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# Appeal Decision

Site visit made on 13 November 2017

**by S Harley BSc(Hons) MPhil MRTPI ARICS**

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

**Decision date: 1<sup>st</sup> December 2107**

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**Appeal Ref: APP/N2535/W/17/3179325**

**Land to the rear of Hutchinsons, Hawthorne Road, Cherry Willingham, Lincoln LN3 4JU**

- 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 Mr G Hughes, Pride Homes (Lincoln) Ltd against the decision of West Lindsey District Council.
  - The application Ref 134096, dated 26 February 2016, was refused by notice dated 1 June 2017.
  - The development proposed is erection of 69 dwellings.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The name on the appeal form is different to that on the planning application form. However, it is been confirmed that the applicant and the appellant are the same, and is as shown in the banner heading above.
3. On the planning application form the site was described as set out above. The address used in the Council's Notice of Decision and in the appellant's Statement of Case is "Land off Hawthorne Road, Cherry Willingham, Lincoln". I am satisfied that both descriptions relate to the same piece of land.
4. For the purposes of this appeal a Unilateral Undertaking under s106 of the Town and Country Planning Act 1990 has been submitted by the appellant. I have taken this into account in considering the appeal.

## Main Issues

5. I consider the main issues in this case to be:
  - whether or not the proposed development accords with the spatial strategy for the area, including accessibility to services;
  - the effect of the proposed development on the rural character and appearance of the landscape and open countryside; and
  - whether or not satisfactory arrangements for the disposal of surface water can be made.

## Reasons

### *Spatial Strategy*

6. Planning applications and appeals should be determined in accordance with the development plan unless material considerations<sup>1</sup> indicate otherwise. The development plan for West Lindsey District includes the Central Lincolnshire Local Plan (the CLLP) which was formally adopted in April 2017. The National Planning Policy Framework (the Framework) is a material consideration. The Framework and Policy LP1 of the CLLP together seek to achieve sustainable development.
7. Paragraphs 7 and 8 of the Framework require the economic, social and environmental roles of sustainability to be considered together. Paragraph 12 states that proposed development that conflicts with an up to date Local Plan should be refused unless other material considerations indicate otherwise. Paragraph 17 emphasises the principle of a plan-led system.
8. The Council has approved the application by Cherry Willingham Parish Council to be designated as a neighbourhood area and a draft neighbourhood development plan is being prepared. However, in accordance with Paragraph 216 of the Framework, it is at too early a stage to attract weight.
9. The appeal site is on land to the south of Hawthorne Road behind other housing. It is accessed off an existing road built in connection with other recently constructed/under construction residential development. The part of Hawthorne Road to the north and east of the appeal site; together with Hawthorne Avenue, Wesley Road, Franklin Way and other roads; comprise an enclave of mainly residential properties. This Hawthorne Avenue area was recognised as a settlement in its own right under the West Lindsey Local Plan First Review 2006 (the former LP). The former LP has now been superseded.
10. Policy LP2 of the CLLP sets out a settlement hierarchy. The principal focus for development is Lincoln Urban Area, followed by main towns and market towns. There are a further three village categories plus hamlet (Category 7) and countryside (Category 8). Broadly the scale of development considered appropriate reduces with the scale of the settlement. Hamlets are defined as settlements of 15 dwellings or more clustered together to form a single development footprint and not listed elsewhere in Policy LP2. In hamlets single dwelling infill development is considered to be appropriate. In the countryside Policies LP2 and LP55 restrict development other than for specified exceptions.
11. From my observations during my site visit I would conclude that the combined development in the Hawthorne Avenue area would amount to a hamlet for the purposes of Policy LP2. This is because it is not listed as a settlement in Policy LP2 and it is separated by fields from any other settlement. This coincides with the view of the Council and of the appellant, as stated at Paragraph 5.1.13 of the Grounds of Appeal, although the appellant is now of a different view<sup>2</sup>. In this regard I differ from a colleague Inspector who, in considering appeals on two adjoining sites on land off Wesley Road<sup>3</sup>, conjoined Cherry Willingham and Hawthorne Avenue. Neither this, nor the allocation of two sites ref CL4751 and

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<sup>1</sup> Section 38 of the Planning and Compulsory Purchase Act 2004

<sup>2</sup> Email dated 15 November 2017

<sup>3</sup> APP/N2535/W/16/3152310 and APP/N2535/W/16/3153106 (the Wesley Road appeals). The parties have had the opportunity to comment on these.

CL4752 for residential development on land south of Wesley Road (Policy LP52 of the CLLP), lead me to a different conclusion in relation to this appeal.

