



Planning Committee

16 November 2016

Subject: Determination of Planning Appeals

Report by:

Chief Operating Officer

Contact Officer:

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Purpose / Summary:

The report contains details of planning applications that had been submitted to appeal and for determination by the Planning Inspectorate.

RECOMMENDATION(S): That the Appeal decisions be noted.

IMPLICATIONS

Legal: None arising from this report.

Financial : FIN/92/17 Where a cost order is issued by the Planning Inspectorate, relevant costs incurred by the appellant in relation to their planning will be submitted to the Council in order for agreement to be reached on the amounts of costs payable.

It is considered that costs of appeals included in this report can be met from within existing budgets.

Staffing : None arising from this report.

Equality and Diversity including Human Rights : The planning applications have been considered against Human Rights implications especially with regard to Article 8 – right to respect for private and family life and Protocol 1, Article 1 – protection of property and balancing the public interest and well-being of the community within these rights.

Risk Assessment : None arising from this report.

Climate Related Risks and Opportunities : None arising from this report.

Title and Location of any Background Papers used in the preparation of this report:
Are detailed in each individual item

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**

Appendix A - Summary

- i) Appeal by Mr Wilf Walker against the decision of West Lindsey District Council to refuse planning permission for three bungalows with attached garages on land adjacent to 8 Church Road, Laughton, Gainsborough.

Appeal Dismissed - See copy letter attached as Appendix Bi.

Officer Decision – Refuse permission

- ii) Appeal by W E Barton Ltd against the decision of West Lindsey District Council to refuse planning permission for prior approval of proposed change of use of agricultural building to 3 dwelling houses at Clay Farm, Clay Lane, Gate Burton.

Appeal Dismissed - See copy letter attached as Appendix Bii.

Officer Decision – Refuse permission

- iii) Appeal by Mr J Bateman against the decision of West Lindsey District Council to refuse planning permission for outline planning application to erect three 4 bedroom detached dwellings - all matters reserved – at 23 High Street, Sturton by Stow.

Appeal Dismissed - See copy letter attached as Appendix Biii.

Officer Decision – Refuse permission

- iv) Appeal by Dr Chris Hacking against the decision of West Lindsey District Council to refuse planning permission for a dwelling in the grounds of 23 Sudbeck Lane, Welton.

Appeal Allowed and Permission Granted - See copy letter attached as Appendix Biv.

Officer Decision – Refuse permission

- v) Appeal by PCC Consultants Ltd against the decision of West Lindsey District Council to refuse outline planning permission for new residential development with a mixture of three and four bedrooms with associated parking, private gardens and landscaping on land on the North Side of Waterford Lane, Cherry Willingham.

Appeal Allowed, Costs Awarded and Permission Granted - See copy letters attached as Appendix Bv.

Officer Recommendation – Grant permission

Committee Decision – Refuse Permission

Appeal Decision

Site visit made on 20 September 2016

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 12th October 2016

Appeal Ref: APP/N2535/W/16/3152199

Land adjacent to 8 Church Road, Laughton, Gainsborough DN21 3PP

- 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 Wilf Walker against the decision of West Lindsey District Council.
 - The application Ref 134072, dated 23 February 2016, was refused by notice dated 14 April 2016.
 - The development proposed is 3 no bungalows with attached garages.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made in outline with all matters reserved for future consideration except for the means of access and layout. Drawings showing the site location, block plan, layout and location of access points were submitted with the application and I have had regard to these in determining this appeal.
3. In the interests of clarity, I have slightly amended the address to reflect that in the appellant's appeal form and Council decision letter, as this provides a more accurate description of the location than that given on the original planning application form.
4. The Council has confirmed that since the consideration of the original application, the Central Lincolnshire Local Plan Proposed Submission (CLLP) document (2016) has entered the formal Examination period. Whilst I have had regard to the stage the plan is at in its preparation and the consistency of policies with the National Planning Policy Framework (the Framework) I have not been provided with any information relating to the extent to which there are unresolved objections to relevant policies. As such, and in line with Paragraph 216 of the National Planning Policy Framework (the Framework), this has reduced the weight that I have afforded these policies in my decision.

Main Issues

5. The main issue is (i) the effect of the development on the character and appearance of the area and (ii) whether the development would represent sustainable development in light of local and national policies on new housing in the countryside.
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Reasons

Character and appearance

6. The appeal site forms part of a large open agricultural field on the edge of the village of Laughton. Laughton is identified as a 'small rural settlement' by saved policy STRAT3 in the West Lindsey Local Plan First Review (2006) (WLLP). This is the lowest category in the settlement hierarchy, reflecting the limited number of services and facilities within the village. The site is outside the defined settlement boundary and for the purposes of local and national policy, should be considered as open countryside.
7. The appeal site forms the start of a large and relatively unbroken swathe of generally flat open countryside stretching out from the edge of the village on this side of the road. 8 Church Road, which is a large and prominent detached dwelling, lies to one side of the appeal site and provides a strongly defined edge that demarcates a clear change in character between the built form of the village and the open countryside beyond. A number of detached properties of different styles, layouts and ages are located opposite the site. As a result, the site forms part of an attractive open setting to the edge of the village which reinforces the rural character of the settlement.
8. The site has no screening of any form and would be extremely prominent in the street scene, particularly when travelling toward the village along Church Road. The southern and eastern boundaries of the site would not follow any natural or logical features, but would simply cut into the open field. The plans provided indicate that the three bungalows would be arrayed in a uniform row across the width of the site. The formal and linear layout of the dwellings in this exposed location would strike a jarring contrast with the more informal and irregular form of development on the opposite side of the road. This would not reflect the prevailing character of this part of the village. Furthermore, I do not consider that this would form a natural extension to the village, or that it would be capable of being absorbed into the existing built form. Rather, the siting and layout of the bungalows would appear as an incongruous row of dwellings, which would create a new and unsympathetic artificial edge to the settlement with little regard to its character or that of the wider area.
9. The appellant has suggested that any unacceptable harm to the setting of the village could be addressed through landscaping. However, this is a matter reserved for future consideration and, with no details before me, I have insufficient evidence to conclude that this would be capable of providing suitable or sufficient mitigation for the unacceptable level of harm I have identified.
10. I recognise there is existing development on the opposite side of the road to the site but this does not alter my view that the siting of three bungalows in this location, along with all associated domestic paraphernalia, would result in an unduly discordant and urbanising encroachment into the open countryside. The development would significantly diminish the contrast between the settlement and the countryside to the detriment of the rural character and setting of the village. There would, therefore, be material harm to the character and appearance of the area in conflict with WLLP policy NBE20 which seeks to resist development that detracts from the rural character of the settlement edge. This policy has a high degree of consistency with the

Framework, which recognises the importance of protecting the intrinsic beauty of the countryside.

