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## Appeal Decision

Hearing held on 20-21 September 2016

Site visit made on 21 September 2016

**by Michael Boniface MSc MRTPI**

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

**Decision date: 20 July 2017**

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**Appeal Ref: APP/N2535/W/16/3147409**

**Land off Larch Avenue, Nettleham, Lincolnshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Beal Developments Ltd, John H Dixon, June H Gauke and John R Pickwell against the decision of West Lindsey District Council.
  - The application Ref 132847, dated 26 March 2015, was refused by notice dated 15 February 2016.
  - The development proposed is the erection of up to 200 dwellings with associated roads and infrastructure; and change of use to provide areas of public open space/sports facilities.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application is submitted in outline form with access to be considered. Matters of appearance, landscaping, layout and scale are reserved for subsequent consideration. I have considered the appeal on this basis.
3. Various iterations of the Indicative Site Layout plan were produced during the course of the application process and submitted in respect of this appeal. It was confirmed during the Hearing that drawing no 'J1336 (08) 03 revE' was that considered by the Council and which the appellant now relies upon in support of the appeal. As such, I have considered the proposal by reference to this indicative scheme.
4. On the 24 April 2017, after the Hearing had closed, the Council formally adopted the Central Lincolnshire Local Plan (April 2017) (LP). This replaced the policies of the West Lindsey Local Plan First Review (June 2006). The appeal must be determined in light of the development plan at the time of the decision and the parties were invited to comment on the implications of this change in policy. I have had regard to the representations received in reaching my decision.
5. The LP established that the Council can demonstrate a deliverable five year housing land supply and there is no longer any dispute between the parties in this respect.

## **Main Issues**

6. The main issues are whether the proposal accords with the development plan, and if not, whether material considerations indicate that planning permission should be granted; the effect on the character and appearance of the area; the effect on local infrastructure; the effect on residential amenity/living conditions; and whether services and facilities would be accessible by means other than private vehicles.

## **Reasons**

### *Policy*

7. Policy LP2 of the LP sets out the spatial strategy and settlement hierarchy for the area and aims to deliver sustainable growth for Central Lincolnshire. Nettleham is identified as a Large Village, which are a focus for accommodating an appropriate level of growth so as to maintain and enhance their role, noting that they provide housing, employment, retail and key services and facilities for the local area. It is expected that most of the anticipated growth will be via sites allocated in the LP, or appropriate infill, intensification or renewal within the existing developed footprint. The policy also states that, in exceptional circumstances, additional growth on non-allocated sites in appropriate locations immediately adjacent to the developed footprint might be considered favourably, though these are unlikely to be of a scale over 25 dwellings/1ha.
8. Policy LP52 of the LP allocates five sites for development in Nettleham, totalling 237 dwellings. Site allocation CL4662 falls within the appeal site, where it is expected that 50 dwellings will be delivered.
9. The Nettleham Neighbourhood Plan (NNP) was made in March 2016 and forms part of the development plan for the area. The parties agree that the development accords with the majority of its policies but conflict has been identified with Policies H-1 and H-7. Policy H-1 seeks to direct growth to four allocated sites around the village and limits development to up to 50 dwellings on each site unless it can be demonstrated that a greater number can be accommodated within the allocation site having regard to a number of criteria. Policy H-7 sets specific criteria for development at Site C, reaffirming the expected yield of around 50 dwellings. This allocation is consistent with that in the LP (CL4662). Whilst the more recently adopted LP introduces a further site for development in Nettlement<sup>1</sup> and increases the overall amount of expected development, the parties agree that the NNP and the LP remain broadly consistent and I have no reason to take a different view.
10. There is no dispute between the parties that the site is located outside of the developed footprint of Nettleham. It is also clear that the appeal site significantly exceeds the area and quantum of development allocated for this part of the village in both the LP and the NNP. No exceptional circumstances have been identified to suggest that additional growth is appropriate in this location and the proposed development of up to 200 dwellings represents four times the amount of development expected, well above the additional circa.25 dwellings that might be considered favourably if exceptional circumstances did exist.

