



## Appeal Decision

Site visit made on 15 December 2020

by **K Savage BA MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19<sup>th</sup> January 2021

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### Appeal Ref: **APP/N2535/W/20/3259873**

#### **Land on the North East side of Catskin Lane, Walesby, 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 Mrs Elaine Hughes against the decision of West Lindsey District Council.
  - The application Ref 140560, dated 3 February 2020, was refused by notice dated 3 April 2020.
  - The development proposed is described as 'Outline application with all matters reserved for one dwelling.'
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#### **Decision**

1. The appeal is dismissed.

#### **Preliminary Matter**

2. The application was made in outline with all matters reserved. I have considered the appeal on this basis.

#### **Main Issues**

3. The main issues are:
  - i) Whether the proposal would represent a suitable location for housing;
  - ii) The effect of the proposal on the landscape and scenic beauty of the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB);
  - iii) The effect on the setting of the Grade I Listed Church of All Saints;
  - iv) The effect on the significance of non-designated heritage assets;
  - v) The effect of the proposal on protected species.

#### **Reasons**

##### *Location for housing*

4. The development plan for the district is the Central Lincolnshire Local Plan (April 2017) (the CLLP). Policy LP1 sets out the desire to deliver sustainable growth that brings benefits for all sectors of the community. Policy LP2 sets out the spatial strategy and settlement hierarchy for the district. The appeal site forms part of an open, agricultural field adjacent to Catskin Lane.
5. The nearest village, Walesby, is listed as a 'small village' under the sixth tier of Policy LP2, which permits small scale development of up to four dwellings in

- 'appropriate locations'. An 'appropriate location' is defined to mean a location which does not conflict, when taken as a whole, with national policy or policies in the CLLP, and where the development would retain the core shape and form of the settlement; not significantly harm the settlement's character and appearance; and not significantly harm the character and appearance of the surrounding countryside or the rural setting of the settlement.
6. The appellant argues that the proposal lies within the village and that there is no legal definition of 'the core shape of the settlement'. The Council does not refer me to any specific definition relevant to the defined 'small villages', but I note that elsewhere under Policy LP2, the term 'developed footprint' is defined as the continuous built form of the settlement and excludes individual buildings or groups of dispersed buildings which are clearly detached from the continuous built up area of the settlement. To my mind, a 'core shape' tallies with the idea of continuous built form of the main part of the settlement, excluding outlying development but, ultimately, it is matter of planning judgement based on the facts of the case.
  7. I saw that the appeal site is physically separated by an open field from the nearest dwelling to the main built up area of the village, Fieldview House. I saw Cliffe House, argued by the appellant to be within the village, to lie some distance past the appeal site along Catskin Lane as one travels out of Walesby, separated from the appeal site by agricultural fields. More generally, the surroundings of the appeal site when stood in front of it on Catskin Lane are decidedly rural in character, with expansive agricultural fields, trees and hedgerows dominating views in all directions. Therefore, in my judgement, the proposed site would not retain the core shape of the village but would be located in open countryside. I note a plan from the appellant showing other planning permissions in the village, but each of these appears to fall within the existing built-up area in accordance with the requirements of Policy LP2. Therefore, I do not regard them as comparable to the present scheme.
  8. In terms of character, the detached nature of the site means the dwelling would not be read in context with the rest of the village, but would stand physically and visually apart from the nearest development, and could not be described as 'infill' as contended by the appellant. Though firm details of the dwelling's scale or design are not provided at this stage, the development would require the creation of a vehicular entrance within the presently continuous hedgerow that would exacerbate the incongruous, urbanising presence of the dwelling within the undeveloped, rural surroundings.
  9. The appellant refers to the judgement in *Braintree*<sup>1</sup> in arguing the site is not 'isolated' in planning terms. This judgement established that 'isolated' in terms of the National Planning Policy Framework (the Framework) refers to physical proximity to other dwellings and settlements, and is a matter of judgement for the decision maker. In this case, the dwelling would be separated from the nearest dwelling by one field which, in physical terms, would not be significant and would not amount to an 'isolated home' for the purposes of the Framework. Therefore, it is not necessary to consider whether any of the exceptions at Paragraph 79 would be met.
  10. However, the proposed location on a narrow rural lane with no footpaths would not encourage walking or cycling. Walesby also has limited facilities and