12. In either event, the appeal site before me lies outside the developed footprint of both the Hawthorne Avenue area and Cherry Willingham, and is a significant distance from the latter. Accordingly I conclude that the appeal site is in the open countryside for the purposes of Policy LP2. I have seen no evidence to suggest the proposal would fall within any of the exceptions which allow for residential development in the countryside or in a hamlet. Even should I accept that the Hawthorne Avenue area forms part of Cherry Willingham, which is categorised as a large village, the proposal would not amount to the appropriate infill, intensification or renewal, within the existing developed footprint, anticipated by Policy LP2.
13. Policy LP2 states that additional growth on non-allocated sites might be considered favourably in appropriate locations immediately adjacent to the developed footprint of a large village, in exceptional circumstances, but states these are unlikely to be of a scale over 25 dwellings. No exceptional circumstances have been put forward and the current proposal for 69 dwellings would not satisfy either criteria. I conclude that the proposed development would be contrary to Policies LP2 and LP55 of the CLLP and that part of Policy LP1 that relates to the environmental dimension of sustainable development.
14. There are no services or facilities within the Hawthorne Avenue area itself with the exception of bus stops providing access to a bus service into Lincoln and the surrounding villages during the day and early evening. There is an unlit shared footpath/cycle path which links the Hawthorne Avenue area with Cherry Willingham. This has a range of services and facilities including a school, a library, shops, and leisure, health and education facilities. There is a full range of services available in Lincoln.
15. Some facilities would be about 1.5km to 2.00km away and others, including the Cherry Willingham Primary School, would be further away. Such distances exceed the maximum walking distance of 800m sought by the Institute of Highways and Transportation document '*Providing for Journeys on Foot*'. A distance of up to 800m is also identified as a characteristic of a 'walkable neighbourhood' in national guidance<sup>4</sup>. As a result, I find that whilst the village has some public transport provision, the appeal site is less than ideally located in terms of accessibility of most day to day services and facilities in the village which would be required by future residents of 69 dwellings, other than by means of a private vehicle.
16. Despite the lack of street lights I consider that the environment between Hawthorn Avenue and Cherry Willingham to be otherwise of a reasonable standard for journeys by foot and by cycle. I therefore consider the location and accessibility of the site to local services and facilities would not be solely dependent upon the use of the private car. On balance I conclude that there would be only limited conflict with Policy LP13 of the CLLP which seeks to minimise travel and maximise the use of sustainable transport modes. I acknowledge the views of the Inspector in the Wesley Road appeals but note that these related to significantly smaller numbers of dwellings and that the current proposal would be for substantially more than the total combined dwellings in those two cases.

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<sup>4</sup>Manual for Streets, section 4.4.1 conflict albeit limited

17. For the reasons set out above I conclude that the appeal proposal, given the scale of the development and the location in the open countryside, would not accord with the current spatial strategy of the area. The proposal would therefore significantly conflict with Policies LP2 and LP55 of the CLLP and that part of Policy LP1 that relates to the environmental dimension of sustainable development. There would also be limited conflict with Policy LP13 as the site is not ideal in terms of accessibility to local services by means other than the private car.

*Character and appearance*

18. The site is within the Lincoln Fringe which is characterised as a flat agricultural landscape with a number of settlements in the West Lindsey Landscape Character Assessment Area. The surrounding countryside is very open in character and the spire of Lincoln Cathedral and the tops of other buildings in Lincoln can be seen in the distance to the west. There are other small and medium sized settlements scattered in the wider agricultural landscape.
19. The appeal site is mainly a field which is currently being used for the storage of plant and materials in connection with nearby residential development. There are houses to the north. On some of the land to the east houses have been, or are being, constructed. Beyond is land which was the subject of the Wesley Road appeals which were dismissed on 8 November 2017. Land to the south and west comprises open fields and woodland.
20. The proposed development would have a relatively high density with a mix of house designs and finishes. It would be similar to adjacent development given permission and/or constructed to the east. The proposed development would largely be seen from surrounding public vantage points in the context of the existing/permitted Hawthorne Avenue buildings. Accordingly the proposal would respect the wider character of the area and would not be particularly intrusive in longer views.
21. The appeal site has no overall specific characteristics to warrant protection above other areas of countryside although I note there may have been unauthorised removal of hedgerows and trees<sup>5</sup>. However, the proposed development would result in the permanent and adverse change from open countryside to built development.
22. The appellant asserts that the western edge of the appeal site would provide a future defensible boundary. However, the edge of existing and permitted development would provide an equally defensible boundary in this open agricultural landscape. I acknowledge that part of the site was allocated for residential development under the former LP but this has now been superseded by the CLLP. Neither of these matters therefore attracts significant weight in my considerations.
23. I conclude that, whilst 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, the proposal would result in a localised adverse landscape impact and urbanising effect to the detriment of the character and appearance of the open rural countryside. It would therefore conflict with Policies LP2 and LP55 of the Local Plan, which seek to restrict development in the countryside

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<sup>5</sup> Tree and Landscape Comments 5 April 2016

through the application of a criteria-based approach. There would also be conflict, albeit limited, with Policy LP17 which seeks to protect the intrinsic value of the landscape and townscape, including the setting of settlements.

