
Appeal Decision

Site visit made on 21 September 2016

by M Seaton BSc (Hons) DipTP MRTPI

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

Decision date: 08 November 2017

Appeal Ref: APP/N2535/W/16/3152310

Site 3A, Land adjacent to Wesley Road, Cherry Willingham, Lincoln, LN3 4GT

- 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 G Collins on behalf of Cherry Tree Homes (UK) Ltd against the decision of West Lindsey District Council.
 - The application Ref 133692, dated 4 November 2015, was refused by notice dated 27 April 2016.
 - The development proposed is an outline planning application for residential development of 19 dwellings – all matters reserved.
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Procedural Matters

1. I have noted that the site address has been described in a number of ways during the course of the planning application and appeal. Whilst I have no doubt that all refer to the same parcel of land, I have found the description of the address used on the Council's Notice of Decision (and subsequently on the appellant's Statement of Case) to most accurately describe the land, and reflect the phrasing of the proposed works.
 2. The proposals have been submitted in outline with all matters reserved for later consideration. I have dealt with the appeal on this basis and treated the submitted layout plan as indicative in respect of the reserved matters (appearance, landscaping, layout, access and scale) related to the proposed residential development.
 3. Since the submission of the planning appeal, my attention has been drawn to a number of additional documents and statements published, which have been material to the issues and matters arising within the appeal. These documents and publications have included the *Central Lincolnshire Five Year Land Supply Report 1 April 2017 – 31 March 2022 & Errata Report* (September 2016); and the *Inspector's Report on the Examination of the Central Lincolnshire Local Plan* (April 2017). Furthermore, the *Central Lincolnshire Local Plan* (the Local Plan) was formally adopted in April 2017. This has had the effect of superseding and replacing the policies of the West Lindsey Local Plan First Review 2006, which were referred to in the reasons for refusal. Both the Council and appellant have been provided with the opportunity to comment on these additional submissions and the implications of this change in policy.
 4. Further to the above, a s106 Legal Agreement dated 6 June 2017 has been submitted. The Agreement addresses matters related to affordable housing including the terms of occupation of the units proposed and the provision of an
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off-site contribution; the provision and phasing of on-site public open space; and the provision of a contribution towards education, specifically towards two additional classrooms and ancillary group space at Cherry Willingham Primary Schools. I will return to the Agreement later on in my decision.

5. In determining this appeal, I am mindful that a separate appeal further to the refusal of outline planning permission for residential development on the land adjacent to the appeal site is also underway (*Ref. APP/N2535/W/16/3153106*). Whilst this appeal and the appeal on the neighbouring site fall to be considered on their own planning merits, in reaching my decision I have been mindful of the relationship and similarities between the two proposed developments.
6. I have given careful consideration to all of the amendments, documents and publications in reaching my decision on this appeal, and where pertinent refer to them in more detail in the reasoning of the appeal decision.

Decision

7. The appeal is dismissed.

Main Issues

8. The main issues are;
 - whether the proposed development accords with the spatial strategy for the area and the Development Plan;
 - the effect of the proposed development on the rural character and appearance of the landscape and open countryside; and,
 - whether services and facilities would be accessible by means other than private motor vehicles.

Reasons

Spatial strategy

9. Policy LP2 of the Local Plan sets out the spatial strategy and settlement hierarchy for the area with the aim to deliver sustainable growth for Central Lincolnshire through the concentration of development on the main urban areas, and elsewhere to support the function of other sustainable settlements and to help meet local needs.
10. Cherry Willingham is identified as a Large Village (category 4 within the settlement hierarchy), where an appropriate level of growth may be accommodated so as to maintain and enhance the role of the settlement, noting the provision of 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 Local Plan, or appropriate infill, intensification or renewal within the existing developed footprint. However, 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 or 1hectare per site (whichever is the smaller).
11. Policy LP52 of the Local Plan allocates five sites for development in Cherry Willingham, totalling 432 dwellings. Site allocations CL4751 & CL4752 fall on

