

DEVELOPMENT MANAGEMENT
APPEALS LIST - 17TH NOVEMBER 2022

APPLICATION NUMBER & SITE ADDRESS	APPEAL REFERENCE & STATUS	OFFICER & PROCEDURE
DM/0038/22/FUL Flat 5 Rear Of 11 Rowston Street Cleethorpes North East Lincolnshire DN35 8QR	AP/012/22 INPROG	Bethany Loring Written Representation
DM/0047/22/FUL Adjacent To 62 Wisteria Drive Healing North East Lincolnshire DN41 7JS	AP/013/22 INPROG	Bethany Loring Written Representation
EN/0064/21 Land Rear Of Paragon House Kiln Lane Stallingborough North East Lincolnshire	AP/015/22 INPROG	Martin Ambler Written Representation
DM/0140/22/FUL The Stables Ashby Hill Ashby Cum Fenby North East Lincolnshire DN37 0QF	AP/016/22 INPROG	Richard Limmer Written Representation

DM/0536/20/FUL Land Adjacent To 83 Brigsley Road Waltham Grimsby North East Lincolnshire DN37 0LB	AP/017/22 INPROG	Richard Limmer Written Representation
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DM/0495/22/ADV Freestanding Advertisement Railway Place Grimsby North East Lincolnshire	AP/018/22 INPROG	Emily Davidson Written Representation
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DM/0046/22/TPO 24 Park Avenue Grimsby North East Lincolnshire DN32 0DQ	AP/020/22 INPROG	Paul Chaplin Fast Track
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DM/0068/22/OUT Land South Of Church Lane Humberston North East Lincolnshire	AP/019/22 INPROG	Richard Limmer Informal Hearing
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DM/0154/22/FUL East Ravendale Farm East Ravendale Grimsby North East Lincolnshire DN37 ORX	AP/021/22 INPROG	Richard Limmer Written Representation
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Appeal Decision

Site visit made on 9 September 2022

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24/10/2022

Appeal Ref: APP/B2002/W/22/3293729

Grange Farm House, Waltham Road, Barnoldby-le-Beck DN37 0AR

- 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 Mrs Carol Faniyi (Carmand Ltd) against the decision of North East Lincolnshire Council.
 - The application Ref DM/0908/21/FUL, dated 5 August 2021, was refused by notice dated 7 December 2021.
 - The development proposed was originally described as 'build 7 detached houses of outstanding quality to blend in with the area and produce a cul-de sac that enhances aestheticalness to the area.'
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - Whether the proposal would represent a suitable location for housing, having regard to local and national policy;
 - The design of the proposal and its effect on the landscape character of the area;
 - The effect of the proposal on biodiversity and ecology, and;
 - The effect of the proposal on highway safety.

Reasons

Location for housing

3. The appeal site lies in open countryside between the settlements of Barnoldby-le-Beck and Waltham. Policy 5 of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018) (the NELLP) sets out the approach to development within and outside development boundaries. Development in the open countryside will be supported where it recognises the distinctive open character, landscape quality and role these areas play in providing the individual settings for independent settlements, and where it falls under one of five criteria, including rural diversification; development of local services and community facilities; leisure and tourism; affordable housing to meet specific local needs; or development specifically identified through a neighbourhood planning process.
4. The proposal for seven market dwellings would not meet any of the relevant criteria of Policy 5, and in this respect there would be conflict with the spatial strategy of the development plan.