Sustainable development

11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 dictate that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. WLLP Policy STRAT12 states that development will not be permitted outside the defined settlements listed in Policy STRAT3 unless it is essential to meet the needs of the specific uses listed in the policy. The development would not meet these criteria and thus there would be conflict with the WLLP. Policy STRAT9 establishes the priority for the release of housing land, with greenfield sites being the lowest priority. However, this does not completely preclude greenfield development.
12. The Council have confirmed that the WLLP does not contain sufficient allocations to meet housing needs in the area and departures to the plan are necessary to make up the shortfall. The relevant policies for the supply of housing in the WLLP are, therefore, out of date. In these circumstances, Paragraph 14 of the Framework requires planning permission to be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
13. The Framework states that housing in rural areas should be located where it can help to maintain or enhance services and facilities within settlements. In addition, it states that isolated development in the countryside should be avoided unless there are special circumstances. STRAT12 has some consistency with the Framework in this regard. However, a blanket restriction of development outside defined villages is not consistent with the Framework, particularly where the underlying aim, as expressed in the supporting text to the policy, is to protect the character of the countryside. In the context of this appeal, this issue is adequately addressed by policy NBE20 and the Framework.
14. The Framework requires the balance between the benefits and impact of a development to be considered. As such, this limits the weight that I have given to STRAT3, STRAT9 and STRAT12. In this context, the fact the development would be on a greenfield site and is outside the defined settlement boundary are not the determining factors in the consideration of the appeal. This is also confirmed by the Council's acceptance that exceptions to STRAT12 will be required to meet the district's housing needs.
15. The issue of whether the site constitutes sustainable development against the policies of the Framework must still be considered. Paragraph 7 of the Framework identifies the three dimensions to sustainable development as social, economic and environmental.
16. The Framework refers to a need for accessible local services. The village contains a primary school, two churches, a day nursery and a pub. While this would provide some service provision for future occupants, there would still be a requirement to visit other settlements to meet most day-to-day needs, including shopping, healthcare, leisure and, in all likelihood, employment. This limits the weight I attach to the social dimension of the scheme.

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17. The lack of local services would lead to an increased need to travel. There is a reasonably frequent bus service running through the village between Scunthorpe and Gainsborough. I observed that the bus stops were roughly a five minute walk from the site. Part of the pedestrian route would have no pavement, but I did see street lighting in the vicinity of the site. This situation is not unusual in a rural location and while the route is not ideal, it is only a short distance and I do not see it discouraging those who are inclined to use public transport. There would, therefore, be some opportunity for residents to use alternatives to the car which weighs in favour of the proposal, to an extent, from an environmental perspective. The lack of services within the village is still likely to lead to an increase in car journeys, even if only to other nearby villages. While this would not be unusual in a rural location, it does weigh against the development.
 18. There would also be inevitable economic activity and jobs associated with the building of the houses though these would be temporary and would apply to any housing development. There would be some expenditure on services somewhere. However, as there are few services within the village, it is likely that the majority of the expenditure would take place elsewhere. Therefore, the benefits would be the same regardless of where the house was constructed, so carry limited weight in terms of this development.
 19. The creation of three homes would contribute to the social role of sustainable development. The Council have provided information which they suggest demonstrates they have a five year supply of housing land. As this is subject to an on-going Examination, I have given this limited weight in my decision. Therefore, in the context of the WLLP being out of date and the Framework's stated aim of boosting the supply of housing, the delivery of housing is an important factor. However, I have already concluded that there would be material harm to the character and appearance of the area and this would conflict with the environmental role of sustainability. While I have noted the potential for using public transport, the lack of service provision and the increased need to travel would still contribute to the negative effect in terms of the environmental dimension of sustainability.
 20. While I have given limited weight to the conflict with policies STRAT3, STRAT9 and STRAT12, I consider that the environmental harm resulting from the development would significantly and demonstrably outweigh the benefits of three additional dwellings. As such, the development would not constitute sustainable development and the 'presumption in favour' set out in Paragraph 14 of the Framework does not apply.

Other matters

21. The appellant has drawn my attention to the Policy LP2 in the emerging Local Plan which indicates that small villages such as Laughton may be capable of accommodating a small amount of growth. I also understand that a Neighbourhood Plan is in the very early stages of preparation and that a call for sites has been made. It is suggested that this demonstrates Laughton is a sustainable location for development. However, neither the policy nor the call for site establishes precise locations for development and thus each individual application must be considered on its own merits. As such, the harm I have identified outweighs the benefits associated with the development. Therefore,

neither policy LP2 or the fact that a Neighbourhood Plan is being prepared would alter this conclusion.

Conclusion

22. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR

Appeal Decision

Site visit made on 27 September 2016.

by Martin H Seddon BSc DipTP MPhil MRTPI

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

Decision date: 12 October 2016

Appeal Ref: APP/N2535/W/16/3151561

Clay Farm, Clay Lane, Gate Burton, Gainsborough, Lincolnshire, DN21 5BE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order required under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- The appeal is made by W E Barton Ltd against the decision of West Lindsey District Council.
- The application Ref: 133584 dated 8 October 2015 was refused by notice dated 11 March 2016.
- The development proposed is prior approval of proposed change of use of agricultural building to 3 dwelling houses.

