



Appeal Decision

Site visit made on 16 November 2017

by **D Guiver LLB(Hons) Solicitor**

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

Decision date: 21 December 2017

Appeal Ref: APP/N2535/W/17/3181286

Land to the west of Scotter Road and south of Becks Lane, Scotton, Gainsborough, Lincolnshire DN21 3QU

- 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 and Mrs J Burtenshaw against the decision of West Lindsey District Council.
 - The application Ref 135807, dated 10 February 2017, was refused by notice dated 9 May 2017.
 - The development proposed is erection of three dwellings – all matters reserved.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is made in outline with all detailed matters reserved for future consideration.
3. I have adopted the Council's description of the appeal site as this is more precise.
4. The post code given for the site in the application was incorrect and should be DN21 3QU.

Main Issues

5. The main issues are the effect of the scheme on:
 - the character and appearance of the village of Scotton and the surrounding countryside; and
 - protected species, with particular regard to great crested newts.

Reasons

Character and Appearance

6. Scotton is a small settlement surrounded by open countryside, with housing predominantly built fronting one of six or so roads forming the core of the village. There are a few outlying houses fronting Scotter Road to the north and the eastern end of Crapple Lane.
7. With the exception of the few houses on Scotter Road, there are no other dwellings north or west of the appeal site within the village. To the south of the site lie the rear gardens of a number of houses on Westgate and, at the

southernmost end of the village, the recent development in the cul-de-sac known as Westfield.

8. The main built form of the village lies south-east of the appeal site. The appellant states that the appeal site is 'not *too far remote* from the village' (my emphasis). However, from my observations at the site I considered there to be a clear distinction between the site and the built form of the village.
9. The site is surrounded on three sides open land or woodland and its only boundary with the village comprise the gardens to the properties on Westgate. I therefore consider the site to be part of the countryside. The site's proximity to the Beck and open fields means that it makes a significant contribution to the rural setting of the village.
10. Given these characteristics the proposed development would not fit easily within its surroundings. It would not integrate with housing but, instead, would appear as an intrusive incursion into the countryside, unrelated to the built-up part of the village.
11. Moreover, there would a significant effect on trees on the site. The appeal site comprises an open plot of close cropped grass and vegetation with a number of large mature trees spread across the western half of the site together with some younger trees.
12. A post-decision tree survey suggested that there are three trees of moderate value and eight trees of low value on the site, all of which would need to be removed. The survey was described as 'essentially a walkover and visual assessment' and focussed solely on the visual character and appearance when considered remotely from the site. There is no evidence before me or from my visit to question the health of the trees on the site or to conclude that they would be likely to suffer a shortened life.
13. I consider that the trees make a valuable contribution to the character of the area and specifically to the site itself. The loss of the three trees identified in the survey would have a significant detrimental effect on the character and appearance of the site and the wider area.
14. For these reasons I conclude that the development would harm the character and appearance of the village and the surrounding countryside. Consequently, the proposal would not accord with Policies LP17 and LP26 of the Central Lincolnshire Local Plan 2017 (the Local Plan), which together seek to ensure that developments contribute positively to the local character and landscape.

Biodiversity

15. The proximity of the Beck and the pond to the rear of the site, together with the significant number of valuable mature trees, could provide a habitat for protected species. The Council applied standing guidance from Natural England to determine that the appeal site has the potential for protected species to be present. Circular 06/2005 *Biodiversity and Geological Conservation* advises that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. Post-decision, the appellant submitted surveys of the trees on site and the potential for protected species. While the tree assessment was limited to character and appearance, the wider

- assessment addressed the potential presence of protected species and the ecological significance of the site as a habitat, including the trees.
16. Again, this survey is described as a 'walkover' and 'not detailed'. The assessment considered the possibility of a number of species being present, including great crested newts, nesting birds and grass snakes. It concluded there was limited evidence to support the presence of bats and badgers.
 17. The potential for the presence of great crested newts was categorised as low as a limited number of the assessment criteria were sub-optimal. However, there was also an acknowledgement that such a categorisation still left a 20 percent chance of great crested newts being present.
 18. The site was assessed to be a potential habitat for reptiles, including the grass snake, but considered the possibility low because of surrounding roads, hardstandings, gardens and arable land.
 19. Overall, while the evidence relating to some species is limited, on the information before me I consider there to be a reasonable likelihood of great crested newts being present on the site. While the application subject to this appeal is in outline, with all matters reserved, a grant of planning permission would have to presume that any harm that might be identified could be avoided or mitigated. Yet in the absence of any detailed assessments it remains unknown if there are protected species on the site, what their populations might be or how they would be affected by the development. The National Planning Policy Framework advises that if significant harm resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused
 20. In the absence of all the necessary information at this stage I conclude that there is a reasonable likelihood that great crested newts are present at the site and that the appeal proposal could have a harmful effect on them. Nor would it be appropriate to require additional survey information by condition; Circular 06/2005 makes clear that surveys should only be left to coverage under planning conditions in exceptional circumstances. I do not consider that such circumstances apply in this instance. Accordingly, the proposal runs counter to advice within Circular 06/2005 and the Framework.
 21. Therefore, I conclude that the protected great crested newts could be harmed by the development, contrary to Policies LP17 and LP21 of the Local Plan, which seek to ensure that important features such as trees and valuable habitats and species are protected and maintained.

Conclusion

22. While the proposal would provide the addition of three new dwellings, there is nothing in the evidence before me that would lead me to conclude that the benefit of those dwellings would clearly outweigh the harm I have identified above.
23. For the reasons given above, and taking into account all other matters, I therefore conclude that the appeal should be dismissed.

D Guiver

INSPECTOR