5. The policy also requires consideration of suitability and sustainability, including the provision of services. The Council points to the nearest facilities being located some 1.7km from the site in Waltham, with schools being further still at 2km and over 2.5km, distances it regards are too far to reasonably walk. There is a continuous footpath on the opposite side of the road leading into Waltham, but it is not lit for several hundred metres until the built-up area is reached, and I saw traffic to be constant and travelling at speed. There is a pub and church slightly closer to the site in Barnoldby-le-Beck at around 800 metres, but there is not a continuous footpath in this direction. The nearest bus stop is indicated to be some 650 metres to the east. Taking these considerations together, I agree with the Council that the location of the site is not conducive to accessing local services and facilities on foot, bicycle or public transport, resulting in a reliance for the most part on the private car.
6. The National Planning Policy Framework (the Framework) recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and that sites for rural development may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. However, it adds that development should exploit any opportunities to make a location more sustainable, for example by improving the scope for access on foot, by cycling or by public transport. In this case, there is no evidence before me to justify locating the development on this particular site in the open countryside. Whereas locating within or adjacent to a settlement would increase the likelihood of journeys to shops, schools and other facilities on foot or bicycle, locating in the open countryside would not afford realistic opportunities for sustainable modes of transport to be utilised.
7. For these reasons, I conclude that the proposal would not represent a suitable location for housing due to the identified conflict with Policy 5 of the NELLP.

Design and Effect on Landscape Character

8. The appeal site comprises a roughly rectangular parcel of land to the southern side of Waltham Road, which appeared to be laid out as paddocks. Immediately next to the site, outside of the red line to the east but within the appellant's control, is a dwelling and a stable block. Beyond this is a separate property, Grange Farm, containing a number of large agricultural buildings and also holiday cottages and a restaurant. The western boundary is demarked by a lane leading to another property and a prominent line of trees. Further open paddocks extend to the rear of the site.
9. The site is located within a clear gap between Barnoldby-le-Beck and Waltham characterised by an expansive agricultural landscape with limited development, of which the cluster of buildings at Grange Farm, adjacent to the site, is the most prominent. The Council refers to the surroundings forming part of an historic parkland landscape associated with the former main house at Becklands to the west, the entrance lodge to which is locally listed.
10. The surroundings of the site are clearly rural in character, providing a strong physical separation between the settlements in either direction. Development is limited, sporadically located and exhibits a rural aesthetic, all of which contributes to the distinctive rural character of the area.
11. The proposal would introduce a suburban form of development through a cul-de-sac layout with dwellings arranged in a linear pattern on either side. The

dwelling would occupy spacious plots and would either be dormer bungalows or two-storey dwellings, all with large footprints. The ordered arrangement of the dwellings and other features such as boundary treatments, managed landscaping and parking areas would add to the urbanising effect of the proposal. In effect, it would create a small housing estate wholly at odds with the limited extent and sporadic layout of nearby development and the rural character of the area.

12. With regard to the historic landscape and the locally listed lodge building to the west, the evidence before me is limited as to their potential significance as non-designated heritage assets, with nothing to indicate that they are of more than local importance. However, the appeal site forms part of their setting, being within the immediate open countryside said to form part of an historic parkland. Development of the site for housing means it would no longer contribute to the surviving historic parkland layout, but would diminish it. There would also be minor harm to the setting of the entrance lodge due to development within its historically open surroundings.
13. I acknowledge that the appellant intends to retain the line of trees to the front of the site. This would go some way to reducing the visibility of the dwellings, but their presence would still be obvious when approaching along Waltham Road, notably from the west where they would be visible through the gap formed by the adjacent track. The creation of a new access between the trees would also identify the development. Few other details of landscaping have been provided, but the plans indicate open, suburban style gardens which would be visible from neighbouring properties and would not be sympathetic to the rural surroundings. Consequently, I do not regard existing or proposed landscaping to be sufficient to overcome the adverse effect of the proposal on the wider landscape character of the area.
14. The dwellings themselves would be constructed in brickwork with pitched or hipped roofs. Despite the appellant's reference to the dwellings being of 'outstanding quality', no specific architectural vision has been set out and, in truth, the plans show quite standard, suburban designs common to developments across the country. Rather than adding to the quality of the proposal, the design of the dwellings would exacerbate a typical, suburban character and the overall incongruity of the development within the rural landscape. As such, the proposals would fail to meet the expectations of the Framework to deliver high quality design.
15. For these reasons, I conclude that the proposal, through its design and layout, would fail to respect the distinctive rural and historic characteristics of the surroundings and would significantly harm the landscape character of the area, contrary to Policies 5, 22, 39 and 42 of the NELLP, which together require development to have a high standard of sustainable design informed by a thorough consideration of the particular site's context; to have regard to the landscape context and type; to protect the significance of heritage assets, including their setting, and to take opportunities where appropriate, to retain, protect and restore elements that contribute to historic landscape character.