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the transport and highways impacts of the proposed development.

Reasons

3. Access to the proposed dwellinghouses from the A156 would be via Clay Lane. The distance from the A156 to the appeal site along Clay Lane is around 1.4 kilometres. Clay Lane has a single surfaced carriageway varying from approximately 3 metres to 2.8 metres in width. It is not a through road and it serves Clay Farm House and Sweet Meadow Cottage. It has grass verges to either side. Clay Lane climbs for over 200 metres from Gate Burton to a bend in the road and then, after a second bend, falls down towards a further bend, then a rail bridge and the appeal site. Visibility is somewhat restricted at the bends and there are few places to pass unless vehicles pull over onto the grass verges. The majority of the carriageway is adopted from the A156 until the rail bridge.
4. It was clear at the site visit, from tracks in the verge, that vehicles were having to leave the carriageway just beyond the dwellings at the A156/Clay Lane junction to either turn around or avoid oncoming vehicles. Grassed field accesses are located past the first section of bends. There is another field access at a bend before the rail bridge and a surfaced area next to the rail bridge. These latter two points have a degree of surfacing that would allow vehicles to pull off the carriageway in a relatively safe manner. However, there is a long straight stretch of Clay Lane and the area of bends towards the A156

where it is likely that vehicles travelling in opposing directions could meet, necessitating drivers to pull onto the grass verges or to reverse to one of the existing points where passing is possible.

5. The appellant has submitted a highway report which concludes that the increase in traffic from the proposal will be imperceptible even in the context of the low baseline flows along Clay Lane. The Highway Authority estimates that there would be an increase of around 21 trips per day. It is advised by the appellant that there are no safety issues, with no recorded accidents in the last 10 years, and that the geometry is constrained, which has the effect of reducing vehicle speeds. There was previously a dog kennel business at Clay Lane which generated traffic including delivery vehicles, but that has closed. The reduction in storage facilities at the barns would also reduce the number of movements of agricultural vehicles. The appellant considers that the residual cumulative impact of the traffic generated by 3 dwellings will not result in a severe impact on the highway network, therefore there is no justifiable rationale to resist development on highway grounds.
6. Paragraph 32 of the National Planning Policy Framework (NPPF) advises, amongst other things, that plans and decisions should take account of whether:
 - safe and suitable access to the site can be achieved for all people; and
 - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
7. From all the evidence before me I find that Clay Lane would not be a suitable access to the site in its present condition because of the likelihood of opposing vehicles meeting on the single carriageway road with no convenient space to pass. The appellant has provided no compelling reasons why improvements could not be undertaken to provide formal passing places, appropriately surfaced in view of the rural location, in order to limit the impacts of the development in terms of inconvenience from opposing vehicle movements and damage to verges.
8. I accept that the increase in traffic using Clay Lane would be limited and that the appellant has control over the movements of larger agricultural vehicles at harvest times. However, there would be a greater mix of residential traffic and farm vehicles using Clay Lane than at present. It is also likely that the 3 dwellings would occasionally generate larger vehicles such as delivery wagons. The lack of passing places could be a particular problem for private cars in harsh winter conditions. In terms of the severity of impact I consider that, despite the location of the proposal in a rural area, the substandard width of the road and lack of surfaced passing places would be a constant concern for any occupants of the proposed dwellings when driving along Clay Lane.
9. All other matters raised have been taken into account. However, for the reasons given above the appeal is dismissed.

Martin H Seddon

INSPECTOR

Appeal Decision

Site visit made on 27 September 2016

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

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

Decision date: 14th October 2016

Appeal Ref: APP/N2535/W/16/3154229

23 High Street, Sturton by Stow, Lincoln, LN1 2AE

- 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 J Bateman against the decision of West Lindsey District Council.
 - The application Ref 132943, dated 20 April 2015, was refused by notice dated 11 February 2016.
 - The development proposed is an outline planning application to erect 3no. 4 bedroom detached dwellings - all matters reserved.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of the proposal from the Council's decision notice. This more accurately describes the proposals and this is reflected by the appellant on their submitted appeal form.

Main Issues

3. The main issues are the effect of the proposed development upon the a) character and appearance of the area, b) flood risk and c) highway safety.

Reasons

Character and Appearance

4. The appeal site comprises of an open grassed field which is located behind the rear garden of No23 High Street, and separated by a wire fence and gate along its eastern boundary. Boundaries to the north, south and west of the appeal site comprise of mature hedgerows and trees with open fields and paddocks beyond.
 5. Due to the length of the rear garden to No23, the appeal site is located a reasonable distance behind this property. The general area comprises of detached dwellings fronting the High Street as ribbon development, typically set in large plots, with the open countryside beyond. I consider that the appeal site is clearly distinctive from the built up character of the village, and is characterised by its open and rural nature, which positively contributes to the rural landscape setting of Sturton by Stow.
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6. The loss of this area to built development would therefore intensify and consolidate the built form of Sturton by Stow into its surrounding landscape, giving rise to an urbanising effect. The overall impact would be to intrude into and erode the open and rural character of the site, causing harm.
7. The appellant has drawn my attention to recently approved development at No37 High Street, however while I do not have any details of the particulars of this case which led to the approval by the Council, I understand that this development will be located within the garden area of this dwelling, rather than into open fields beyond the residential curtilage.
8. In respect of future development proposals for 50 dwellings adjacent to the appeal site itself, details of this scheme have not been provided to allow for any meaningful analysis. In any case, I have determined this appeal on its planning merits, based on the information before me.
9. Furthermore, I agree that allowing the appeal would make it more difficult for the Council to resist future planning applications for similar developments in the area, which would exacerbate the harm I have identified above.
10. On this matter I therefore conclude that the development would adversely affect the open and rural character of the area. This would be in clear conflict with saved policies STRAT 1, STRAT 12, RES3, NBE10 and NBE20 of the West Lindsey Local Plan First Review 2006 (LP) which, amongst other things, seek to restrict encroachment into the countryside and protect rural landscape character. The proposal also fails to accord with the National Planning Policy Framework (the Framework) which recognises the intrinsic character and beauty of the countryside.