- the land which at the time of my site visit was being developed and where it was expected that a total 59 dwellings would be delivered.
12. The appeal site is not allocated for residential development in the Local Plan, but having regard to my findings below in relation to the second and third main issues, the site, if developed, could be considered to be in an 'appropriate location' immediately adjacent to the developed footprint. I agree with the appellant's contention that the appeal proposals would in isolation in proposing 19 dwellings accord with the quantum of development which might be acceptable for additional growth on non-allocated sites. I also note that this is a conclusion with which the Council had agreed with in assessing the proposals in the context of the (then) emerging Local Plan in the Committee Report, and I note that the Council has not recanted from this position in their appeal submissions further to the adoption of the Local Plan
 13. Nevertheless, I am mindful that in considering the proposed development against Policy LP2, it is necessary to demonstrate 'exceptional circumstances' to justify the development of the appeal site. The adopted policy defines 'exceptional circumstances' as a matter for the decision maker, and gives the example of where the development would deliver a community facility above and beyond what would ordinarily be required and for which a clear need has been identified.
 14. In this respect, neither the Council nor appellant have sought to grapple with this aspect of the policy in their submissions, but this does not preclude me from having to address the matter. Whilst I acknowledge that the proposed development would incorporate affordable housing provision (including an off-site contribution), this would be to meet the requirements of the Development Plan, and the quantum proposed would not therefore represent an exceptional level of provision. Furthermore, the provision of open space and education contributions as proposed would also meet the requirements of future occupiers and mitigate against the potential impact of the development on existing infrastructure. Whilst I have set out the further benefits of the proposed development in the planning balance, I do not regard any of these matters as representing the demonstration of 'exceptional circumstances' necessary for the purposes of the policy.
 15. I have had regard to the appellant's submission that the area in the vicinity of the appeal site, and indicated as being known as 'Hawthorn Avenue', should not be considered as separate from Cherry Willingham. On the basis of the two adjacent sites identified within Policy LP52 being classified as within Cherry Willingham, and the absence of a separate definition of this location, I would agree with this contention. As such, I accept that Policy LP4 of the Local Plan relating to Growth in Villages within categories 5-6 of the settlement hierarchy is not therefore engaged.
 16. On the basis of the evidence before me, I consider that the appeal proposal would not be acceptable with reference to the spatial strategy of the area, having particular regard to the absence of demonstrable 'exceptional circumstances' to justify development in a location immediately adjacent to the developed footprint of the settlement. The proposals would therefore not accord with Policy LP2 of the Local Plan.

Character and appearance

17. The appeal site comprises a parcel of land of approximately 0.6 hectares, set immediately to the south of an existing residential development, part of which at the time of my visit was under construction. The appeal proposals would represent part of a 3rd phase of development linked to the existing development from Wesley Road and Franklin Way. The surrounding open land to the south and east falls within agricultural use, whilst the land immediately to the west was also open land, which is the subject of the aforementioned second planning appeal. Further to the west are open fields and to the south-west is an area of woodland. Nevertheless, and whilst acknowledging that the site clearly abuts the existing settlement, it occupies a position within the open countryside.
18. I observed the countryside in the surrounding area to be generally open in character with existing pockets of development and small and medium-sized settlements and villages scattered within the wider landscape. The existing built form centred around Hawthorn Avenue accords with the wider landscape character of the area. In this respect I am satisfied that the proposed development, despite representing a further extension to the existing settlement, would continue to respect that wider character and in longer views would largely be read as part of the existing built form of the settlement and existing characteristics of the environment.
19. I recognise that although the land is pleasant there are no overall specific characteristics of the appeal site which would warrant its full protection over and above any other area of countryside. However, I would not dispute that the proposed development would result in a permanent and adverse change to the character and appearance of the appeal site itself, particularly as experienced by users of the nearby indicated footpath, and occupiers of development close to the appeal site. I am satisfied that this conclusion would be reasonable even allowing for the incorporation of an area of public open space within the wider layout of the development as shown on the indicative layout plan, as well as the potential for additional boundary landscaping.
20. I have noted that the appellant has referred to the previous phases of development as having set a degree of precedent for the proposed development in respect of allowing further development in this location. However, it is quite clear that the circumstances of the case vary significantly from the previous schemes, not just in light of the additional extension of development into the countryside, but in light of the changing Development Plan. I do not therefore consider that there is a realistic or reasonable precedent for development precluding the need to determine the case on its own merits.
21. Whilst I am satisfied that there would not be a significant impact on the wider landscape character of the rural area, or the character and appearance of the adjacent settlement, I nevertheless conclude that the proposal would result in a limited and localised adverse landscape impact and urbanising effect. This would have some limited detriment to the character and appearance of the area, and would therefore be in conflict with Policy LP55 of the Local Plan, which seeks to address development in the countryside through the application of a criteria-based approach ascertaining acceptable circumstances for development. I also recognise that the development of the land would, to some extent, run counter to the National Planning Policy Framework's (the

Framework) core planning principle (paragraph 17) of recognising the intrinsic character and beauty of the countryside.