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<sup>1</sup> Site CL4726, Land off Church Lane, Nettleham

11. I do not accept the appellant's position that Policy LP2 of the LP is inconsistent with the National Planning Policy Framework's (the Framework) requirement to plan positively for growth. The LP is recently adopted, has been positively prepared and its policies, including Policy LP2, have been found sound following examination. It follows that these policies must be consistent with the Framework. This is notwithstanding any comments made by the Inspectors' examining the LP, who ultimately accepted the approach. There is no reason to believe that development will stall in Nettleham or that the LP will not deliver the growth that is anticipated.
12. It has been established, and accepted by the appellant, that the LP provides a deliverable five year housing land supply and this facilitates a boost in the supply of housing in accordance with paragraph 47 of the Framework. My conclusion here applies equally to Policy LP4, though this relates to villages within categories 5-6 of the settlement hierarchy and is not applicable to Nettleham. I note that the LP makes provision for some windfall development but I have set out above where such development is expected to occur.
13. The proposed development cannot be said to accord with the development plan. It is clearly in conflict with recently adopted Policies LP2 and LP52 of the LP and Policies H-1 and H-7 of the NNP, which set out the settlement hierarchy and the expected level of growth in Nettleham, including allocating specific sites which provide for the necessary level of housing provision whilst minimising the impact on the village. I attach significant weight to the harm arising from this policy conflict.

#### *Character and appearance*

14. The site comprises arable fields on the edge of the village. The land slopes down towards the Beck, a small watercourse to the North, and rises towards houses on Brookfield Avenue to the West. The surrounding properties on the edge of the village are relatively modern, comprising a mix of house types, sizes and designs though there is a notable proportion of bungalows and dormer bungalows. The LP and NNP allocate part of the appeal site, to the rear of Larch Avenue, The Hawthorns and Ridgeway for residential development. The proposal would involve development over a much larger area, though much of the appeal site would be public open space according to the indicative layout.
15. The application is accompanied by a professional Landscape and Visual Impact Appraisal (March 2015) which considers the landscape and visual effects of the development in some detail. It is accepted that there would be some negative landscape impacts through the loss of open arable fields and the removal of a short section of hedgerow in particular. However, the large areas of public open space, extensive landscaping, hedgerow enhancement and opportunities for softening the village edge through tree planting and the detailed design of the development are said to mitigate these impacts.
16. The development would be seen in the context of the existing built form on the edge of the village, which the Council accepts to be urban in appearance. Whilst it cannot be ascertained what the scale of buildings will be at this outline stage, I see no reason why the development could not create a sensitive edge to the village, particularly given the indication in the illustrative site layout that large areas of open space and planting would wrap around the site. Although the built form would extend beyond the area anticipated for development, it

would follow the established field boundaries and the planting areas bordering the Beck would assist in maintaining a transition towards the wider countryside beyond. Nevertheless, the scale of the proposed development would be clearly apparent from the edge of the village and on approach.

17. Specific concern was raised regarding the impact on views from Sudbrooke Lane which is a narrow country road bounded by grass verges and hedgerows, presenting a distinctly rural character and appearance. The existing settlement edge is already apparent in long views along this road but is filtered by the presence of large agricultural buildings on the periphery of the village, hedgerow and tree planting on field boundaries and the local topography. Such filtering would also be in place for the proposed development, meaning that the landscape impacts would be localised. The proposed development would be substantial and would clearly have an impact on landscape character but it would, in my view, relate well to the existing buildings on the village edge. With appropriate design and landscaping at the reserved matters stage, the visual effects could be partially mitigated but the scale of the development would be such that it would be seen as sizeable extension of the village.
18. The increased area of built form proposed compared to the site allocations would increase the visual impacts of the scheme, affecting a greater number of residential receptors that currently have views across the undeveloped site. There would be an adverse impact to these residents who are likely to be sensitive to development on the site. I have had regard to the topography of the site and the fact that buildings would extend across rising land, increasing the extent of visibility from surrounding receptors. This must be considered in the context of the LP and NNP allocation which will involve some development in this form on part of the appeal site but the appeal proposal would have much further reaching effects.
19. Concern was raised that the proposed density of development was too high, specifically that it would be higher than anticipated in the NNP. The NNP offers some flexibility on numbers and density, subject to a number of criteria being met. I see no reason why the development could not achieve a suitable density in the context of existing development on the edge of the village, particularly given the scope for some variation in different parts of the site. Ultimately, the design of the development and the relative densities in different parts of the site would be matters for the Council to consider at the reserved matters stage.
20. The Council and the Parish Council suggest that development in the village to date has occurred over many years on relatively small schemes of around 50 dwellings each. This scale of development, it was said, has been well integrated with the village without harming its character and appearance. I note that this is also part of the justification for the site allocations and numbers in the NNP but this document, I heard, had not considered the potential for larger sites. One local resident drew my attention to a much larger scheme of around 120 dwellings at Scothern Lane which had been successfully developed. Consequently, I do not share concerns that a larger scale development would necessarily harm the character of the area or prevent effective integration with the village but, in this case, a significantly larger scheme would have greater impacts than a scheme for 50 dwellings.