Flood Risk

11. It is understood that adequate drainage would not be possible to be achieved through conventional means such as soakaways and connections to main drainage. No details of proposed drainage systems have been submitted with the application to allow for the assessment of the effects of such measures.
12. In assessing the principle of the erection of 3 dwellings in this location, I consider that there is a significant degree of uncertainty surrounding the impacts of this locally, given the specific ground conditions of the site and the potential risks involved. I am also mindful that Planning Practice Guidance (PPG) states that "*applications for developments relying on anything other than connection to a public sewage treatment plant should be supported by sufficient information to understand the potential implications for the water environment.*" (Reference ID: 34-020-20140306). I am therefore not persuaded that such details can be conditioned on the grant of consent.
13. Accordingly, I consider that it needs to be clearly demonstrated why development would not have a detrimental effect in respect of drainage and flood risk. The lack of any such information runs counter to saved LP Policy STRAT 1 which seeks to avoid the development of land where there is flood risk.

Highway Safety

14. The Council refused the proposals on highways grounds in respect of a lack of visibility from users. However, the application is in outline with all matters

reserved and therefore there are no specific details in respect of access into the appeal site.

15. At my site visit, I observed that High Street does bend around a corner in proximity to the appeal site which would limit visibility to the North. However, No23 High Street is set within a reasonably large plot with a wide frontage to the road. I am also mindful that, subject to meeting standard highway requirements in respect of visibility splays and the width of the access, the Highways Authority raised no objection to the application.
16. On this basis, I conclude that the development would not be likely to give rise to material harm to highway safety, subject to details to be assessed at the reserved matters stage in accordance with saved Policies STRAT 1 and RES 1 of the LP in respect of the provision of satisfactory access.

Other Matters

17. There is no evidence in respect of the support of the Council for proposals at pre-application stage, and following the determination of the application. I therefore have no reason to consider that the alleged advice was anything other than informal. In any case, under section 78 of the Town and Country Planning Act 1990, it now falls to me to determine the appeal, and I have done so based upon the submitted evidence and the planning merits of the case.

Conclusion

18. While I have found that highway safety would not likely to be compromised, subject to detailing at the reserved matters stage, this does not outweigh my findings in respect of character and appearance and flood risk. The adverse impacts of the proposal clearly and demonstrably outweigh any benefits of the proposal.
19. For the reasons given above, and taking into account all matters raised, I dismiss the appeal.

C Searson
INSPECTOR

Appeal Decision

Site visit made on 4 October 2016

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 25th October 2016

Appeal Ref: APP/N2535/W/16/3154465

23 Sudbeck Lane, Welton, Lincolnshire LN2 3JF

- 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 Dr Chris Hacking against the decision of West Lindsey District Council.
 - The application Ref 133479, dated 2 September 2015, was refused by notice dated 5 February 2016.
 - The development proposed is a dwelling in the grounds of 23 Sudbeck Lane, Welton.
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Decision

1. The appeal is allowed and planning permission is granted for a dwelling in the grounds of 23 Sudbeck Lane, Welton at 23 Sudbeck Lane, Welton, Lincolnshire LN2 3JF in accordance with the terms of the application, Ref 133479, dated 2 September 2015, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are (i) whether the proposed development would preserve or enhance the character or appearance of the Welton Conservation Area (CA) and (ii) the effect on the living conditions of the occupants of 23 and 31 Sudbeck Lane, with particular regard to outlook, privacy and noise.

Preliminary Matter

3. The Council's evidence indicates that the Welton Neighbourhood Plan (WNP) was formally made on 5 September 2016 subsequent to the submission of the appeal. It is clear from the evidence that both parties were aware of the status of the document and had the opportunity to comment on its implications in their submissions. I have therefore determined the appeal on the basis of the national and local policies adopted at the present time.

Reasons

Character and appearance of the Conservation Area

4. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. This is reflected in Paragraph 131 of the National Planning Policy Framework (the Framework) which states that in determining planning applications, the desirability of sustaining and enhancing the significance of heritage assets should be taken into account.
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5. The appeal site is part of the rear garden of 23 Sudbeck Lane which is a four bedroomed dormer bungalow with detached garage built in the 1970s. The house is set back from the roadside within a spacious plot. To the rear of the garden is a dense bank of mature landscaping that separates the site from the brook which runs along the rear of the lane. The site also backs on to a recreation ground. The common boundary with No 21 is made up partially of an outbuilding that would be directly adjacent to the extended driveway and a high hedgerow which runs the length of the garden. On the other side of the site, a mixture of boundary wall and landscaping provide the boundary to No 31.
6. I have been provided with the Welton Conservation Area Appraisal (CAA) (1989) which has provided useful information on the historical significance of the area. This indicates that the main aspects of importance are the well preserved medieval street pattern, surviving village greens and the important older buildings which typify the village's rural heritage. Sudbeck Lane is described as having a character "unlike streets in the rest of the village", mainly due to its narrow winding nature, mature landscaping and a number of 18th and 19th century buildings. However, I note that the only reference made to the northern side of the lane, where the appeal site is located, is to the mainly modern houses having less of an effect on the street scene, being set back from the road behind mature front gardens. No mention is made of any importance of these plots to the agrarian history of the village or of their significance to the CA.
7. Reference has been made by the Council regarding the importance of the site to the 'toft and croft' settlement pattern which is a highlighted characteristic of the village. However, the CAA does not specify the location of examples of this pattern exist and the appellant has provided evidence which challenges the Council's assertion that the site typifies this arrangement. Having considered all the information provided, I find the evidence for the site being an example of the 'toft and croft' character somewhat inconclusive. In any case, many dwellings on the northern side of the lane, including the appeal site, show little sign of an agricultural past, either in terms of their design or the layout of the buildings within their plots. Rather, they are of a more modern and suburban character, with large front gardens and drives. Notwithstanding this, I have considered the Council's concern that backland development is not characteristic of the area and the loss of the garden space would undermine the intrinsically rural and agricultural nature of the lane, leading to the unacceptable urbanisation of this low density rural settlement.
8. In the context of the more modern and less distinctive development on the northern side of the line, the dwelling would have very little impact on the rural character of the lane or wider village to any material degree. The importance of this part of the village comes primarily from its distinctive street scene and the nature of the older buildings, particularly those on the southern side of the lane. The narrow winding nature of the road, the verdant landscaping and the character, appearance or setting of key buildings would not be affected by the development. The dwelling would not be prominent from the roadside and would be well screened. There would be only glimpsed views of the dwelling between existing buildings and from a short stretch of the public footpath running by No 31. Neighbouring residents, including those living at No 23, would obviously be able to see the dwelling, but the visual impact on the wider character or appearance of the area would be minimal. Screening from the

