



## Appeal Decision

Site Visit made on 5 July 2021 by Darren Ellis MPlan

**Decision by Chris Preston BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 3 November 2021**

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**Appeal Ref: APP/N2535/W/21/3270268**

**Land off 37 Front Street, Tealby, Market Rasen, LN8 3XU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant, subject to conditions, of approval required under a development order.
  - The appeal is made by P Wostenholme against the decision of West Lindsey District Council.
  - The application Ref 141821, dated 11 November 2020, was granted approval by notice dated 13 January 2021 subject to conditions.
  - The development granted approval is a wheeled mobile field shelter into a grass field used as grazing by horses.
  - The condition in dispute is No 2 which states that: *The field shelter as shown on OS Site Plan Rev C received 12th January 2021 shall be moved into its new position within 3 months of the date of this permission. The field shelter shall remain in this position unless otherwise agreed in writing with the Local Planning Authority.*
  - The reason given for the condition is: *In the interests of visual amenity and to preserve the Conservation Area in accordance with policies LP17, LP23, LP25 and LP26 of the Central Lincolnshire Local Plan.*
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### Decision

1. The appeal is dismissed.

### Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

### Procedural Matter

3. The appellant contends that the field shelter may not amount to operational development, such that planning permission may not be required to site it in the paddock. The correct way to determine if a development is or would be lawful is to apply for a certificate of lawful use or development under section 191 or 192 of the Town and Country Planning Act 1990, as appropriate. I note from the planning history section of the officer report that such an application was made and subsequently refused by the Council in September 2020<sup>1</sup>. I have not been provided with details of that application and there is no indication that an appeal was made against that decision. It is not for me to determine the lawfulness, or otherwise, of the development in relation to the current proceedings. A planning application was made subsequent to the Council's refusal and it is condition 2 of that planning permission that is subject to this

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<sup>1</sup> Planning application ref. 141375

appeal. In that context, I must consider condition 2 on its merits, based on relevant material considerations.

### **Background and Main Issue**

4. Planning permission was granted for a timber mobile field shelter<sup>2</sup> in an open field in Tealby. The appeal site falls within the Tealby Conservation Area (CA) and the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB). Prior to the application, the shelter had been placed adjacent to the tree-line at the northern side of the appeal site. In the interests of visual appearance and the effect on the CA, condition 2 of the planning permission requires the shelter to be sited in a different position along the eastern side of the appeal site within three months of the date of the permission, and for any subsequent relocations of the shelter to be agreed in writing by the Local Planning Authority.
5. The appellant seeks to remove this condition, on the grounds that such a condition is unreasonable for a mobile field shelter and is unnecessary as the shelter would not cause harm to the character and appearance of the site and the CA regardless of its location within the appeal site.
6. The main issue therefore is whether the condition is necessary and reasonable having regard to the nature of the development and the effect of the development on the character and appearance of the appeal site and the CA.

### **Reasons for the Recommendation**

7. The appeal site comprises the western part of a large field and is used for the grazing of horses. Residential dwellings are adjacent to the western and southern boundaries of the site. As well as being within the CA and AONB, the site is designated as open space. The historic nature of many of the buildings and the pattern of development, together with the green spaces in the village, contribute to the significance of the CA. Consequently, the open field makes a positive contribution to the attractive, green and historic character and appearance of the village and the CA.
8. Although the shelter is described as a mobile shelter, the plan submitted with the application shows it to be placed in a particular location which appears to have been arrived at following negotiation with the Council. This plan was consulted upon during the original application, and neighbours and other interested parties provided their comments on that basis.
9. The visual impact of the shelter would vary depending on its location, for example in relation to views of the CA or the AONB and in relation to how it is viewed from various vantage points, including surrounding roads, paths and residential properties, some of which are close to the boundary of the site. It isn't possible to assess the potential multitude of different locations under one planning appeal and some potential locations could have a greater impact than the location approved by the Council. For these reasons, it was therefore reasonable and necessary for the Council to impose condition 2 to restrict the location of the shelter to a specific point in the interest of the character and appearance of the CA and AONB.
10. It appears that the appellant's contention that it was unreasonable to impose the condition stems from, or is at least related to, the assertion that the mobile

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<sup>2</sup> Planning application ref. 141821

shelter is not operational development for which planning permission is required. As set out above, it is not for me to determine that point. A planning application was made and a condition attached and I am satisfied that condition is reasonable and necessary for the reasons given above.

11. In addition, the removal of the condition would be contrary to policies LP17, LP23, LP25 and LP26 of the Central Lincolnshire Local Plan, all of which, amongst other things, seek to protect the character and appearance of the local area, the CA, the AONB and designated open spaces.
12. I have been referred to a previous appeal decision in 2001<sup>3</sup> which the appellant contends is similar in nature to this appeal proposal. However, no details of the previous appeal scheme, or even the appeal decision, have been provided so I cannot compare the nature and context of the sites. Moreover, the previous appeal was in a different Local Authority area with different local policies. Consequently the 2001 appeal is not directly comparable to the scheme before me, which has been determined on its own merits.

### **Conclusion and Recommendation**

13. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

*Darren Ellis*

APPEAL PLANNING OFFICER

### **Inspector's Decision**

14. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis, I agree with the recommendation and shall dismiss the appeal.

*Chris Preston*

INSPECTOR

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<sup>3</sup> Appeal ref. APP/B1225/C/01/1057144