



Appeal Decisions

Hearing held on 23 November 2021

Site visit made on 24 November 2021

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2022

Appeal A Ref: APP/N2535/W/21/3269692

Land off Baker Drive, Nettleham, Lincolnshire, Easting 500414, Northing 375734

- 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 Larkfleet Homes against the decision of West Lindsey District Council.
 - The application Ref 140938, dated 14 April 2020, was refused by notice dated 25 August 2020.
 - The development proposed is the construction of 33 Entry Level Homes and associated infrastructure.
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Appeal B Ref: APP/N2535/W/21/3271598

Land off Baker Drive, Nettleham, Lincolnshire, Easting 500414, Northing 375734

- 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 Larkfleet Homes against the decision of West Lindsey District Council.
 - The application Ref 142065, dated 26 November 2020, was refused by notice dated 4 February 2021.
 - The development proposed is the construction of 30 Entry Level Homes and associated infrastructure.
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Decision

Appeal A

1. The appeal is allowed and planning permission is granted for the construction of 33 Entry Level Homes and associated infrastructure at Land off Baker Drive, Nettleham, Lincolnshire, Easting 500414, Northing 375734 in accordance with the terms of the application, Ref 140938, dated 15 April 2020, subject to the conditions set out in the schedule at the end of this decision.

Appeal B

2. The appeal is allowed and planning permission is granted for the construction of 30 Entry Level Homes and associated infrastructure at Land off Baker Drive, Nettleham, Lincolnshire, Easting 500414, Northing 375734 in accordance with the terms of the application, Ref 142065, dated 26 November 2020, subject to the conditions set out in the schedule at the end of this decision.

Applications for costs

3. Applications for costs were made with respect to both appeals by Larkfleet Homes against West Lindsey District Council. These applications are the subject of a separate Decision.

Preliminary Matters

4. As set out above there are two appeals on this site. They differ only in the number of dwellings proposed. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
5. The proposal subject to Appeal A was amended during the course of the planning application to reduce the number of dwellings proposed to 33. I have used this figure in the banner header above and in the formal decision.
6. The National Planning Policy Framework (The Framework) was revised in July 2021 and therefore I refer to this revision in my decision.

Main Issues

7. The main issues are:

With respect to Appeal A and Appeal B:

- The effect of the proposed developments on the character of the area and whether or not they would comply with the relevant local and national planning policies relating to design and density and entry-level exception sites

And with respect to Appeal A only:

- Whether or not the proposed development would provide adequate parking provision

Reasons

Character and compliance with local and national policy

8. The Framework sets out at paragraph 72 that local planning authorities should support the development of entry-level exception sites, suitable for first time buyers (or those looking to rent their first home), unless the need for such homes is already being met within the authority's area.
9. These sites should be on land which is not already allocated for housing and should be subject to two criteria being met. The area of dispute in both appeals arises from the application of criterion b). Whilst the appeal site is non-allocated land adjacent to the existing settlement, is proportionate in size to it and would not compromise the protection given to areas or assets of particular importance, to meet the full requirement of criterion b) there should also be a compliance with any local design policies and standards.
10. By virtue of the fact that both the Central Lincolnshire Local Plan 2017 (LP) and the Nettleham Neighbourhood Plan 2015 (NP) were adopted prior to the first appearance of the provision for entry-level exception sites in the 2018 revision of The Framework, there are no development plan policies relating to entry-

level exception sites. The relevant policies with respect to design matters are Policy LP26 of the LP and Policy D-6 of the NP.

11. The appeal site sits at the edge of the existing built housing form of Nettleham, with open agricultural fields located beyond the northern and part of the western boundary. However, to the east there is a recently built housing development and to part of the western boundary there is a business park. Further along Deepdale Lane there is the substantial built form of the headquarters of Lincolnshire Police. This means that there is variation in the character of uses, the design of buildings and the densities of development in the area surrounding the appeal site.
12. Policy D-6 of the NP includes a requirement that housing proposals recognise and reinforce the district local character including in relation to density and that they reflect existing residential densities in the locality of the scheme. Contained within the policy text is reference to maximum housing densities of 20 dwellings per hectare, together with an acceptance that in order to address viability issues with smaller, lower cost homes built to this density, higher density will be considered acceptable for small areas (less than 25% of a proposed development) where they deliver the other goals of the NP. Policy LP26 of the LP sets out design and amenity considerations but does not define maximum or minimum densities.
13. There is variation in the density of development in the locality, which is formed most relevantly by the recent housing development undertaken by the appellant and by that referred to as the LACE development. In addition, although not built out, the Council has permitted development at a similar density to those of the appeal schemes on the site of 7 dwellings¹ immediately adjoining the appeal site. This and the LACE development suggests that such densities have not, in principle, been seen to be inappropriate within the surrounding locality.
14. Furthermore, the appeal proposals would include a substantial area of open space along the Deepdale Lane frontage, which would be in keeping with the spacious feel of parts of the recently built housing estate to the east. The proposed dwellings on the frontage of the site with Baker Drive would, in the case of both appeal proposals, be arranged in a way that would be reflective of the arrangement of dwellings nearby and would be visually coherent with the 7 permitted dwellings and the LACE development that would form a continuation of the frontage on this side of the road. There would be more dense development behind the Baker Drive frontage, but this in itself would be consistent with the density of the LACE development and the 7 permitted dwellings.
15. Whilst I acknowledge the reference to a maximum of 20 dwellings per hectare in Policy D-6, it must also be noted that the policy accepts that there would be viability issues with providing smaller, lower cost homes to this density. There is a degree of tension in the policy in this respect. But in any event, for the above reasons I find that the density proposed on both appeal schemes is not out of character with, and indeed it reflects, existing residential densities that are present in the locality. Therefore, the proposal accords with both Policy D-6 of the NP and Policy LP26 of the LP, in this respect.