recreation ground to the rear of the site is extensive. There may be more visibility in the winter months but even then the dwelling would be seen in the same context as the existing dwellings on Sudbeck Lane and would not appear incongruous.

9. I recognise the Council's concern about the intensification of the plot and loss of the open garden space. However, there are examples of development behind the frontage building on both sides of Sudbeck Lane and in other parts of the CA. Moreover, the dwellings along the northern side of the road have a varying relationship with the roadside, some of which sit very deep within their plots and thus it is not unusual to see buildings further from the roadside. While the exact circumstances and nature of these examples may differ to some extent from the proposal before me, they have helped to confirm my view that well designed and sympathetic development can take place without material harm to the character, appearance or significance of the area. The loss of this small area of garden space would not, in my view, lead to an unacceptable urbanisation of the village.
10. The Council have not raised any particular concern about the design of the dwelling. It has been designed to reflect the local character and, while it would not be particularly prominent in the street scene, it would be a sympathetic addition to the area. The proposed materials and features such as the tumbling brick gable are appropriate to the area and will help to further reduce any effect on local character. The extended driveway would not have a material effect on the appearance of the CA. There are a number of examples of long drives on the northern side of Sudbeck Lane and this would not be a particularly uncharacteristic feature.
11. As a result of the above, I consider the development would have a neutral effect on the rural nature of the CA and thus find it would preserve its character and appearance. Accordingly, there would be no conflict with West Lindsey Local Plan¹ (WLLP) policy NBE1 which seeks to ensure development preserves or enhances the CA. Moreover, there would be no conflict with policy RES3 which specifically seeks to ensure backland development does not adversely affect the general quality of the area or materially change the form, structure or character of the village. The development would also be consistent with policies STRAT1, STRAT7 and RES1 which, amongst other things, seek to ensure development is not significantly detrimental to local character. I also see no conflict with policy STRAT3 which appears simply to set out the settlement hierarchy.
12. While not mentioned in the reason for refusal, policy DP1 of the WNP has been referred to in the Council's evidence and I see no conflict with the requirement of this policy for development to respect local character. Finally, there would be no conflict with the Framework in relation to sustaining the significance of a heritage asset.

Living Conditions

13. The Council have raised some concern over increased levels of noise resulting from the extended access which would run between No 21 and 23. There would be an increase in vehicular movements to the side of No 23 and this is likely to have some impact on the living conditions of the occupants. The

¹ West Lindsey Local Plan First Review (2006)

movements associated with the new house however are unlikely to be excessive and the gap between the side of No 23 and the boundary is reasonably wide. As such, the impact is unlikely to reach an unacceptable level. The separation and boundary treatment between the access and No 21 would also ensure there would be no unacceptable impact on the living conditions at this dwelling.

14. The dwelling would come to within 1m of the common boundary with No 31 and would clearly alter the existing outlook from that dwelling. However, there would still be a reasonable gap between the buildings and No 31 would angle away from the new building. This would help to reduce the direct effect on outlook as the windows in the nearest part of No 31 would not be directly facing the development. Although the boundary treatment is quite high, the ground floor windows of No 31 will allow some visibility across the garden. Although the outlook from these would be restricted to an extent, I do not consider that the development would be sufficiently large or close to the dwelling to create an unacceptable feeling of enclosure or oppression, either within the house or garden of No 31.
15. While not referred to as a concern in the original officer report, the Council's appeal statement makes reference to increased potential for overlooking, mainly in relation to No 31. This is unlikely to be an issue in relation to overlooking *from* the new dwelling as there would be no windows in the roof facing this direction and ground floor windows would not provide views over the high boundary. The upper floor window of No 31 would provide only an oblique view of the ground floor bedroom window, which itself would be restricted at times by existing landscaping. There would be no significant opportunities for overlooking into the private amenity space of the new dwelling from No 31.
16. In terms of the relationship with No 23, there would be only one ground floor window facing the existing dwelling and this would be some distance away. The other opening in the facing elevation would be a small roof light to what is shown as loft space on the submitted plans. This would be at a height that would allow people to look out onto the retained amenity space of No23. However, this would serve a non-habitable room and so is unlikely to be used on a regular basis. There would also still be some distance between the roof light and the garden and rear windows of No 23. Some degree of overlooking is to be expected in a residential area and, in these circumstances, I do not consider that the development would unacceptably impact on privacy.
17. In conclusion on this issue, I find that the development would not have an unacceptable impact on the living conditions of No 23 or No 31. Accordingly, there would be no conflict with WLLP policies STRAT1, STRAT7, RES1 or RES3 which, amongst other things, seek to ensure development does not have a significant adverse impact on the living conditions of existing or neighbouring residents. As above, I see no conflict with policy STRAT3 in this regard as this policy sets out the settlement hierarchy. Nor do I see any conflict with policy NBE1, which addresses issues relating to the character and appearance of the CA.