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<sup>1</sup> Braintree District Council v SSCLG & Ors [2017] EWHC 2743 (Admin)

residents would be required to travel beyond the village for most needs, including work, shopping and education, necessitating use of the private car in most cases. I therefore find that the dwellings would not be located with good access to services and facilities and would conflict with the strategic aims of the settlement strategy of the CLLP to locate developments in accessible locations.

11. For the reasons given, I conclude that the proposal would not meet the requirements of Policy LP2(6) in terms of location or effect on character, nor would it accord with the related requirements of Policy LP4, which specifically addresses developments in smaller villages within the settlement hierarchy. There would also be conflict with Policy LP26 which requires development to achieve high quality sustainable design that contributes positively to local character, landscape and townscape, including retaining a tight village nucleus, and retaining natural features including hedgerows.
12. As the proposal would be located in open countryside, Part 8 of Policy LP2 and Policy LP55 become applicable. However, the proposal for a market dwelling would not meet any of the exceptions set out under these policies and, as such, the proposal would not be a supported form of development under the spatial strategy and would be an inappropriate location for housing.

#### *Effect on the Lincolnshire Wolds AONB*

13. The site is located within the Lincolnshire Wolds AONB. The Lincolnshire Wolds AONB Management Plan 2018-2023 describes the outstanding qualities of the AONB as including its unique physiography of upland chalk landscape extensively modified by glaciation, giving rise to striking valley features; its high scenic quality and charm deriving from its extensive use for agriculture and seasonally changing field and cropping patterns, rural scenes of farming activity and traditional village and farmsteads in brick and pantile.
14. Paragraph 172 of the Framework requires that great weight should be given to conserving and enhancing landscape and scenic beauty within Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.
15. Policy LP17 of the CLLP seeks to protect the intrinsic value of the landscape by responding positively to any natural and man-made features within the landscape which positively contribute to the character of the area, such as historic buildings and monuments, topography, trees and woodland, hedgerows and field patterns. It adds that these considerations are particularly important when determining proposals which have the potential to impact upon the Lincolnshire Wolds AONB. Policy LP26 reiterates these requirements in setting out the Council's expectations for developments achieving high design quality.
16. The appeal site, though not containing exceptional landscape features itself, forms part of the wider agricultural countryside which is identified as a key quality of the AONB. In combination with its immediate surroundings, it contributes positively towards the landscape and scenic beauty of the AONB.
17. The development of a single dwelling would introduce built development where there presently is none, well away from the nearest village in a detached and conspicuous position within an expansive, rural landscape. I acknowledge that the specific design of the dwelling would be addressed at reserved matters stage, and landscaping could reduce its visibility. However, features such as

the driveway entrance would still be highly visible, as would the dwelling when trees are not in leaf or if boundary hedges are cut down. Consequently, the development would interrupt the continuity of the landscape, and cause the loss of an open field and continuous hedgerow which contribute positively to the landscape and scenic beauty of the AONB.

18. The appellant refers to a planning permission granted in the village of Tealby, which also lies within the AONB around 2km away. This permission relates to a site in a village with an evidently different site context and likely several other material considerations taken into account by the Council, full details of which I do not have before me. As such, I do not regard this permission as directly comparable to the present appeal, which I have determined on its own merits.
19. For the above reasons, I conclude that the proposal would cause harm to the landscape and scenic beauty of the AONB and would conflict with the aforementioned aims of Policies LP17 and LP26 of the CLLP. In accordance with the Framework, I am required to attach great weight to this harm.

