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## Appeal Decision

Site visit made on 23 April 2018

**by Susan Ashworth BA (Hons) BPL MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 4<sup>th</sup> June 2018**

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**Appeal Ref: APP/N2535/W/17/3187822**

**Land off Brook Street, Hemswell, Gainsborough, Lincolnshire DN21 5UJ**

- 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 M & M Fieldson against the decision of West Lindsey District Council.
  - The application Ref 136184, dated 29 April 2017, was refused by notice dated 2 August 2017.
  - The development proposed is erect up to 25 dwellings.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. An application for costs was made by West Lindsey District Council against M & M Fieldson. This application is the subject of a separate decision.

### Preliminary matter

3. The application was submitted in outline with all matters reserved for subsequent approval. I have dealt with the appeal on that basis.

### Main Issues

4. The main issues in this case are:
  1. Whether the site is a suitable location for housing having regard to local and national planning policy and the effect of the proposal on the character and appearance of the area.
  2. Whether the proposal would preserve or enhance the character or appearance of the Hemswell Conservation Area or its setting.
  3. Whether satisfactory provision is made for affordable housing.
  4. Whether the proposal would have a harmful effect on the mineral resource.

### Reasons

*Whether the site is a suitable location for housing*

5. The appeal site is an irregularly shaped area of around 1.4 ha of grassed land, predominantly in agricultural use, situated to the north of Brook Street. The site includes a strip of land between 17a Brook Street and outbuildings

adjacent to No 19 which would be used as access to the site. The site is bounded by open land on three sides and by a watercourse to the north beyond which is a public footpath. An indicative layout submitted with the proposal shows 25 houses on the site largely arranged in terraces set around a central area of open space.

6. Policy LP2 of the Central Lincolnshire Local Plan 2017 (the Local Plan) identifies the Council's approach to sustainable growth, including housing development, setting out a hierarchical approach that focusses growth on Lincoln and the main towns of Sleaford and Gainsborough with some significant but proportionate growth in market towns, and less growth in large and medium villages. Hemswell is categorised in Policy LP2 as a 'small village' where, unless promoted by a neighbourhood plan or through the demonstration of clear local community support, development would be small scale, of a limited nature in an appropriate location, and limited to around 4 dwellings.
7. Policy LP4 sets out the percentage growth that may be permitted within a village during the plan period, to 2036. Within Hemswell that growth figure is 15%, which at the time of the application equated to 27 dwellings but has subsequently been reassessed by the Council to be 18 dwellings. The Council can currently demonstrate a five year supply of housing land within the district. These matters are not disputed by the appellant.
8. The appeal site is not promoted by a neighbourhood plan and there is no demonstration of clear local community support for the development. Moreover, the proposal is clearly for considerably more dwellings than the limited amount of 4, acceptable under Policy LP2.
9. To be considered an appropriate location, in addition to a development being consistent with local and national policy, it must retain the core shape and form of the settlement; not significantly harm the settlement's character and appearance and not significantly harm the character and appearance of the surrounding countryside or the rural setting of the settlement.
10. The settlement has a compact layout and in this particular area the edge of the settlement is clearly defined by residential properties set out in a well-established linear pattern along Brook Street. The land is currently open and free from development and is visually continuous with the countryside beyond it. Consequently the site makes a positive contribution to the rural character and setting of the village. The development would be clearly visible from the surrounding network of footpaths and from the countryside beyond, which rises to the north-east. It would project incongruously into the countryside, in an elongated wedge shape, and as such would not reflect the compact rectilinear character of the village. Moreover, it would erode part of the rural setting of the village which is an essential characteristic of the village.
11. My attention has been drawn to the housing requirements of the nearby settlement of Hemswell Cliff, classed as a medium village, where permission has been granted for some 180 houses<sup>1</sup>. I do not have the full details of the case before me, but I note that the development related to an allocated site, to which different policies apply. Consequently the two cases are not directly comparable. Whilst I acknowledge that proposals to develop Hemswell Cliff as a Food Enterprise Zone may attract more demand for housing, there is no

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<sup>1</sup> Application Ref 134720 approved 6 September 2017

reason to conclude that this has not been assessed through the recent Local Plan process and could not be accommodated.

12. For the reasons set out, even though I acknowledge that Hemswell can sustain a limited amount of new growth, the appeal site is not an appropriate location as defined in Policy LP2. Moreover, the proposal is for considerably more than the small scale, or 4, dwellings the policy envisages. Consequently the proposal is in conflict with Policy LP2.