Effect on Biodiversity

16. Policy 41 of the NELLP sets out that any development which would, either individually or cumulatively, result in significant harm to biodiversity which cannot be avoided, adequately mitigated or as a last resort compensated for,

will be refused. This accords with the approach of the Framework at Paragraph 180. The Council points to the countryside location of the site and the absence of any information from the appellant in respect of biodiversity. I note anecdotal reference by interested parties to various protected species, including bats, being present in the area.

17. The Planning Practice Guidance indicates that an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate.
18. The appellant acknowledges the need to provide information in this respect, but no report or other evidence has been submitted. I note the appellant's concerns as to whether such information would be accepted at the appeal stage, but it is for the appellant to provide their case in full at the outset of the appeal, including any supporting documents they consider necessary to address the reasons for refusal. It would be for the Inspector to consider if any documents amount to an attempt to evolve the proposal beyond that which was considered by the Council but, in the absence of any information, there is nothing to consider in that respect.
19. The absence of any survey information means that it is not possible to identify the extent of biodiversity on the land or the presence or otherwise of protected species, nor would it be possible to identify suitable mitigation measures to minimise any potential impacts. Given the degree of uncertainty on this issue, it would not be appropriate to require a survey by condition.
20. In the circumstances, the absence of sufficient information means that I cannot rule out potentially significant harm to biodiversity. Therefore, the proposal would conflict with the aforementioned requirements of Policy 41 of the NELLP and Paragraph 180 of the Framework.

Effect on Highway Safety

21. The Council, having regard to the comments of the local highway authority (LHA), points to a lack of detail in respect of the proposed access and internal cul-de-sac, in particular relating to how it would connect with the main public highway, the width of the internal road and footpaths, and whether the turning head of the cul-de-sac would allow large refuse vehicles to turn within the site.
22. In response, the appellant has provided an amended drawing showing the access meeting the public highway, the road and footpaths at 5 metres and 2 metres width respectively, as indicated to be necessary by the LHA, and details of the turning path of a refuse vehicle. I have no further comments from the Council or the LHA as to whether these revised details are acceptable. However, even if in need of further refinement to meet the requirements of the LHA, the revised plan indicates that there would be sufficient space within the site to accommodate further changes. Such details could be secured by planning condition were the appeal to be allowed.
23. In other respects, I saw Waltham Road is flat and straight, affording good visibility in either direction. Although traffic is regular, and passing the site at speed given the this stretch of the road is subject to the national speed limit, the site entrance would be visible, as others are nearby, and oncoming drivers would be able to see vehicles emerging from the site, just as drivers leaving

the site would have sufficient visibility of oncoming traffic to safely enter Waltham Road.

24. I note other concerns from interested parties in respect of increased traffic arising from the development itself. I am not provided with any quantitative evidence of existing or proposed traffic levels, but although traffic was regular along Waltham Road, I saw it to be free flowing and not subject to congestion. The scale of the proposal is relatively limited, and even if each dwelling were to have two or three cars, I am not persuaded that this would amount to a significant increase in the overall volume of traffic in the area, or that the development would, in itself, lead to congestion or delay for other road users.
25. For these reasons, I conclude that the proposal would not have a harmful effect on highway safety, and no conflict would arise with Policy 5 of the NELLP, in terms of its requirement that development has regard to access and traffic generation. Nor would there be conflict with the Framework, which at Paragraph 111 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

