result in a notable proportion of the remaining growth in dwellings specified in the LP being taken up. However, on the evidence before me, I do not find this to be a sufficient reason to withhold planning permission.

12. The appellant has provided details of approved applications¹ in the Council area. However, relatively little detail has been provided regarding the particular planning backgrounds to these schemes. Consequently, I cannot be sure that these applications are entirely representative of the circumstances in the appeal before me. In any event all appeals are judged on their own individual merits. Accordingly, that is how I have assessed this appeal scheme.
13. I note that the proposal is located on the edge of the village in open countryside. However, I find that the site and the proposed development would be adjacent to the built-up area of the settlement and the site would positively relate to the adjacent built-up area. I find that the site would be effectively located within the limits of the existing development as it would not extend beyond the northern and eastern edges of the existing built environment. This would ensure that the proposed development would retain the core shape and form of the settlement, thus preventing unacceptable visual encroachment into the countryside.
14. I consider, that the resultant effect of the proposed development would therefore retain the core shape and form of the settlement, not significantly harming the character and appearance of the settlement or the surrounding countryside, and the rural setting of the settlement. I also note the topography of the site that generally increases in a direction away from the existing dwellings on Irwin Road, but find this not to be so severe that the proposed development would create a visually awkward feature in the surrounding area. In this instance, I consider the proposal would accord with the criteria in the LP for development proposals on sites of up to 9 dwellings in 'Medium Villages'.
15. For the above reasons, I find the proposed development is consistent with the objectives of policies relating to housing in rural areas, including the effect on the character and appearance of the area. Therefore, the proposed development would accord with the character, appearance and strategic housing aims LP Policies LP1, LP2, LP4 and the Framework.

Flood risk

16. It is not disputed by the main parties that the site is situated within Flood Zone 1² and is at a low risk of fluvial flooding, with a less than 0.1% annual chance of flooding from rivers or the sea. The proposed development is classed as Highly Vulnerable³. However, given its location in an area with a low probability of flooding from rivers or the sea, the appeal proposal would be appropriate development⁴ and neither the Sequential test or the Exception test apply.

¹ PA 132782 – Laughton Road, Blyton; PA 132781 – East Lane, Corringham; PA 135056 – Eastgate, Scotton; PA 134618 – Moortown Road, Nettleton

² Planning Practice Guidance (PPG) - Paragraph: 065 Reference ID: 7-065-20140306 Revision date: 06 03 2014

³ PPG - Paragraph: 066 Reference ID: 7-066-20140306 Revision date: 06 03 2014

⁴ PPG - Paragraph: 067 Reference ID: 7-067-20140306 Revision date: 06 03 2014

17. The Framework⁵ directs that in determining planning applications, Council's should ensure that flood risk is not increased elsewhere. Site-specific Flood Risk Assessments are required for certain developments within Flood Zone 1, including on sites 1.0 hectares or more in size, or on land which may be subject to other sources of flooding, where its development would introduce a more vulnerable use. A small section of the site is identified as having surface water drainage problems, which affects the south-east area of the site where Plot 6 is indicatively located. The appellant has supplied drainage details⁶ (the drainage scheme) including a foul and surface water drainage strategy, prepared by Civil and Structural Engineers that include infiltration tests.
18. There is some suggestion to the validity of the drainage scheme, but I do not find that the filtration test is less relevant given that it was undertaken on 25 July 2018, although I do acknowledge that this was during a summer month. Additionally, the locations of the trial pits have been questioned. However, given that the drainage scheme appears to have been produced by a suitably qualified authority and in the absence of an equivalent report on the part of the Council or any other party, I have given it significant weight. In the absence of substantiated evidence to the contrary, I have found no good reason to conclude that the drainage scheme is unreliable in this or any other significant respect.
19. The Shire Group of Internal Drainage Board's (IDBs) does not object to the proposal, subject to conditions. Although, I do note that advice is given that ground conditions in this area may not be suitable for soakaway drainage. However, the Lead Local Flood Authority (LLFA), which amongst other things is responsible for the management of surface water flood risk, were also consulted on the proposed development and did not object to it, subject to conditions. Additionally, I note that Severn Trent Water Ltd (STW) have raised no objection to the scheme.
20. There has been a considerable number of representations, including photographic evidence that has been received from interested parties as a result of the proposed development. This includes details of recent flooding events in Blyton on 26 October 2019, and on 8 and 9 November 2019. It is obvious that existing residents have experienced incidents of flooding, including those residing on the adjacent residential estate on Irwin Road. However, these are existing situations, which in the case of properties on Irwin Road have been attributed by some residents and the Council to misgivings in the construction of the development. Nevertheless, I have sympathy for existing residents in this regard.
21. However, on the details before me, no substantive evidence has been provided that causes me to question the consultation responses of the IDBs, LLFA or STW, with regard to flood risk at and from the appeal site. I find this to be a material consideration of significant weight in the determination of this appeal. Additionally, given that such matters as layout is yet to be determined, I am satisfied that a surface water drainage scheme for the site, based on sustainable urban drainage principles could be secured through the imposition of a suitably worded condition. This would ensure that future residents of the development and existing neighbouring residents and land would not be adversely affected by flooding.