Other Matters

18. I have considered the concern raised that to grant planning permission here would set a precedent for other similar developments. However, no directly

similar or comparable sites to which this might apply have been put forward. Each application and appeal must be determined on its own individual merits and a generalised concern of this nature does not justify withholding permission in this case.

19. The appellant's Flood Risk Assessment (FRA) states that the dwelling would be within a Flood Zone 1 area and this is confirmed in the Council's officer report. No evidence has been provided which indicates that drainage is a particular issue on this part of Sudbeck Lane or that the development would either be at risk from flooding or exacerbate an existing problem. Equally, I have nothing before me which confirms there are significant issues with the capacity of the local sewers or any risk of contamination to the brook. The Council has also raised no particular concern with this issue and accepted that it could be adequately addressed by condition. I have seen nothing to suggest I should disagree with their conclusions.

Conditions

20. I have considered the suggested conditions from the Council in accordance with the guidance contained in the Planning Practice Guidance (PPG). In addition to the standard condition which limits the lifespan of the planning permission, I have imposed conditions specifying the relevant drawings as this provides certainty.
21. Conditions requiring the agreement of materials for external surfaces, roof materials and landscaping are necessary in the interests of the character and appearance of the area and the living conditions of nearby residents. I have amended the suggested conditions on materials to remove reference to specific requirements of the mortar as this will be part of what will be agreed. I have also combined the conditions on external materials and roofing materials as two separate conditions are not necessary. I have used the Planning Inspectorate's model condition which is more precise than the suggested conditions. As the site is within a CA, it is necessary to address these issues prior to the commencement of the development.
22. Also in the interests of the character and appearance of the area, I have included a condition requiring the identified tree protection measures to be carried out prior to development starting. I have also imposed a condition requiring the turning head and parking areas to be in place prior to the first occupation of the dwelling in the interests of highway safety. Here I have amended the suggested condition to include reference to the approved plan for clarity and precision.
23. To ensure there are no changes in the use of the building which could give rise to unacceptable impacts on neighbours living conditions, I have imposed a condition limiting habitable rooms to the ground floor. A condition relating to the agreement of foul and surface water drainage prior to commencement of the scheme are also necessary to ensure adequate drainage of the site and in the interests of the living conditions of future occupants.
24. The Council have indicated that there have been finds of archaeological importance in the vicinity of the site and have suggested conditions to carry out an investigation prior to development. The appellant has noted that other nearby permissions have been granted without such a condition. However, I do not have all of the relevant information for these applications and thus the

specifics of the site may be different. Therefore, it would be appropriate to impose a condition requiring a site investigation to ensure that any potential archaeology is properly investigated and recorded. I have amended the condition to increase its clarity in terms of carrying out the development and have rationalised the Council's suggested conditions on this matter. I have not included the individual conditions on commencement of the archaeological investigation, monitoring, reporting and depositing of any finds as these issues would be agreed within the method of investigation and are thus unnecessary.

25. While the Parish Council have not objected to the development on highways grounds they have requested a condition requiring construction traffic to not be allowed to park on the road. However, there is nothing to suggest that such a condition is necessary in the interests of highway or pedestrian safety. As such, I do not consider that it would be reasonable to impose such a condition.

Conclusion

26. For the reasons given above I conclude that the appeal should be allowed.

S J Lee

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) With the exception of the detailed matters referred to by conditions 3 and 4 of this consent, the development hereby approved shall be carried out in accordance with the following approved drawings:
 - PA4D 020915 Proposed Roof and Floor Plan
 - PA5C 020915 Proposed Elevations
 - SP3A 280815 Site Location Plan
 - SP2B 280815 Site Plan
- 3) No development shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed material, bond, pointing technique and palette of materials (including brickwork, stonework, mortar and roofing materials) to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
- 4) No development shall take place until full details of the treatment of all boundaries of the site, including where appropriate, fencing, walling, hedgerows to be retained or other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be thereafter implemented in full before first occupation of the dwelling.
- 5) No development shall take place until full details of the proposed foul and surface water drainage for the site have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be thereafter implemented in full before first occupation of the dwelling.
- 6) The development hereby permitted shall not be occupied until the driveway and turning head shall have been constructed in accordance with details shown on approved plan SP3A 280815 and retained in that use thereafter.
- 7) No development shall take place until the tree root protection fencing as shown on approved plan SP3A 280815 has been installed. The fencing shall remain in place for the duration of the development.
- 8) The dwelling hereby approved shall not include habitable accommodation at first floor level.
- 9) No development shall take place until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved scheme. The scheme shall include an assessment of significance and research questions and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;

- iii) the provision to be made for analysis of the site investigation and recording;
- iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
- v) the provision to be made for archive deposition of the analysis and records of the site investigation;
- vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

Appeal Decision

Site visit made on 26 September 2016

by Janine Townsley LLB (Hons)

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

Decision date: 4 November 2016

Appeal Ref: APP/N2535/W/16/3150309

Land on the North Side of Waterford Lane, Lincolnshire, LN3 4AN

- 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 PCC Consultants Ltd against the decision of West Lindsey District Council.
 - The application Ref 133957, dated 25 January 2016, was refused by notice dated 24 April 2016.
 - The development proposed is new residential development with a mixture of three and four bedrooms with associated parking, private gardens and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for new residential development with a mixture of three and four bedrooms with associated parking, private gardens and landscaping at land on the north side of Waterford Lane, Lincolnshire LN3 4AN in accordance with the terms of the application, Ref 133957, dated 25 January 2016, and the plans submitted with it, subject to the following conditions set out in the attached schedule.