26. The appellant advances that the development would cater for those with family members with autism or learning disabilities, or who have elderly relatives, and who require integrated housing in a secluded area. It is indicated that there is already an autistic community within the premises. Such intentions are admirable, but I have no evidence beyond these brief comments as to how such a benefit would be secured, for example whether the proposed dwellings would be restricted to sale to qualifying families rather than sold on the open market. Nor is there evidence of what facilities already exist on the wider site; whether there would be any commercial aspect to the care offered; or that the dwellings have been specifically designed for the purposes of providing specialised care. Therefore, there is no certainty that the proposal would deliver the stated benefits in these respects. Consequently, I afford these considerations no more than limited weight.
27. The Council did not oppose the proposal in respect of the effect on the living conditions of neighbouring occupants. From my observations, there would be sufficient distance between the proposed dwellings and the nearest neighbours to prevent harmful effect on outlook or privacy.
28. No harm has been identified in respect of flood risk, the site being located in Flood Zone 1 and no objection having been raised by the Environment Agency. I note some comments from interested parties concerned with potential flooding and drainage issues that would result from the development. However, I have limited evidence that there would be harm in this respect, and I note the Council's position that planning conditions to secure a sustainable surface water drainage system would enable the proposal to comply with the requirements of Policy 34 of the NELLP. I have no firm reasons to conclude otherwise in this matter.
29. I acknowledge other comments made by interested parties, on matters beyond those already referred to; however none raise matters of such significance that they would weigh materially in favour or against the appeal. Therefore, it is not necessary to address them further. With respect to covenants on the land,

these are matters which fall to be addressed separately, outside of the planning system, and are not determinative to my considerations.

Planning Balance

30. For the reasons set out above, I conclude that the development would be an inappropriate location for housing due to its countryside location and its level of accessibility to local services. It would also significantly harm the landscape character of the area and cause harm to biodiversity. The proposal would be contrary to the development plan in these respects.
31. The Council accepts that it is unable to demonstrate a five year supply of deliverable housing sites, although I have no indication as to the extent of the shortfall. Consequently, Paragraph 11(d)(ii) of the Framework states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
32. The development would deliver an additional seven dwellings to the housing stock within the Council's area which, in the circumstances of the Council's housing position and having regard to the Framework aim of boosting the supply of housing, merits significant weight in favour of the proposal.
33. There would be economic benefits arising from the construction of the dwellings, and subsequently from engagement by future residents in the local economy. However, given the scale of the proposal, such benefits would attract only limited weight. Potential benefits in terms of providing facilities for the elderly and people with autism or learning difficulties attract limited weight, for the reasons set out.
34. Taken together, the adverse impacts of the proposal I have identified would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal would not therefore represent a sustainable form of development and, as a material consideration, the Framework does not indicate that permission should be granted.
35. Overall, therefore, the material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.

Conclusion

36. Therefore, I conclude that the appeal should be dismissed.

K Savage

INSPECTOR



Appeal Decision

Site visit made on 1 November 2022

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2022

Appeal Ref: APP/B2002/W/22/3300236

62 Wisteria Drive, Healing, North East Lincolnshire DN41 7JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Pardeep Sarkania against the decision of North East Lincolnshire Council.
 - The application Ref DM/0047/22/FUL, dated 13 January 2022, was refused by notice dated 6 April 2022.
 - The development proposed is a detached dwelling and new vehicular access.
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Decision

1. The appeal is dismissed.

Main Issues

The main issues of the appeal are:

- The effect of the proposed development on the living conditions of No. 62 and 64 Wisteria Drive in relation to outlook.
- The effect of the proposed development on highway safety; and
- The effect of the proposed development on surface water drainage/flood risk.

Living conditions

2. The host property of No. 62 Wisteria Drive is positioned to be side fronting to the host street and as a result, the rear elevation of the property provides direct outlook onto the appeal site and there are several windows located within the rear elevation at both ground floor and first floor level which are large enough to provide for clear and open views.
3. The two-storey side elevation of the proposed dwelling would be located within very close proximity to the rear elevation of No. 62 and would run the full length of it. This close relationship coupled with the extent of the projection and overall height would appear imposing and overbearing to existing occupiers of No. 62 and outlook from inside the property would be severely restricted and visually oppressive as a result of this.
4. The overall layout, height, and footprint generally reflects the positioning of other dwellings in the area. However, the majority of nearby properties have a side-by-side relationship where outlook is not so severely restricted and cannot therefore be comparable to the appeal site where the windows on the rear elevation of the host property would directly face the proposed dwelling resulting in an uninviting outlook.