21. Clearly there would be some adverse landscape and visual impacts arising from this significant development but there would also be a range of benefits in the form of hedgerow and landscaping reinforcement and the creation of a sensitive visual edge to the village. Overall, the development would result in no more than limited harm to the character and appearance of the area. I find no conflict with policies LP17 and LP26 of the LP in so far as the indicative scheme has regard to its surroundings and could be designed, at reserved matters stage, to maintain or even enhance the edge of the settlement. However, the development would involve development in the countryside in conflict with Policy LP55, with the attendant landscape and visual effects associated with the development of land that is currently rural and undeveloped to the detriment of its intrinsic character and beauty.

#### *Infrastructure*

22. The proposed development involves up to 200 dwellings and future occupants would need to utilise the local infrastructure. There is no dispute that the development would increase the population and the amount of people requiring facilities such as local schools, medical centres, water and sewerage services. Each of these service providers was consulted on the application and asked to take account of the existing allocations within the NNP; none objects to the proposal subject to conditions or planning obligations to mitigate the impacts of the development and ensure capacity is created.

23. The village benefits from both an infant and junior school which are attended by large numbers of people from elsewhere, notably Lincoln. Although the Local Education Authority notes that there is insufficient space to extend the existing junior school to create the necessary capacity, financial contributions are instead sought towards improvements at another school in Lincoln, either the Carlton Academy or Monks Abbey Primary School. This would allow pupils from Lincoln to attend a more local school and free up capacity in Nettleham. Even if this did not occur, capacity would become available in Lincoln for future residents.

24. The medical centre in Nettleham confirms that it can accommodate the future residents of the development though the need for reconfiguration to create additional capacity and improvements to the car park to avoid exacerbating existing pressures is noted. Again, subject to a suitable financial contribution being secured as a planning obligation, the additional pressure arising from the development could be mitigated.

25. Anglian Water has considered the need for water and foul drainage connections confirming capacity in the network, including for the processing of foul waste at the Nettleham Water Treatment Works.

26. Although I have had regard to the significant number of concerns raised with respect to pressure on local infrastructure, I have been provided with no evidence to demonstrate any harm that would arise from the development in these terms. As such, I have no reason to conclude that the development would be unacceptable on these grounds, or set aside the contrary views of local service providers. As such, I find no conflict with Policies LP12 or LP14 of the LP, which require that all new development should be supported by, and have good access to, all necessary infrastructure, including water and waste treatment.

### *Amenity/living conditions*

27. Concerns are raised that the scale of the development would significantly increase activity in the village, including vehicular traffic that would cause congestion, noise and disturbance to residents. These concerns were raised by the Council with full acceptance of the conclusions contained within the submitted Transport Assessment (May 2015) (TA), which found that the highway network could accommodate the development without safety or capacity concerns. Whilst this is so, it is clear that there would be an increase in traffic through the village. This may lead to some level of additional noise and disturbance from increased activity but it is accepted that the village needs to grow and the additional development proposed as part of this scheme would be relatively small in the context of the size of the village.
28. The development would take some time to construct and would be likely to attract significant numbers of large vehicles, construction traffic and building operations that would affect neighbouring occupants and the wider village. However, these impacts could be minimised using measures such as a Construction Management Plan and the Council has suggested conditions in the event that planning permission is granted. Taking this into account, and the limited duration of the construction works, I do not consider that the living conditions of existing residents would be materially harmed. As such, I find no conflict with Policy LP26 of the LP in so far as it seeks to safeguard and improve the quality of life of residents.