¹ 141032

16. The proposed house types would complement those on the recently built housing development to the east, which was constructed by the appellant and those on the permitted 7 dwelling scheme. Their two-storey height and overall design and detailing would match the existing development and there would be the opportunity for soft landscaping to be incorporated within the scheme, including adjacent to pavements, within the curtilages of the proposed dwellings and by way of the open space on the site frontage with Deepdale Lane.
17. Whilst the scheme proposed under Appeal A includes a cluster of parking spaces associated with the proposed dwellings on plots 10-17, this is on the least prominent part of the site. The arrangement is also not dissimilar to the 7 dwelling scheme permitted adjacent to the appeal site. Overall, I find that no harm to character would arise from the design and scale of the proposed dwellings or from the layout of either appeal proposal, and therefore that there would be no conflict with the relevant policies of the development plan in these regards.
18. For the reasons set out above, I conclude that the proposed developments would not cause harm to the character of the area and that they would accord with Policy LP26 of the LP and Policy D-6 of the NP where they relate to the design and density of new development. Consequently, the proposal accords with paragraph 72 of The Framework. Reference has been made by interested parties to the National Design Guide, however the proposal would not conflict with the overarching aims of this document.

Parking (Appeal A)

19. Policy D-3 of the NP sets out parking requirements on a minimum basis, with reference to the standards set out in the former West Lindsey Local Plan 2006. The LP does not set out specific parking standards but instead allows for each proposal to be considered on its own basis. Policy LP13 of the LP is set out within Appendix A of the plan as being a strategic policy. With reference to Paragraph 30 of The Framework, Policy LP13 of the LP must take precedence over Policy D-3 of the NP.
20. The parking provision proposed would provide for 1 parking space for the one bedroomed dwellings and 2 parking spaces for all other dwellings. Whilst the rural location of the settlement is noted, the Transport Statement submitted sets out that Nettleham has a good provision of facilities, including employment generating uses, and that these can be reasonably accessed on foot. Furthermore, there is opportunity to utilise National Cycle Network Route 1 to access Lincoln by bicycle. There is also public transport provision available to connect Lincoln and Grimsby, although it is stated in the NP that this does not run on evenings or Sundays.
21. As a whole, the appeal site has good access to alternative modes of transport other than a private motor vehicle, and to the services and facilities of the settlement on foot. Furthermore, the parking provision proposed is proportionate to the respective size of the dwellings and there was no objection from the Highway Authority to the proposed development. Taking all of these considerations together, I conclude that the proposal set out under Appeal A would accord with the objectives of Policy LP13 of the LP, which for the reasons set out takes precedence over Policy D-3 of the NP.

Other Matters

22. It is stated by interested parties that the amount of affordable housing delivered in Nettleham already exceeds that required by the development plan. However, paragraph 72 of The Framework refers to the need for entry-level homes being met within the authority's area. It has been confirmed by the Council that this need has not been met and evidence has been provided that demand for affordable housing remains in Nettleham itself. There is also reference to there being no need for new housing at all given that there is a 5-year housing land supply, that existing run-down housing could be upgraded and that there are other housing developments that have been permitted or have taken place in Nettleham. However, any proposal brought forward must be considered on its own individual merits and against the relevant planning policies.
23. Concern has been raised with regard to the potential impact upon biodiversity, public services and infrastructure, highway safety, air pollution, bin storage, archaeological interests, land contamination, noise, the storage of materials, impact on health, utility supplies, flood risk and drainage. However, based upon the responses from the relevant consultees and upon the information available to me, there is no evidence that harm would arise with respect to these matters. Furthermore, I am satisfied that, where necessary, any additional measures required could be adequately secured by planning conditions or through a planning obligation.
24. Whilst there would be the loss of some green space, the proposal would include an area of open space on the Deepdale Lane frontage. I have not been made aware that the appeal site has been formally designated as a buffer between the adjacent commercial use, or that such a buffer is necessary. There would be adequate separation distance between the proposed and existing dwellings to ensure that there would not be any harm to living conditions of existing occupiers. The proposed dwellings would generally have small garden areas, but they would nonetheless provide a reasonable amount of amenity space which is proportionate to their intended use as entry-level housing.
25. The layout of the proposed dwellings in relation to the footpath to the north and west would be generally consistent with the layout permitted as part of the LACE development. Whilst reference is made to the future use of the appeal site that may have been suggested previously, this does not have any bearing on my determination of the appeals or upon the merits of the proposals that are before me.