*Whether the proposal would preserve or enhance the character or appearance of the Hemswell Conservation Area or its setting*

13. Part of the site, including the proposed access, lies within the Hemsworth Conservation Area. The Council's Conservation Area Character Appraisal (CACA) sets out the significance of the conservation area. In relation to that part of the conservation area closest to the site, the CACA notes that nos 17-23 Brook Street comprise attractive stone cottages and that the local environment is very pleasant being dominated by more natural features including stud paddocks, wide grass verges, tree and hedges. From what I saw on site these features have a positive impact on the character and appearance of the conservation area.
14. The land between Nos 17a and the outbuildings presently provides a visual link between the built up part of the village and the countryside beyond, as well as contributing to the natural character of the local environment as set out in the CACA. The introduction of a road on this land would have an urbanising effect and would erode the contribution the land currently makes to the conservation area. As such it would neither protect nor enhance the character or appearance of this part of the conservation area contrary to the statutory duty set out in the Planning (Listed Buildings and Conservation Areas) Act 1990.
15. Moreover, the site provides a rural setting to the conservation area, which given the historic relationship between the countryside and the village, makes a positive contribution to its significance. Policy LP25 of the Local Plan seeks, amongst other things, to protect the significance of designated heritage assets including their setting by protecting and enhancing historical associations, landscape and townscape features and through consideration of views and vistas both from and towards the asset as well as promoting opportunities to better reveal significance of heritage assets.
16. The construction of 25 dwellings on the site would erode the rural character of the setting of the conservation area and thereby have a negative effect on its significance. Whilst I acknowledge that the illustrative layout has been carefully designed, and the height of the proposed dwellings may not be excessive, it seems to me that views into and out of the site would be diminished. Whilst further landscaping around the site would help soften the development it would not adequately mitigate against its harmful effects.
17. Consequently for these reasons the proposal would be contrary to Policy LP25 and to Policy LP17 which requires the protection and enhancement of landscape and townscape, including the settings of settlements.
18. Paragraph 132 of the Framework makes clear that great weight should be given to the conservation of designated heritage assets, and to their setting. The conservation area falls within the definition of a designated heritage asset

as set out in the glossary in Annex 2 of the Framework. In the light of my reasoning set out above, I conclude the proposals would harm the conservation area and its setting, contrary to the expectations of paragraph 132 of the Framework.

19. However, the extent of this harm would be less than substantial when considered in the context of paragraphs 133 and 134 of the Framework and I note this is accepted by the appellant. In accordance with the approach of the Framework such harm needs to be balanced against any public benefits the development might bring, which I will consider below.

*Whether satisfactory provision is made for affordable housing*

20. The Council has identified a need for affordable housing provision in the area and Policy LP11 of the Local Plan requires that in residential developments of 11 or more dwellings, as well as in other circumstances, 20% of the dwellings should be affordable. Such a contribution is necessary to make the development acceptable, directly related to the development and fairly and reasonably related in scale and kind to the development. As such it would meet the statutory tests of the CIL Regulations.
21. The appellant does not dispute the requirement for the provision of affordable housing. However, there is no mechanism before me to ensure the delivery of the affordable units in the form of a completed obligation. This weighs against the proposal.

*Whether the proposal would have a harmful effect on the mineral resource*

22. The site lies within a designated Minerals Safeguarding Area as set out in the Lincolnshire Minerals and Waste Local Plan Core Strategy and Development Management Policies 2016 (CSDMP). Within such areas, sand, gravel blown sand and limestone are resources considered to be of current or future economic importance. Accordingly Policy M11 of the CSDMP requires applications for non-minerals development within a minerals safeguarding area to be accompanied by a Minerals Assessment. In this case no such assessment has been provided and there is therefore some conflict with the policy.
23. Evidence before me about the mineral resource in the area, as set out in the appellant's statement is anecdotal. Accordingly it can carry limited weight and cannot therefore outweigh the policy requirement.

**Other Matters**

24. The application was also refused on the basis of insufficient information relating to a number of other issues, namely the impact of the proposal on health and wellbeing; the provision of a sustainable urban drainage scheme on the site; and the impact of the proposal on ecology and archaeology. There is a clear policy basis for the provision of adequate information for each of these matters as set out in the relevant policies of the Local Plan. I have also had regard to the detailed comments of consultees relating to them.
25. I note that the application was accompanied by a Flood Risk Assessment which identifies that the site is in a Flood Zone 1. Moreover, a SUDS scheme is proposed, albeit that it is accompanied by limited detail. The site does not form part of a designated wildlife site and the application was accompanied by a geophysical survey indicating potential archaeological remains. There is no

technical information before me to demonstrate that the proposal would cause harm to these interests and I am unconvinced that the issues could not have been dealt with by condition in the event of the appeal being allowed.

### **Planning Balance and Conclusion**

26. The proposal would provide additional units of housing in the Borough, although given the conflict I have identified with the spatial strategy, this limits the weight I can give the matter as a benefit of the scheme. In addition, there would be some economic and social benefits in terms of supporting the local community and local services.
27. In terms of the approach of paragraph 134 of the Framework, the harm I have identified to the heritage asset, which carries great weight, would not be outweighed by these public benefits.
28. Furthermore, on the negative side of the balance, in addition to the harm to the character and appearance of the conservation area and its setting, the proposal would not protect the character of the settlement. There is no mechanism by which affordable housing would be secured and insufficient information has been provided to assess the impact of the development on the mineral resource as set out above. Moreover, as the development would not comply with the policies of the Framework as a whole, the proposal would not constitute the sustainable development the government is seeking to promote.
29. Consequently any benefits of the scheme are significantly outweighed by the harm it would cause. As such, and taking into account all other matters raised, the appeal is dismissed.

*S Ashworth*

INSPECTOR