### *Accessibility*

29. Nettleham is a large village served by a good range of services and facilities, including an infant and junior school, shops, Post Office, hairdressers, butchers, take-aways, public houses, a medical centre and a range of sports facilities. The Council and the Parish Council accept that Nettleham is a sustainable location for residential development in principle but raise concern that the scale and location of the proposed development would likely result in a reliance on private vehicles.
30. The Council's report to committee considers the accessibility of a range of key services and facilities on foot, noting that even the furthest parts of the site would be within 2km of the majority of services and facilities, where walking can represent a realistic alternative to the motor car<sup>2</sup>. In fact, many services and facilities would be within 800m. In this regard, the appellant refers to the Institution of Highways and Transportation guidance, 'Providing for Journeys on Foot' which advocates a preferred maximum walking distance of between 800m to a town centre, extending up to 2km for a commute to school. These guidelines were recognised as an appropriate benchmark for considering suitable walking distances, notwithstanding that the Parish Council found the latter distance for walking to school unlikely for adults with young children.
31. Table 1 of the Appellant's Statement provides estimated walking times which range up to around 14 minutes. There was some debate about whether these times were realistic and it was recognised that adults with children, the elderly and less mobile might take longer to walk the distances identified. However, the estimates are broadly in line with the average walking speeds identified by the IHT guidance and even with some adjustment, the walking times would not

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<sup>2</sup> Manual for Streets, DCLG, 2007



- significantly alter. I take them to be a suitable indication of walking times for most people in this case.
32. Whilst many people might be unwilling or unable to walk even short distances, the opportunity would exist for access to a good range of services and facilities on foot in this case for those that are so minded. There are a range of pedestrian links proposed from the development and a range of good quality footpaths and routes for future occupants to utilise. I see nothing unreasonable about future residents walking for up to 14 minutes, or slightly longer, to reach day to day services.
33. In addition, opportunities to cycle are available and modest cycle rides of up to 5km would allow access to a much greater offering of services and facilities, including much of Lincoln. Public transport serves the village and bus stops are located within an easily reachable 400m of the site. These provide a regular service to Lincoln and other areas, providing opportunities for wider service provision and commuting for employment. I heard that the bus services did not operate at weekends and services to Lincoln finished early in the afternoon. Nevertheless, return journeys from Lincoln continue to operate and with some prior planning, there is a reasonable opportunity to utilise public transport.
34. The appellant has submitted a Travel Plan (May 2015) which contains measures to encourage travel by sustainable means and the submitted Planning Obligation contains provisions for a Travel Plan Coordinator to manage and monitor the documents. This would assist in raising awareness of sustainable means of travel and encourage their uptake.
35. Having accepted that the allocated site falling within the appeal site is accessible by walking and cycling, I do not consider that the additional development proposed would be so much further away as to render the additional area poorly served. The distance involved is not so materially different as to become an unsuitable site for development in accessibility terms. Given the good opportunities for walking and cycling, and the availability of public transport I see no reason why future residents should become reliant on private vehicles. As such, I find no conflict with Policy LP13 of the LP, which requires development to contribute towards an efficient and safe transport network which offers a range of transport choices.
36. I have had regard to two recent appeal decisions<sup>3</sup> in Nettleham where the Inspectors concluded that the sites were not well located with regards to accessing services and facilities, specifically one of these decisions indicated that people are unlikely to walk 13-16 minutes. However, it is unclear what context this view was taken in or the evidence that was put before the Inspectors in those cases. Having regard to the good pedestrian links and footpaths available in this case, I see no reason why such a walking time should be undesirable.

### **Other matters**

37. The appellant has outlined a range of benefits that would arise from the proposed development, primarily the delivery of a significant number of market and affordable dwellings. The provision of 25% affordable housing (up to 50 units) is a positive benefit to which I attach significant weight given the need

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<sup>3</sup> APP/N2535/W/15/3133902 and APP/N2535/W/15/3129061

for affordable housing in the area and the fact that the LP will not entirely resolve this need. However, I attach the delivery of market housing only limited weight given the Council's demonstrable five year housing land supply position, notwithstanding the need to boost significantly the supply of housing.