Planning Obligation

26. Unilateral Undertakings (UUs) have been submitted in respect of both appeals, and these were updated on 14th December 2021 to address the Council's comments with respect to indexation and interest for late payment. They secure the proposed dwellings as entry-level housing as per the applications that have been made and a contribution to the NHS in relation to the provision of services at Nettleham Medical Practice. I am satisfied that these obligations meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of The Framework.
27. The title deeds relating to the land of which the appeal sites are part contains charges for the benefit of two lenders who are not party to the legal

agreements. On that basis, the Council was not willing to enter into a bilateral planning obligation with the appellant. However, documentary evidence has been provided to demonstrate that both charges have been satisfied but there is a delay on updating the title deeds at the Land Registry. The UUs are therefore an appropriate way of securing the necessary planning obligations.

Conditions

28. Conditions relating to the time period to commence development and with regard to the approved plans are required to provide certainty. A construction management plan and restriction on construction hours are necessary to ensure that there is not an adverse impact on the highway network or the living conditions of nearby residents during the build phase. Details relating to landscaping and the subsequent maintenance of the open space, together with details of external facing materials are needed to ensure that the proposals have an acceptable visual appearance.
29. Details of drainage are required to ensure that appropriate provision is made in this regard. A condition is needed to ensure that there is a new pavement provided along the frontage with Deepdale Lane, in accordance with the details shown on the plans submitted and to ensure connectivity with the public footpath to the west of the appeal site.

Planning Balance & Conclusion

30. There are a number of policies in the development plan that relate to the provision and location of new housing, including with respect to affordable housing. It is clear that the proposals are not in full compliance with these policies, however both the LP and the NP predate the revision of The Framework that first referred to entry-level exception sites and therefore their policies make no reference to such sites coming forward.
31. I have found that the proposals comply with local design policies and standards, namely Policies LP13 and LP26 of the LP and Policy D-6 of the NP, and consequently with paragraph 72 of The Framework. This compliance with the more recent national planning policy is a material consideration which carries significant weight in support of the proposals, and it outweighs the conflicts that arise with those development plan policies that set out the parameters for new housing.
32. I therefore conclude that both Appeal A and Appeal B should be allowed.

Graham Wraight

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mark Bassett – Principal Manager, Freeths

Chris Dwan – Allison Homes

FOR THE LOCAL PLANNING AUTHORITY:

George Backovic – Lead Principal Planning Officer

Cllr Mrs White – District Councillor, West Lindsey District Council

Rachel Woolass – Principal Planning Officer (on points of clarification and conditions only)

INTERESTED PARTIES:

Cllr John Evans – Chairman, Nettleham Parish Council

Brian Wright – Local Resident

Schedule of Conditions

Appeal A

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) No development shall take place until a Construction Management Plan and Method Statement has been submitted to and approved in writing by the Local Planning Authority which shall indicate measures to mitigate against traffic and drainage impacts of the site during the construction stage of the proposed development. The Construction Management Plan and Method Statement shall include.
 - phasing of the development to include access construction;
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - wheel washing facilities;
 - the routes of construction traffic to and from the site including any off-site routes for the disposal of excavated material and;
 - a strategy stating how surface water run off on and from the development will be managed during construction and protection measures for any sustainable drainage features. This should include drawing(s) showing how the drainage systems (permanent or temporary) connect to an outfall (temporary or permanent) during construction.

The Construction Management Plan and Method Statement shall be strictly adhered to throughout the construction period.