### *Surface Water Disposal*

24. The site is in Flood Zone 1 which is the lowest flood risk category. Development would be likely to result in additional surface water run-off. The proposal is accompanied by a Flood Risk Assessment and Drainage Strategy which indicates that disposal of surface water would be by means of soakaways and permeable carriageway construction.
25. The Lead Local Flood Authority has raised concerns about the likely effectiveness of infiltration disposal given the height of the water table; problems with drainage on the adjacent phases of development; and the capacity of the highway drain along Hawthorne Road. Policy LP14 of the CLLP, amongst other things, prefers the incorporation of Sustainable Drainage Systems and that surface water connections to the combined or surface water systems are only made in exceptional circumstances where there are no feasible alternatives.
26. The appellant has provided a copy of land drainage consent granted by the Witham Third District Internal Drainage Board under the Land Drainage Act 1991. The Council has had the opportunity to comment on this but raised no further objection. On this basis I see no reason to conclude that appropriate provision could not be made for surface water disposal in accordance with Policy LP14 of the CLLP.

### **Other considerations**

27. The Planning Committee Report states that a 6.27 year supply of deliverable housing land for the period of 2017 – 2022 can be demonstrated<sup>6</sup>. The appellant has questioned the timely deliverability of the Sustainable Urban Extensions (SUEs) as part of the immediate five year housing land supply and considers additional windfall sites will be required. However, no detailed evidence has been provided and I am mindful that the Local Plan Inspector found the selection of the SUEs to be robust and were justified, viable and developable within the plan period<sup>7</sup>.
28. On the basis of the evidence before me, for the purposes of this appeal, I am satisfied that the Council can demonstrate a deliverable supply of housing land in excess of the five years envisaged in the Framework. Accordingly the policies in the CLLP for the supply of housing are not out of date for the purposes of Paragraph 14 of the Framework. Therefore the presumption in favour of sustainable development at Paragraph 49 of the Framework does not outweigh Policies in the development plan.
29. Concern has been raised by third parties about traffic and the impact in the future of the closure of Hawthorne Road to through traffic as part of the proposed Lincoln Eastern Bypass. I have seen no detailed evidence about such a scheme, and I 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

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<sup>6</sup> Housing Land Availability Assessment for Central Lincolnshire December 2016

<sup>7</sup> Paragraph 6.2 of the Council's Statement and the in Reporting on the Examination of the Central Lincolnshire Local Plan

the proposed development. Accordingly I give this matter little weight in my considerations.

30. Concern has been raised about the level of parking provision. The revised plan ref RDS11268/01 provides for a minimum of two parking spaces. No objections have been raised by the Council and I see no reason to come to a different view.
31. Although not a reason for refusal of the planning application I note that the Tree and Landscape Officer has advised that development should not take place within the Fox Covert woodland and Site of Nature Conservation Interest and has identified that plots 58, 59 and 60 could be affected by trees planted under a Restocking Notice for felled woodland<sup>8</sup>. This is not a determinative issue for the purpose of this appeal so I do not need to consider it in detail. However, if the proposal was otherwise acceptable I would be seeking further information on this matter.
32. The proposal would contribute 69 houses to the overall provision of housing in the District whether or not a five year supply of housing land can be demonstrated. The proposed Unilateral Undertaking would provide for 17 units of affordable housing. This would meet the terms of Policy LP11 of the CLLP and would be a benefit of the proposal.
33. The provision for contributions to education and health infrastructure and the provision and future maintenance of on-site open space would not amount to benefits as they would be necessary to meet the infrastructure requirements arising from the development. As I am dismissing the appeal for other substantive reasons it is not necessary for me to consider these matters further.
34. The planning application attracted an officer recommendation for permission at the Planning Committee on 5 April 2017 and the appellant is dissatisfied with the way in which the Council handled the application and especially the time taken to reach a decision. However, circumstances have changed particularly with the adoption of the CLLP. I have reached my own conclusions based on the relevant current material planning considerations.

### **Planning Balance and Overall Conclusion**

35. The appeal site is not allocated in the recently adopted CLLP for residential development. The proposal is for 69 dwellings which is a significant development. It is in a countryside location and I have seen no exceptional circumstances that would justify the proposal. Accordingly I have found significant conflict with Policies LP2 and LP55 of the adopted development plan. I have also found there would be a localised and limited adverse visual impact and urbanising effect and a limited conflict with Policy LP17. Access by means other than the private car would not be ideal and there would be conflict, albeit limited, with Policy LP13. Taking these matters together I conclude that the proposal would not meet the environmental dimension of sustainable development as envisaged by Policy LP1 of the CLLP and the Framework.
36. The proposal would make a contribution to housing supply in the District including affordable housing. There would be economic benefits arising from employment during construction, support for local facilities, expenditure in the

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<sup>8</sup> Forestry Commission email 21 March 2017

local economy, Council Tax revenue and New Homes Bonus. In these respects the proposal would satisfy the economic and social dimensions of development as envisaged by Policy LP1 of the CLLP and the Framework. Suitable conditions could ensure that the proposed development would satisfy Policy LP14 in respect of surface water disposal.

37. Bringing all the above matters together I find, on balance, that the proposal would not accord with the development plan taken as a whole. I find no circumstances that have been drawn to my attention either within or outside the Framework to warrant a decision other than in accordance with the development plan in a plan led system. Taking into account all other relevant matters raised I conclude the appeal should not succeed.

*S Harley*

INSPECTOR