38. There would be economic benefits through jobs during construction of the development, expenditure by the increased population and an increase in Council Tax income for the Council. Furthermore, the proposed areas of open space, landscaping and ecological enhancements all weigh in favour of the development, attracting limited weight.

### **Planning Obligations**

39. Both a bilateral agreement and a unilateral undertaking were submitted to secure planning obligations in connection with the appeal. The former provides for a range of financial contributions said to be necessary to mitigate the effects of the development but it is not necessary for me to consider these in detail given my conclusion on the main issues.
40. The separate Unilateral Undertaking provides for a financial contribution of £250,000 towards sport and recreation facilities. I heard that this figure originally derived from the cost of a new cricket facility on the site but that the Parish Council and cricket club had since confirmed that this was not necessary or desirable. The contribution is offered nonetheless, the appellants' explaining that they had already committed the sum. The Council does not consider the contribution necessary and I have not been provided with any evidence to suggest a need for new or upgraded sport and recreation facilities as a result of the development. To the contrary, consultation responses suggest that the village is well served. In the absence of any detailed evidence to support a need for the contribution or explain how the money would be spent in mitigating the impacts of the development I am not satisfied that it accords with Regulation 122 of the CIL Regulations and have not taken it into account.

### **Conclusion**

41. The development would conflict with the spatial strategy and settlement hierarchy of the LP and be at odds with the quantum and location of development expected by the NNP. It would also result in a harmful impact on the character and appearance of the area. As such, it would be contrary to Policies LP2, LP52 and LP55 of the LP, as well as H-1 and H-7 of the NNP.
42. I have not identified any harmful effect on local infrastructure or living conditions, nor in respect of accessibility by sustainable means. I have had regard to the benefits that would arise from the development identified by the appellant, but even cumulatively, these do not outweigh the harm that I have identified or indicate that a decision should be made other than in accordance with the development plan. The proposal does not accord with the development plan as a whole and is not, therefore, sustainable development.
43. In light of the above, and having considered all other matters, the appeal is dismissed.

*Michael Boniface*

INSPECTOR



## **APPEARANCES**

### FOR THE APPELLANT:

Satnam Choongh	Counsel
Lynette Swinburne MRTPI	Agent
Steven Windass BSc (Hons) MSc (Eng) MCIHT MIHE	Senior Transport Planner
Eliazabeth Fry	Landscape Consultant
Richard Costall	Land Director, Beal Developments Ltd

### FOR THE LOCAL PLANNING AUTHORITY:

Cllr Giles McNeill	Councillor
George Backovic	Principal Development Management Officer

### INTERESTED PERSONS:

Andrew Parkinson	Solicitor for Nettleham Parish Council
Cllr John Evans	Chair of Neighbourhood Plan Committee
John Hill	Local resident
Ian Straw	Local resident
Chris Kent	Local resident
John Dixon	Local resident
Linda Dixon	Local resident

## **DOCUMENTS SUBMITTED DURING THE HEARING**

- 1 Draft S106 agreement
- 2 Completed Unilateral Undertaking
- 3 Appeal decision ref. APP/D3830/W/15/3137838
- 4 Written copy of oral statement by John Hill
- 5 Written copy of oral statement by Ian Straw
- 6a Proposed Submission Consultation: Report on Key Issues Raised
- 6b Central Lincolnshire Local Plan: Initial questions from the Inspectors
- 6c Initial questions from the Inspectors (26 July 2016) and the Committee's Response to those Questions (15 August 2016)
- 6d Central Lincolnshire Local Plan Examination - Hearing Sessions Programme (16 September 2016)
- 6e Table indicating relationship between interim 5 Year Housing Land Supply Update and September 2016 Five Year Land Supply Report
- 7 CIL Compliance Statement
- 8 Conditions proposed by the Council
- 9 Consultation response from NHS England dated 13 May 2015

- 10 Consultation response from Lincolnshire County Council (Education) dated 19 September 2016
- 11 Conditions Proposed by the Council
- 12 Appeal decision ref. APP/N2535/W/15/3129061
- 13 Proposed conditions agreed between the parties

#### **DOCUMENTS SUBMITTED AFTER THE HEARING**

- 1 Completed S106 agreement