- 3) With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the details shown on the approved plans:
- L000/2112/DS
 - L162/S2/2224/DS/MID
 - L162/S2/2224/DS/SEMI
 - L162/S2/2318/DS
 - L162/S2/2324/DS
 - L162/S2/2324/DS/SEMI
 - L162/S2/2328V2/DS/DET
 - L162/S2/2328V2/DS/MID
 - L162/S2/2328V2/DS/SEMI
 - L162/S2/2434/DS
 - L162-NET-RLP-01 REV A
 - L162-NET2-LOCATION-01 REV B
 - L162-NET-SITE-02/02 REV A
- 4) No development other than to foundation level shall take place until full details of foul and surface water drainage, in accordance with the principles set out in the submitted flood risk assessment dated March 2020 by Millward Consulting Engineers, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained thereafter. Any mitigation measures shall be fully implemented prior to occupation of any dwelling and shall be retained and maintained thereafter throughout the lifetime of the development.
- 5) Demolition and/or Construction works shall only be carried out between the hours of 07:00 and 19:00 on Mondays to Fridays; and between 08:00 and 13:00 on Saturdays, with no demolition and/or construction works on Sundays and Bank Holidays unless specifically agreed in writing by the Local Planning Authority beforehand.
- 6) Prior to occupation of any dwelling, a scheme of landscaping for the entire site, to include the area of open space, including details of the size, species and position or density of all trees, shrubs and grass to be planted, fencing and walling shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings.
- 7) Any trees and planting located within the curtilages of private dwellings which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) Prior to occupation of any dwelling a schedule of landscape management and maintenance for the open space and areas outside of the curtilages of private dwellings shall be submitted to and approved in writing by the Local

Planning Authority. Management and maintenance of these areas shall thereafter be undertaken in accordance with the approved details.

- 9) No development, other than to foundation level, shall take place until details of the proposed new walling, roofing, windows, doors, and other external materials have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details. The details submitted shall include; the proposed colour finish, rainwater goods and type of pointing to be used.
- 10) The development hereby permitted shall not be occupied before a 1.8 metre wide frontage footway running along Deepdale Lane, which will connect the public footpath to the existing access onto Deepdale Lane, has been provided in accordance with details that shall first have been submitted to, and approved in writing by, the Local Planning Authority. The works shall also include appropriate arrangements for the management of surface water run-off from the highway.

Appeal B

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) No development shall take place until a Construction Management Plan and Method Statement has been submitted to and approved in writing by the Local Planning Authority which shall indicate measures to mitigate against traffic and drainage impacts of the site during the construction stage of the proposed development. The Construction Management Plan and Method Statement shall include.
 - phasing of the development to include access construction;
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - wheel washing facilities;
 - the routes of construction traffic to and from the site including any off-site routes for the disposal of excavated material and;
 - a strategy stating how surface water run off on and from the development will be managed during construction and protection measures for any sustainable drainage features. This should include drawing(s) showing how the drainage systems (permanent or temporary) connect to an outfall (temporary or permanent) during construction.

The Construction Management Plan and Method Statement shall be strictly adhered to throughout the construction period.

- 3) With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the details shown on the approved plans:
 - L162/S2/2112/DS
 - L162/S2/2228/DS/MID

- L162/S2/2228/DS/SEMI
 - L162/S2/2318/DS
 - L162/2324/DS
 - L162/2324/DS/SEMI
 - L162/S2/2434/DS
 - L162-NET2-LOCATION-01 Rev B
 - SK-02 Rev G
- 4) No development other than to foundation level shall take place until full details of foul and surface water drainage, in accordance with the principles set out in the submitted flood risk assessment dated October 2020 by Millward Consulting Engineers, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained thereafter. Any mitigation measures shall be fully implemented prior to occupation of any dwelling and shall be retained and maintained thereafter throughout the lifetime of the development.
 - 5) Demolition and/or Construction works shall only be carried out between the hours of 07:00 and 19:00 on Mondays to Fridays; and between 08:00 and 13:00 on Saturdays, with no demolition and/or construction works on Sundays and Bank Holidays unless specifically agreed in writing by the Local Planning Authority beforehand.
 - 6) Prior to occupation of any dwelling, a scheme of landscaping for the entire site, to include the area of open space, including details of the size, species and position or density of all trees, shrubs and grass to be planted, fencing and walling shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings.
 - 7) Any trees and planting located within the curtilages of private dwellings which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
 - 8) Prior to occupation of any dwelling a schedule of landscape management and maintenance for the open space and areas outside of the curtilages of private dwellings shall be submitted to and approved in writing by the Local Planning Authority. Management and maintenance of these areas shall thereafter be undertaken in accordance with the approved details.
 - 9) No development, other than to foundation level, shall take place until details of the proposed new walling, roofing, windows, doors, and other external materials have been submitted to and approved in writing by the local planning authority. The development shall thereafter be constructed in accordance with the approved details. The details submitted shall include; the proposed colour finish, rainwater goods and type of pointing to be used.
 - 10) The development hereby permitted shall not be occupied before a 1.8 metre wide frontage footway running along Deepdale Lane, which will connect the public footpath to the existing access onto Deepdale Lane, has been

provided in accordance with details that shall first have been submitted to, and approved in writing by, the Local Planning Authority. The works shall also include appropriate arrangements for the management of surface water run-off from the highway.

-----End of Conditions-----