⁵ Paragraph 163, including Footnote 50

⁶ g² Structural, Civil Engineering Consultants dated 19 January 2019.

22. For the above reasons, the proposed development would be in an appropriate location with respect to matters of flood risk and would not result in an unacceptable risk of flooding. The proposal would comply with the flood risk and drainage aims of LP Policy LP14 and the Framework.

Other Matters

23. The outline status of the current appeal proposal means that the required assessment of the effect of a proposal on the character and appearance and flood risk is more limited. Nevertheless, I find the submitted indicative drawings and the drainage scheme demonstrates the level of development that the appellant would provide and that a suitable drainage scheme could be incorporated within it. Additionally, as layout is a matter for future consideration, I am satisfied that a successful scheme of up to 9 dwellings could be produced through a reserved matters submission, which would avoid harm to the above matters through the redevelopment of this site as proposed.
24. A notable number of representations from local residents, a local Member and Blyton Parish Council have also expressed a range of concerns on the application including, but not limited to the following: highway safety, access; living conditions, ecology, school places, medical facilities, internet connections, provision of shops, services and play areas, unsold properties, disturbance during construction, amongst other things. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand these concerns, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.
25. Additionally, I have had regard to the concerns of neighbouring occupiers, regarding the unadopted status of Irwin Road. However, it is not a matter for my consideration in this appeal, and any ownership issues are a private matter between the relevant parties and not within my jurisdiction. In any event, I note that the Local Highway Authority have not raised any objections to the principle of the proposed development. Furthermore, issues surrounding potential damage to existing properties and their values cannot be considered as a planning consideration in the determination of this appeal.
26. There is no neighbourhood plan (NP) in force that could promote the proposed development. Although, the Council states that the proposed development could jeopardise the production of a NP, there is little evidence to support this assertion. I find that the proposed development in this instance should be determined in accordance with the development plan, and there are no material considerations that indicate otherwise.
27. The appeal site is said to be Grade 3 agricultural land, which would be lost through the proposed development. However, no substantive evidence has been provided to demonstrate that the loss of this field would significantly harm the agricultural function of the area. Furthermore, whilst Government guidance includes Grade 3a land as amongst the best and most versatile agricultural land, there is no evidence that the appeal site comprises Grade 3a land.
28. I have also had regard to concerns raised by the appellant about the way that the Council handled the application, but this does not affect the planning merits

of the case. I have considered this appeal proposal on its own merits and concluded that it would not cause harm for the reasons set out above.