#### *Setting of All Saints Church*

20. The Grade I All Saints Church dates from as early as 1175 with elements added over time including the 13<sup>th</sup> century west tower, the north aisle from c.1300, 15<sup>th</sup> century battlements and clerestory, and 19<sup>th</sup> century vestry. The church is located on high ground and amid agricultural fields beyond the eastern edge of the village. Given its elevated location, it is visible in a number of longer distance views, giving it an expansive, open setting, which allows it to maintain an appropriate stature within the landscape and for its architectural and historic interest to be fully appreciated.
21. The Council's reason for refusal points to the absence of a heritage statement setting out the significance of the heritage asset and that subsequently, the appellant has failed to demonstrate that harm would not occur to its setting. No evidence pertaining to the significance of the listed building has been provided at appeal stage, save for the listing description submitted by the Council. Nonetheless, I have had regard to the statutory duty at Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their settings.
22. The proposed dwelling would be located more than 500m away to the south-west of the listed building, on lower ground separated by fields, tree lines and hedgerows. The Council indicates that the church is visible from certain parts of the wider field in which the application site is located. Access to the wider field was not possible at my site visit, but from my vantage point on Catskin Lane, the church was not visible due to the intervening vegetation and change in topography. A dwelling located toward the front of the field would therefore be unlikely to intrude into views of the listed building from Catskin Lane. These physical features would filter reverse views of the dwelling from the church in much the same way, and the two buildings are unlikely to be experienced simultaneously. Therefore, whilst the setting in which the listed building is experienced may encompass a wide area of the surrounding landscape, the proposed dwelling, owing to its low level position and surrounding physical features, would not form a conspicuous feature that would detract from the setting of the listed building.

23. For these reasons, I conclude that the proposal would not have a harmful effect on the setting of the Grade I listed church, and no conflict would arise with Policy LP25 of the CLLP, which requires development to protect, conserve and seek opportunities to enhance the historic environment of Central Lincolnshire.

*Effect on non-designated heritage assets*

24. The Council alleges that the proposal would result in the destruction of medieval ridge and furrow earthworks present within the field. Ridge and furrow earthworks are historic agricultural practices closely associated with medieval villages and, if present, would be of archaeological interest and constitute a non-designated heritage asset for the purposes of the Framework.
25. Lincolnshire County Council (LCC) Archaeology Section has commented that the site and surrounding fields contain upstanding medieval ridge and furrow earthworks. LCC adds that development would directly impact on the earthworks that would be levelled, but also break up the more extensive area of earthworks. The appellant points to a lack of visual evidence of ridge and furrow in aerial photography, and argues that any earthworks which did exist would have been eradicated by mechanical vehicles.
26. The appellant also refers to the development at Tealby where the development was granted notwithstanding the presence of ridge and furrow earthworks being raised by LCC. As before, I am not provided with full details of evidence before the Council or its subsequent considerations in this case to be confident that the proposals are comparable.
27. This aside, no evidence has been submitted by the appellant which evaluates the presence or otherwise of such features on the appeal site. Given the indications by LCC that ridge and furrow exists, I cannot rule out the presence of archaeological remains on the site. In the absence of further details as to the location, extent and form of any potential remains, I conclude that the effect of the proposal on a non-designated heritage asset would be unacceptable, contrary to Policy LP25 of the CLLP and Paragraph 189 of the Framework which requires developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation where development includes, or has the potential to include, heritage assets with archaeological interest.
28. Paragraph 197 of the Framework states that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. The evidence before me suggests the proposal may directly affect surviving earthworks and break up a more extensive area of earthworks which are indicated to be under increasing threat from changing agricultural practices and urban development. In light of this, I conclude on this issue that the harm arising from the adverse effect on the significance of this non-designated heritage asset should be afforded significant weight in the overall planning balance.