Accessibility

22. Cherry Willingham, incorporating Hawthorn Avenue, is identified as a large village with access to good range of services and facilities. These are identified as including a parade with a doctor's surgery, public library, retail outlets, a take-away and a public house. Additionally, the village is indicated as possessing a primary school, community school and sports clubs.
23. The Council's Committee Report identifies the appeal site as being 0.9 miles (approx. 1450 metres) from the nearest facilities, which equates to approximately a 15-20 minute walk along an unlit cycle and pedestrian path. Hawthorn Avenue is also served by a reasonable frequency of bus services from Hawthorn Road into Lincoln and the surrounding villages throughout the core hours of daytime and into the early evening.
24. It has been concluded by the Council that the appeal site would be within a location whereby walking distances would not be considered to be sustainable. In assessing the accessibility of the appeal site, my attention has been drawn to the *Institute of Highways and Transportation (IHT) publication, 'Providing for Journeys on Foot' (2000)*, which amongst other things provides guidance on acceptable walking distances. Reference has also been made to the Manual for Streets which advises on distances as a characteristic of a walkable neighbourhood, and
25. I accept that the proposed development would be beyond the preferred maximum suggested acceptable walking distance of 800 metres for 'Town Centres' and 1200 metres for 'Elsewhere' as set out in the IHT publication, but it would be within the preferred maximum distance of 2000 metres for 'Commuting/School'. The distances involved would also exceed those identified within the Manual for Streets as being characteristic of a walkable neighbourhood, although I am mindful that this document also refers to distances of up to 2000 metres as offering the greatest potential to replace short car trips.
26. I am mindful that the above distances are provided as guidance with a recognition that 'acceptable' walking distances will vary between individuals and circumstances. Nevertheless, despite the absence of street lighting, I observed the pedestrian environment between Hawthorn Avenue and Cherry Willingham to be otherwise of a reasonable standard for both journeys by foot and by cycle. I also find that despite the Council's contention regarding the infrequency of bus services, that the level of available service would be sufficiently frequent to provide a realistic alternative to a reliance on the private car. I am therefore satisfied that the location and accessibility of the site to local services and facilities would not be solely dependent upon the use of the private car.
27. As a consequence of the accessibility of the site for walking, cycling, and public transport, I am satisfied that realistic alternatives are in place to prevent reliance upon the private car for access to the services and facilities within Cherry Willingham. I have not therefore found the proposals to conflict with Policy LP13 of the Local Plan, which requires development to be located where

travel can be minimised and the use of sustainable transport modes maximised and where there are a range of transport choices for the movement of people.

Other Possible Harm

28. A number of other issues have been raised by interested parties, including Cherry Willingham Parish Council. These include concerns over the impact in the future of the proposed Lincoln Eastern Bypass scheme, the level of parking provision and potential impact on accessibility for emergency vehicles, and the impact on local ecology.
29. I have considered the references to the future impact of the proposed Lincoln East Bypass, and the contention that it would limit the accessibility of the appeal site from Lincoln itself. However, beyond the references made by interested parties, I do not have any detailed information before me on any potential future scheme, and am mindful that concerns have not been raised by the Council in their reasons for refusal, or by the Highway Authority in their assessment of the proposed development. This is not therefore a matter which has had any significant bearing on my decision-making.
30. In respect of matters related to parking provision and the suitability of the future road layout to cope with emergency vehicles, I am mindful that issues related to access and layout are reserved matters at this stage, and have not formed part of the assessment undertaken by the Highway Authority. Nevertheless, on the basis of the indicative plans accompanying the planning application and appeal, I see no reason that an appropriate quantum of parking and layout could not be achieved.
31. Concerns have also been raised over the impact of the proposed development on ecology. I note that a protected species survey was submitted in support of the application, which concluded that no protected species were present on the site, prior to the clearance works already having been undertaken. I also note that the Council's Tree Officer has assessed the impact on existing hedgerows and trees and offered no objection, but with the expectation that any future planning permission should require new, mixed species, native hedgerow planting to improve the biodiversity value of the site. This would attract some limited weight in support of the proposal.

