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## Appeal Decision

Site visit made on 4 September 2018

**by R Norman BA (Hons) MA MRTPI**

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

**Decision date: 26<sup>th</sup> September 2018**

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**Appeal Ref: APP/N2535/W/17/3191949**

**North Kelsey Road, Caistor, Market Rasen LN7 6QH**

- 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 J Collins, Cherry Tree Homes, against the decision of West Lindsey District Council.
  - The application Ref 136511, dated 17 July 2017, was refused by notice dated 11 September 2017.
  - The development proposed is 4 new dwellings and 2 industrial units.
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### Decision

1. The appeal is allowed and planning permission is granted for 4 new dwellings and 2 industrial units at North Kelsey Road, Caistor, Market Rasen LN7 6QH in accordance with the terms of the application, Ref 136511, dated 17 July 2017, subject to the conditions in the attached Schedule.

### Procedural Matter

2. The revised National Planning Policy Framework (the Framework) was published in July 2018 and both parties were given the opportunity to comment on the revised document. I have taken into consideration the comments received.

### Main Issues

3. The main issues are:
  - the effect of the development on the provision of employment land and the existing businesses; and
  - whether the location is suitable for housing.

### Reasons

#### *Employment land and businesses*

4. The appeal site is located on North Kelsey Road towards the western edge of Caistor. The site currently comprises a single storey, brick built office building with associated gravel parking. The immediate surroundings are characterised by a mix of residential properties and industrial and commercial premises. Directly to the rear of the site are industrial units. On the opposite side of North Kelsey Road are a row of dwellings fronting the road.

5. The proposed development would demolish the existing, modest office building and redevelop the site to provide two industrial units to the rear and four dwellings along the site frontage. The dwellings would be arranged in two pairs of semi-detached properties with associated parking and rear gardens.
6. The appeal site is located within a designated area of employment land, noted as area E20 which is classed as an important Established Employment Area (EEA). Policy LP5 of the Central Lincolnshire Local Plan (2017) (CLLP) states that the EEAs perform an important role in the local economy and are therefore in need of protection for employment purposes. Furthermore, Priority Three of the Central Lincolnshire Economic Growth Delivery Plan 2015 – 2020 (2016) (EGDP) seeks to protect existing employment land where appropriate in order to maintain a supply of rural employment opportunities.
7. The current use of the site is for employment, however the site only accommodates one small office building, the positioning of which precludes any additional employment facilities being brought forward on the site. The proposal would provide two modest units for B1 use which would be located to the rear of the site and would increase the potential for two businesses to use the site. As such, although there would be a loss of employment land in terms of the size of the site, the proposal would provide additional employment floor space through the provision of the two units which would continue to have the potential to attract businesses to the area. I find that these considerations outweigh the loss of the front most part of the site for employment purposes and accordingly the EEA would remain protected.
8. The opposite side of North Kelsey Road hosts a row of dwellings which are in proximity to, but outside of the EEA. Either side of the appeal site there are individual dwellings already present which sit close to the intervening industrial uses. Whilst I recognise that these are historic dwellings and in some cases the dwellings are or have been connected to the adjacent businesses, and therefore they precede the allocation of the employment area, they nevertheless provide a mixed character along this side of the road which would be reflected in the proposed site layout.
9. I have had regard to the level of activity at the adjoining haulage yard, and at the time of my visit there were several lorries present within the site. This is an established site and there would be potential for expansion in the future. However, there are existing dwellings located close to this site and, coupled with the proposed mitigation measures for noise management, I do not find that the addition of four additional dwellings, although close, would prohibit the operation or limit the growth of the existing sites over and above the existing dwellings in the immediate area.
10. The Council have stated that the Appellant has failed to demonstrate that there is not a viable market for the site to provide employment use. Policy LP5 of the CLLP states that the loss of an employment site will be considered on its merits taking into account whether there is clear evidence that the property has been appropriately marketed for a period of no less than 6 months. However I find that the provision of two B1 units on part of the site would secure and improve the employment opportunities for the site and as such, I consider that no marketing is required. The provision of two B1 units demonstrates that the Appellant considers that the site is viable for a certain level of business activity.

11. For the above reasons I find that whilst the proposal would not comply wholly with Policies LP2 and LP5 of the CLLP insofar as it would introduce residential uses into an allocated employment site, I find that the increase in industrial units provided within the site and the predominant character of residential dwellings set along the road frontage outweigh the harm caused resulting from the partial loss of a small area of employment land and therefore outweigh the policy conflict in this instance. Furthermore the proposed development complies with Policy LP26 of the CLLP which seeks to ensure that development makes effective and efficient use of land, relates well to its surroundings and demonstrates compatibility with neighbouring uses, amongst other things. The proposal also complies with Policy 6 of the Caistor Neighbourhood Plan 2013 – 2031 in that it provides new business units which will encourage business growth.

#### *Suitable location for Housing*

12. The proposed dwellings would be located in proximity to the proposed two new industrial units, as well as the larger units to the rear of the site which are in use for haulage purposes. I understand that this use is fairly frequent and that an allocated industrial site would give rise to different levels and types of noise than a residential estate.
13. However, the dwellings would be located in line with the adjacent dwellings, which sit forward of the industrial uses. I acknowledge that some of these dwellings precede the allocation of the EEA and have been connected with the adjoining businesses, nevertheless they still provide residential accommodation in proximity to the industrial and commercial uses. A noise impact assessment and residential noise survey was undertaken by the Appellant and as a result of the findings the proposed development would include acoustic fencing to the rear gardens and suitable window glazing and ventilation measures to mitigate the noise and disturbance from the existing employment activities. I note the Council's view that these systems would be likely to be costly to maintain however, I consider that it has been adequately demonstrated by the Appellant that these would mitigate the impacts from the nearby sites. Furthermore, I have little evidence before me to suggest that there have been issues for the existing residents in the vicinity who live as close to the employment sites as the proposed dwellings.
14. The Council have identified a number of specific residential allocations within the Market Towns, detailed in Policy LP51 of the CLLP and also comment that the provision of four dwellings would make a limited contribution to meeting the local housing need. Whilst I accept this view, I have given weight to the existing dwellings in a similar position and the proposed mitigation for the development, which I find supports the provision of housing in this location.
15. For the above reasons, I find that the provision of housing on the appeal site would be suitable. As such the proposal complies with Policy LP26 of the CLLP which seeks to ensure that development makes effective and efficient use of land, relates well to its surroundings and demonstrates compatibility with neighbouring uses, amongst other things.