*Effect on protected species*

29. Policy LP21 of the CLLP requires development to protect, manage and enhance the network of habitats, species and sites of international, national and local importance, and minimise impacts on, and seek to deliver net gains in, biodiversity and geodiversity. This reflects Paragraph 170 of the Framework

which states that planning decisions should minimise impacts on and provide net gains for biodiversity.

30. I have no evidence before me to indicate the appeal site forms part of an area designated for specific biodiversity characteristics. However, the Council points to the presence of ponds and an open drain in the vicinity of the site and the possible presence of species protected by law, including the great crested newt. These and the widespread trees and hedgerows may provide suitable habitats for protected species. In the absence of a habitat survey, I am unable to conclude that the proposal would not have an adverse impact on species protected by the Wildlife and Countryside Act 1981, or other specific legislation.
31. A planning condition is suggested by the appellant. However, Circular 06/2005<sup>2</sup> states that the presence of a protected species is a material consideration when a development is being considered which would be likely to result in harm to the species or its habitat. It goes on to state at Paragraph 99 that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established *before* planning permission is granted. It adds that surveys should only be required by condition in exceptional circumstances, such as where an initial survey has been undertaken and a mitigation strategy prepared, and all that was required were final checks immediately prior to commencement of construction to ensure that no protected species had recently colonised the site. However, given the limited information currently available in relation to the appeal site the use of a pre-commencement condition would not be an appropriate course of action in this case.
32. The absence of sufficient information means that I cannot rule out potentially significant harm to protected species. As such, I conclude that the scheme would be contrary to Policy LP21 of the CLLP which seeks to protect, manage and enhance the network of habitats, species and sites of international, national and local importance. There would also be conflict with the Framework, which states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

### **Other Matters**

33. The Council has not opposed the proposal on the basis of harm to highway safety, though the detailed matter of access would be addressed at reserved matters stage. Nonetheless, my observations on site do not lead me to a different view to the Council. An absence of harm in this respect is a neutral factor weighing neither for nor against the development.
34. The appellant argues that the size of the site does not lend itself to any specific use other than residential building land. The site forms part of a clearly agricultural field and no evidence is adduced that the field could not continue to be put to such use. I afford negligible weight to this argument.
35. I have had regard to other matters raised, including the comments of the Parish Council, references to the appellant's local connections and pre-planning advice given in the 1990s. However, none of these matters are significant enough to alter my conclusions on the main issues or weigh materially for or

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<sup>2</sup> Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System



against the proposal in the planning balance and so it is not necessary to address them further.

### **Planning Balance**

36. Paragraph 11(d)(i) states that the presumption in favour of sustainable development does not apply where application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Land designated as AONB is one such area or asset, as made clear by Footnote 6 of the Framework. In view of the harm to the AONB that I have identified, the presumption in favour of development is not engaged in this case, and the proposal falls to be determined against the development plan, taking account of other material considerations.
37. The proposal would provide an additional dwelling which would add to the District's housing stock in line with the government's desire to boost the supply of housing. However, the scale of the development means this would be no more than a limited benefit in the proposal's favour. There would also be economic benefits associated with the construction of the dwelling, use of local services by future occupants and additional Council Tax and New Homes Bonus receipts, though again, such benefits would be limited overall. The proposed use of sustainable materials and renewable technologies would be further benefits, though as a single dwelling these would not be significant and would attract limited weight.
38. Set against these benefits, there would be significant environmental harm arising from the conflict with the District's settlement strategy and reliance by future occupants on the private car, the harm to the Lincolnshire Wolds AONB, harm to a non-designated heritage asset and harm to protected species. This results in conflict with the development plan, taken as a whole, to which I afford significant weight.
39. In my judgement, the benefits of the proposal, taken together, would not amount to material considerations which would outweigh the several identified conflicts with the development plan and would not justify a decision being made other than in accordance with the development plan, taken as a whole.

### **Conclusion**

40. Therefore, for the reasons given and having regard to all relevant matters raised, I dismiss the appeal.

*K Savage*

INSPECTOR