Conditions

29. The Council has suggested conditions which I have considered, making amendments and minor corrections, where necessary, to ensure clarity and compliance with the tests contained within Paragraph 55 of the Framework and the Planning Practice Guidance. Conditions regarding reserved matters and time limits are required by statute.
30. In addition to conditions relating to the time limit for implementation, for reasons of certainty a condition requiring the development to be undertaken in accordance with approved plans is necessary. Conditions concerning foul and surface water drainage and a surface water drainage scheme would be necessary to protect the living conditions of future and existing nearby occupiers and land. A Condition relating to ecology is necessary in the interest of the natural environment.
31. Conditions concerning a Construction Method Statement would be necessary to protect the health and safety of construction workers, the living conditions of existing nearby occupiers and in the interests of highway safety. Conditions relating to the carriageway, access and footpath are necessary in the interests of highway and pedestrian safety.
32. A condition is necessary to provide higher accessible homes to provide solutions that contribute to meeting the housing needs of the housing market area and support the creation of mixed, balanced and inclusive communities.

Planning Balance and Conclusion

33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires this appeal to be determined in accordance with the development plan unless material considerations indicate otherwise.
34. The provision of what is likely to be family homes would generate additional social benefits. In addition, there would be economic benefits for the locality, both during construction and occupation of the dwellings. I do not find on the evidence before me that a development up to 9 no. dwellings as proposed would harm the strategic housing aims of the development plan, the character and appearance of the settlement and surrounding area or would be located in an inappropriate location regarding flood risk.
35. The proposal would comply with the development plan when taken as a whole, and there are no other considerations which outweigh this finding. It would also accord with the requirements of the Framework.
36. For the above reasons, I conclude that the appeal should succeed.

W Johnson

INSPECTOR

Schedule of Conditions

- 1) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 2) No development shall take place until, plans and particulars of the layout, scale and appearance of the buildings to be erected, the means of access to the site and the landscaping of the site (hereinafter called "the reserved matters") have been submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with those details. The scale reserved matter application(s) shall include a schedule of the type and mix of dwellings to be agreed as part of the application.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Development shall proceed in accordance with the following drawing numbers: Site Location Plan 1:2500; Proposed Site Layout 183-102-04 and Drainage Layout 15212 SE 001 4.
- 5) No development shall take place until a surface water drainage scheme for the site, based on sustainable urban drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall:
 - a) Provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
 - b) Provide attenuation details and discharge rates which shall be restricted to greenfield run-off rates;
 - c) Provide details of the timetable for and any phasing of implementation for the drainage scheme; and,
 - d) Provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime. The development shall be carried out in accordance with the approved drainage scheme and no dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full accordance with the approved details.
- 6) Foul and surface water shall be drained on separate systems.
- 7) No development shall take place until an ecological mitigation and enhancement strategy in accordance with the advice set out in paragraphs 5.4, 5.6 and 5.7 of the submitted extended phase 1 habitat survey has been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details.

8) No development shall take place, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- (i) storage of plant and materials used in constructing the development;
- (ii) the erection and maintenance of security hoarding;
- (iii) wheel cleaning facilities;
- (iv) measures to control the emission of dust and dirt during construction;
- (v) the hours during which machinery may be operated, vehicles may enter and leave, and works may be carried out on the site;
- (vi) Measures for tree and hedgerow protection.

9) No dwelling shall be commenced before the first 40 metres of estate road from its junction with Irwin Road has been completed.

10) Before any dwelling is occupied, all of that part of the estate road and associated footways that forms the junction with the main road and which will be constructed within the limits of Irwin Road, shall be laid out and constructed to finished surface levels in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority.

11) Before each dwelling is occupied, the roads and footways providing access to that dwelling, for the whole of its frontage from Irwin Road, shall be constructed to a specification to enable them to be adopted as Public Highway, less the carriageway and footway surface courses. The carriageway and footway surface courses shall be completed within three months from the date upon which the erection is commenced of the penultimate dwelling (or other development as specified).

12) No less than 30% of the total number of dwellings shall meet part M4(2) of the Building Regulations.

End of Schedule