Planning Benefits

32. At the time of the application and original submission of the planning appeal, it was accepted by the main parties that the Council was unable to demonstrate a 5 year supply of deliverable housing land. However, in adopting the Local Plan that position has now changed, and on the basis of the evidence placed before me, I am satisfied that the Council is now able to demonstrate a 5 year supply of deliverable housing land. I have no evidence or reasoning before me from which to dispute this conclusion.
33. The proposed development would nevertheless result in the contribution of 19 dwellings towards the delivery of housing in the local area, being comprised of 25% affordable housing secured as a planning obligation, with the remainder as market units. This would accord with the objective of the Framework of seeking to boost the supply of housing, and would go towards the long-term housing requirement. I accept that the quantum of development would make only a comparatively small contribution, but that some limited weight in

support of the proposals must nevertheless be afforded to this provision.

However, in respect of the provision of the level of affordable housing to meet identified local needs both on the site and in the form of a commuted sum, I attach moderate weight in support of the proposals.

34. Further to the additions to the local housing market, the proposed development would also provide some further limited economic benefit as a result of the opportunities for the creation of employment from the construction of the dwellings, as well as within the supply chain and related services, and economically in respect of additional spending in the local area. Furthermore, the proposed biodiversity enhancement in the form of open space, landscaping, and planting would attract some limited environmental weight in support of the proposals.

Obligations

35. As set out at the beginning of this Decision, the appellant has submitted a planning obligation in support of the proposed development. I have already briefly addressed the issue of affordable housing within the Decision, and am satisfied that the provision of 25% would be required in accordance with Policy LP11 of the Local Plan. The requirement for the provision and phasing of on-site public open space would address the additional demand from the proposed development. Finally the provision of a contribution towards two additional classrooms and ancillary group space at Cherry Willingham Primary School, has been identified as necessary due to the projected absence of future capacity at the school from 2018 onwards, and would accord with Policy LP12 of the Local Plan..
36. Overall, I am satisfied that the undertaking is in order and meets all the requirements set by the Council. The need for the provision of, or contribution towards the various obligations has been made clear as well as the direct relationship to the development, the necessity and acceptability in planning terms, and that the obligations are fairly and reasonably related in scale. In this respect, I am satisfied that the obligations would accord with the provisions of Regulation 122 of the Community Infrastructure Levy regulations 2010 and the tests for planning obligations set out in the Framework.

Planning Balance and Conclusion

37. I have concluded that the appeal site is situated within an accessible and sustainable location for new development, and would make a social contribution to the local housing market through the provision of additional housing and affordable housing units, to which I attach limited to moderate weight. The proposed development would also make some limited economic benefits related to the construction of the proposed development and from the future occupation of the units in respect of local expenditure. There would also be the potential for some limited environmental benefits in respect of the enhancement of the biodiversity value of the site.
38. However, the proposed development would not accord with the adopted spatial strategy, due to the absence of any demonstrable 'exceptional circumstances' to justify development in a location immediately adjacent to the developed footprint of the settlement, and to this shortcoming of the development proposals, I attach substantial weight. Furthermore, whilst I am satisfied that the proposals would not detract from the overall rural character of the wider

landscape, the development of the existing open land would result in a localised and limited adverse visual impact and urbanising effect.

39. In respect of other possible harm identified by interested parties in relation to the proposed development, I conclude that none would be likely to result from the scheme.

40. In this respect, I am satisfied that the benefits of the proposed development would not outweigh the identified harm, and that having regard to all other matters raised and the economic, social and environmental dimensions of sustainable development set out in paragraph 7 of the Framework, the scheme does not therefore represent sustainable development.

41. For the reasons given above, the appeal should be dismissed.

M Seaton

INSPECTOR