#### *Other Matters*

16. The Council have raised concerns that this development could set a precedent for the loss of other areas of employment land. However, I have considered

this proposal on its specific merits which in this case outweigh the loss, and which may differ from other sites.

### **Conditions**

17. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty. The Council have requested a number of conditions which I have considered against the advice in the Planning Practice Guidance and amended where necessary.
18. A condition for the details of the external materials to be used is necessary in the visual interests of the area, as although some details are shown on the drawings these do not provide specific details. Conditions for slab levels and landscaping are necessary in the visual interests of the area. Conditions for details and construction of the driveways, footpaths, access and turning areas are necessary in the interests of highway safety. Conditions for details of foul and surface water drainage, refuse and recycling details, contaminated land assessments, external illumination, heating extraction and ventilation equipment, noise mitigation measures and restriction on uses are necessary in the interests of the living conditions of future and nearby residents.
19. Conditions 6, 8 and 10 are required to be pre-commencement conditions as it is fundamental to have these details agreed prior to the commencement of any works on site.

### **Conclusion**

20. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be allowed.

*R Norman*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers (08) 001 Rev A01; (08) 002 Rev A03; (08) 003 Rev A02; (08) 004 Rev A04; (08) 005 Rev A01 and (08) 006 Rev A00.
- 3) No development involving the construction of the buildings hereby permitted shall commence until details of the materials to be used in the construction of the external surfaces of the buildings have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development above ground level shall take place until details of all slab levels and any regrading proposed to the site shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved details.
- 5) Notwithstanding the submitted details, no development other than site clearance shall be carried out until details of all surfacing materials, including to the access driveways, forecourts and parking and turning areas, have been submitted to and agreed in writing by the local planning authority. The development shall be constructed in accordance with the approved details prior to the first occupation of the dwellings or the business use is first brought into use, whichever is the sooner. The arrangements for parking, turning, manoeuvring, loading and unloading of vehicles shall be provided in accordance with the approved plans and shall be available at all times whilst the premises are in use.
- 6) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include details of the size, species, position or density of all trees, bushes and shrubs to be planted.
- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) No development shall take place until a scheme for the disposal of foul and surface waters have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and shall be available for use before each respective unit and dwelling is first occupied.
- 9) Prior to the first occupation of the dwelling or use of the units hereby permitted, provision for the storage of refuse and recyclable materials, including the bin storage for the commercial units, shall be provided in accordance with details which have been previously submitted to and agreed in writing by the local planning authority.

- 10) No development shall take place until a contaminated land assessment and associated remedial strategy, together with a timetable of works, have been submitted to and approved in writing by the local planning authority and the measures approved in that scheme shall be fully implemented. The scheme shall include all of the following measures unless the local planning authority dispenses with any such requirements specifically in writing:
- a) The contaminated land assessment shall include a desk study to be submitted to the local planning authority for approval. The desk study shall detail the history of the site uses and propose a site investigation strategy based on the relevant information discovered by the desk study. The strategy shall be approved by the local planning authority prior to investigations commencing on site.
  - b) The site investigation, including soil, soil gas, surface and groundwater sampling, shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.
  - c) A site investigation report detailing all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to the local planning authority. The local planning authority shall approve such remedial works as required prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end use of the site and surrounding environment including any controlled waters.
  - d) Approved remediation works shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the local planning authority.
  - e) Upon completion of the works, this condition shall not be discharged until a closure report has been submitted to and approved by the local planning authority. The closure report shall include details of the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean up criteria shall be included in the closure report together with the necessary documentation dealing what waste materials have been removed from the site.
- 11) There shall be no storage of materials, goods, waste or any other articles on the site in connection with the commercial units other than inside the buildings without the prior written approval of the local planning authority.
- 12) Prior to any illumination being erected a scheme for the external illumination of the buildings and yard, including the intensity of the lighting, shall be submitted to and approved in writing by the local

- planning authority. The approved scheme shall be implemented and maintained thereafter in the approved form.
- 13) No development of the commercial units shall take place until details of the heating, extraction and ventilation equipment for the commercial buildings have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the commercial development being first brought into use and thereafter retained.
  - 14) No dwelling or industrial unit shall be occupied before the buildings and fencing have been completed in accordance with Section 6: Mitigation and Recommendations 2 and appendix D of Nova Acoustics Ltd – Noise Impact Assessment and Residential Noise Survey Ref 1388JC – v2. The buildings shall be maintained as such thereafter.
  - 15) Before each dwelling hereby permitted is occupied the roads and footways providing access to that dwelling for the whole of its frontage from an existing public highway shall be constructed to a specification to be agreed with the local planning authority.
  - 16) The commercial units shall be used for B1 (light industrial use) and for no other purpose (including any other purpose in Class I of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
  - 17) No industrial/manufacturing process shall take place anywhere on the site except within the buildings and the doors and windows shall remain closed at all times unless in use for access.