Application for costs

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

Procedural and Background Matters

3. The application is for outline planning permission with all matters reserved.
4. The application for planning permission was reported to the planning committee with a recommendation of approval. Members of the planning committee resolved to refuse permission for reasons related to the effect of the development on the character and appearance of the area and the potential noise nuisance from the adjacent railway line on future occupiers of the proposed dwellings.
5. The Council has submitted The Central Lincolnshire Local Plan for examination but the examination process is not yet complete. As such, the saved policies of the West Lindsay Local Plan First Review 2006 (WLLP) comprise the statutory development plan for the district. It is common ground between the parties that since the proposal falls outside of the settlement boundaries that it would represent development in the countryside and that none of the exceptions set

- out within policy STRAT12 would apply. Therefore the development would be contrary to policies STRAT 9 and STRAT12.
6. The Council's position is that policy STRAT12 is consistent with the core principles of the National Planning Policy Framework (the Framework) and in this particular paragraph 17 which requires that development "*take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.* Whilst the policies of the WLLP may be time expired, they remain to be the statutory development plan and given there is no dispute that the relevant policies are consistent with the Framework, I have determined this appeal by reference to the current local and national planning policies.
 7. Furthermore, the Framework post-dates the WLLP and places a requirement on Councils to "identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements", the position of the Council is that the latest Housing Land Availability Assessment (April 2016) identifies a need of 11,531 dwellings across five years, which includes a 20% buffer and previous undersupply. The assessment identifies a land supply of 5.33 years (12,283 dwellings) in the five year period 2016/17 to 2020/21.
 8. The figures (and updated figure within an updated report published in September 2016) show the Council is able to demonstrate a supply of housing land to meet the need over a five year period, at 5.26 years according to the September 2016 figures. However this includes a windfall allowance and is dependent upon departures from the extant plan. The Framework states that housing supply policies should not be considered up-to-date where a five year supply cannot be demonstrated. Whilst the LLP has been submitted for examination, it is still liable to change. As such, I attribute limited weight to its policies and its housing land availability figures. The Council also accept that the spatial strategy of the WLLP is out of date and does not have sufficient allocations remaining in the plan to meet the objectively assessed five year supply. Therefore it is inevitable that departures from the WLLP will be necessary to make up that shortfall. Consequently, the Council accepts that the housing supply policies are considered to be out of date, and therefore presumption in favour of sustainable development as set out within the Framework is a material factor.
 9. The facilities and services within Cherry Willingham include a doctor's surgery, public library, a public house and a number of shops and food outlets. There is also a primary school and community school. There is a bus stop adjacent to the site with a regular bus service to Lincoln. There is no dispute as to the sustainable nature of the location of the site.

Main Issues

10. Taking into account the above areas of consensus, the main issues to be determined are the effect of the development on the character and appearance of the area and the effect on the living conditions of future occupiers with particular reference to noise.

Reasons

Character and Appearance

11. The appeal site lies adjacent to the village of Cherry Willingham. The linear site is situated between by Waterford Road and a raised bank which supports the railway. Mature trees and shrubs divide the site and highway and these generally screen views into the site.
12. The site is currently unoccupied by any permanent buildings and therefore the development of up to 9 dwellings would inevitably result in a change to the character and appearance of the site. However, the character of the general area is derived from the dwelling houses within the adjacent village and the open fields beyond the railway line.
13. The site is generally enclosed by the trees and railway line and this contrasts with the open character of the fields beyond. Furthermore, the presence of the railway line acts as a physical boundary feature, this reinforces the relationship between the site and the dwellings within the village and acts as a visible point for the transition to countryside beyond. Therefore, whilst in policy terms the site falls outside of the settlement, the proximity of the dwellings, the enclosed nature of the site and the presence of the railway line define the character of the site. Consequently the character and appearance of the appeal site relates more closely to the settlement than the fields beyond. I consider this to be a significant factor since it means that the development of the site would not detract from the rural character of the settlement edge and the countryside beyond and in this regard would accord with policy NBE 20.

Living Conditions

14. The linear nature of the site adjacent to the railway track means that much of the site is in close proximity to the track. The railway line is served by both passenger trains and freight trains and is in regular use both day and night. Whilst on site I observed a freight train passing. As such I consider the setting of the site gives rise to the risk of future occupants being exposed to noise nuisance.
15. In recognition of this, the appellant has commissioned a report on sound measurements and recommendations. The report recommends a scheme of sound insulation for the dwellings including acoustic double glazing, specialist plasterboard ceilings and ventilators, together with the installation of a 2 metre acoustic boundary treatment to mitigate sound levels within private gardens.
16. I have taken into account Planning Policy Guidance "Noise" which advises that sound mitigation measures can be utilised to ensure no significant adverse effect on receptors. Whilst I note the concern of the Council that future occupiers of the dwellings may be exposed to unacceptable noise levels due to the proximity of the railway line, there is nothing before me to suggest that the programme of mitigation suggested by the appellant would not be able to secure a good standard of amenity for future residents. Accordingly, this is a matter which could adequately be addressed by means of a condition. Furthermore, matters such as the optimal siting and orientation of the dwellings to avoid noise disturbance from the train line and adjacent road are matters which can be addressed further at the reserved stage when site layout would be considered.

17. I note that no objection was recorded by the Council's Environmental Protection Officer in relation to the potential impact of noise from the railway line and this adds further weight to my conclusions.
18. Overall therefore, I conclude that through the use of appropriately worded conditions, future occupants would not be exposed to unacceptable levels of noise from the adjacent railway line.

Conditions

19. Other than the standard conditions relevant to a grant of outline planning permission for the submission of reserved matters and the standard time limit condition, conditions requiring the submission of a construction method statement and requiring the construction of a pedestrian footway along the frontage of the site are necessary in the interests of amenity and in the interests of highway safety and. Conditions requiring appropriate foul and surface drainage to facilitate satisfactory drainage of the site and to prevent the risk of pollution. A condition requiring an adherence with the ecological report submitted with the planning application is necessary in the interests of nature conservation. Conditions relating to potential works near the railway operators boundary and exterior lighting are necessary to ensure the safety of the railway network and a condition dealing with the required sound insulation measures for the proposed dwellings is required in the interests of the living conditions of future occupants of the appeal site.
20. I have considered requested conditions to ensure motor vehicles can egress the site in forward gear and relating to the loss of existing trees and hedgerows, however, these are matters which can be dealt with at the reserved matters stage.

Conclusion

21. Whilst I have concluded that the development would fail to accord with policies STRAT9 and STRAT12 of the WLLP, I consider that for the aforementioned reasons, there are significant factors which weigh in favour of the development. Accordingly, the appeal should be allowed.

Janine Townsley

Inspector

Schedule of Conditions

- 1) 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.
- 2) Details of the access, appearance, landscaping, layout, 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.
- 3) An 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.
- 4) No building hereby permitted shall be occupied until the sustainable drainage scheme for the site has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
- 5) No building hereby permitted shall be occupied until the sustainable drainage scheme for the site has been completed in accordance with the submitted details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
- 6) No development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
 - i) a timetable for its implementation, and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.
- 7) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
 - iii) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;

- iv) include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 8) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- v) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - vi) include a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 9) None of the dwellings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the local planning authority.
- 10) No development shall take place until a scheme has been agreed in writing by the local planning authority for the construction of a 1.8 metre wide footway, together with arrangements for the disposal of surface water run-off from the highway along the frontage of the site. The agreed works shall be fully implemented before any of the dwellings are occupied unless otherwise agreed with the local planning authority.
- 11) No development shall take place until full details of any excavations and earthworks to be carried out on or near the railway undertaker's boundary fence have been submitted to and approved by the Local Planning Authority acting in consultation with the railway undertaker. Any works shall only be carried out in accordance with the approved details.
- 12) The development shall be carried out in accordance with the ecological report submitted (Ecology and Protected Species Survey: Land off Waterford Lane, Cherry Willingham, Lincolnshire dated December 2015) with the application, including provision of any proposed details of habitat protection.
- 13) The dwellings shall be constructed to provide sound insulation from the railway and shall include the following mitigation methods unless otherwise agreed in writing by the local planning authority -

- vii) Double glazing comprising 8mm and 16.8mm acoustic glass separated by a 16mm air gap
 - viii) Plasterboard ceiling consisting of two layers of 12.5mm acoustic plasterboard (eg. Soundbloc or similar) with mineral wool above
 - ix) Passive ventilation provided by Greenwood MA3051 acoustic ventilators or their acoustical equivalent
 - x) External walls constructed using cavity block work or brickwork
 - xi) Garden boundary fence constructed to an acoustical standard (ie, imperforate with no air gaps or sightlines between boards or under the fence.)
- 14) No development shall take place, including any works of demolition, 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:
- xii) the parking of vehicles of site operatives and visitors
 - xiii) loading and unloading of plant and materials
 - xiv) storage of plant and materials used in constructing the development
 - xv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - xvi) wheel washing facilities
 - xvii) measures to control the emission of dust and dirt during construction
 - xviii) a scheme for recycling/disposing of waste resulting from demolition and construction works
 - xix) details of noise reduction measures;
 - xx) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - xxi) the hours during which machinery may be operated, vehicles may enter and leave, and works may be carried out on the site;
 - xxii) details of the use of any vibro-compaction machinery to be used in development
- 15) Details of any proposed exterior lighting shall be submitted to and approved in writing by the local planning authority in consultation with railway undertaker before the dwellings are first occupied. The development shall be carried out in accordance with the approved details.

Costs Decision

Site visit made on 26 September 2016

by Janine Townsley LLB (Hons)

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

Decision date: 4 November 2016

**Costs application in relation to Appeal Ref: APP/N2535/W/16/3150309
Land North of Waterford Lane, Cherry Willingham, Lincoln, Lincolnshire,
LN3 4AN.**

- 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 PCC Consultants Ltd for a full award of costs against West Lindsey District Council.
 - The appeal was against the refusal of planning permission for new residential development with a mixture of three and four bedrooms with associated parking, private gardens and landscaping.
-

Decision

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

Reasons

2. Planning Practice Guidance (PPG) provides that an award of costs may be made where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.
 3. The Appellant claims that the Council prevented the development when it should have been permitted and that it produced no objective evidence in support of its refusal. The PPG advises that local planning authorities are at risk of an award of costs if they prevent or delay development which should clearly be permitted or fail to produce evidence to substantiate their stance.
 4. The application relies substantially on the decision of the planning committee being contrary to the recommendation of Council officers. It is submitted that the Council has failed to produce any objective evidence in support of either reason for refusal.
 5. Whilst the Council's planning officer concluded that the development would not cause significant harm to the character and appearance of the area, there is an element of subjectivity in this judgement in terms of attributing weight. Consideration of planning applications and appeals, however, often involve finely balanced judgment on matters. The Planning Committee was entitled to weigh matters differently and to conclude as it did, considering potential conflicts with the development plan.
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6. The second reason for refusal relates to the alleged harm caused by noise and vibrations from the nearby railway line. The appellant had, during the application phase, provided a detailed noise and vibration assessment which concluded that mitigation measures could be incorporated to ensure that future resident's living conditions would not be harmed in accordance with the relevant PPG. Furthermore no objections were raised by the Council's Environmental Health Officer. In my decision I concluded that there the Council did not produce any evidence to challenge this objective assessment and for this reason it failed to substantiate its concern that the development would have a harmful impact. In the absence of any evidence to support the second reason for refusal, resulting in the applicant being put to unnecessary expense in appealing this element of the decision.

Conclusion

7. I conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense as described in the PPG has not been demonstrated in relation to the first reason for refusal but has been demonstrated in relation to the second reason for refusal. For this reason, and having regard to all other matters raised, a partial award for costs is justified.

Costs Order

8. 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 PCC Consultants Ltd, the costs of the appeal proceedings described in the heading of this decision limited to those costs incurred in relation to the appealing against the second reason for refusal which relates to the impact on noise of the adjacent railway line.
9. 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.

Janine Townsley

Inspector