5. In terms of the relationship with No. 64 Wisteria Drive, the positioning of the proposed dwelling would be close to the shared boundary. However, this relationship is not uncommon within such a setting as evidenced by other nearby dwellings and it is important to note that whilst close to the shared boundary, the position of No. 64 is a further distance away. I observed onsite, the positioning of windows within the rear and side elevation of No. 64 and whilst the appeal site would be visible, this would be at an angle given the position of No. 64 and the window positions where most of the views from the property and garden are away from the appeal site. Additionally, the detached garage serving No. 64 further restricts views and I am therefore content that the proposed development would not appear as a prominent addition.
6. I accept that the proposed development is set back further than No. 64. However, it would not be largely different from the relationship of other properties located along Wisteria Drive and thus not appearing as dominant. I note the comments made regarding overlooking and loss of light due to the setback nature of the development. Based on my observations onsite, I have no reason to disagree with the Council that any impact would not be adverse in this regard.
7. I conclude that although the proposed development would not comprise the living conditions of No. 64 Wisteria Drive, it would unacceptably harm the living conditions of the existing occupiers of the host property at No. 62 in relation to outlook. As such, in respect of this issue, it would be contrary to Policy 5 of the North East Lincolnshire Local Plan which, amongst other things, seek to protect neighbouring land uses from visual intrusion.

Highway safety

8. At my site visit, I noted the speed reduction measures which currently exist along Wisteria Drive including the 30mph speed limit and speed humps. The Council accept that the actual speed is more reflective of 20mph and I have no reason to disagree with this based on my observations onsite where while only a snapshot in time, I saw that the few vehicles passing the site were travelling at a relatively low speed.
9. An acceptable level of visibility is apparent on site despite the alignment of the road and neighbouring property and whilst the required visibility splays cannot be achieved even taking into account the lower speed of 20mph, vehicle speeds are already low given the residential setting and imposed speed limit. This, together with the presence of nearby speed humps would further reduce speeds within close proximity to the site.
10. Moreover, vehicle movements upon exiting the driveway are also likely to be at a very low speed given the nature and there is a sufficient level of visibility for approaching vehicles and pedestrians to be able to stop without causing severe safety implications.
11. I note concerns regarding disruption on the road during busier times including school times and the increase of parking on the street and in turn further obstructions. However, the proposed development relates to a single residential dwelling where the level of traffic/movements generated would not be so significant to comprise the safety of the local highway network nor result in a severe impact. Additionally, off-street parking would be provided which would deter on street parking and whilst I cannot control situations where

individuals may choose to park on street, I am content that given the small-scale nature of the proposals, any on street parking would not be substantially different to that of the existing situation or lead to a harmful impact.

12. I also note concerns regarding the difficulty of movements when exiting existing driveways located opposite the site. However, this relationship is not uncommon within such a setting as evidenced by other nearby dwellings and again the movements and general activity associated with a development of this size would not be so significant as to adversely impact the safety of the local highway network.
13. I conclude that the proposed development would not harm highway safety. As such, in respect of this issue, it would not be contrary to Policy 5 of the North East Lincolnshire Local Plan which, amongst other things, considers the suitability and sustainability of access and traffic generation.

Flood risk

14. The site is located within a high flood risk area in relation to surface water. The Council's Drainage Officer response sets out that levels must not be raised, and all surface water needs to be dealt with on site. Whilst I appreciate the concern in this regard, such matters could be dealt with via a planning condition relating to a scheme for the sustainable provision of surface water drainage. Such a condition could be imposed were the appeal to be allowed.
15. I conclude that the proposed development would be acceptable with regard to surface water drainage and would comply with Policies 5 and 34 of the North East Lincolnshire Local Plan which, amongst other things, considers the suitability and sustainability of flood risk.

Other matters

16. I note that the proposed development would deliver housing within a sustainable location which would be a benefit. However, the modest contribution of one property would not be sufficient to outweigh the harm identified having regard to the effect on living conditions.

Conclusion

17. Although the development does not harm highway safety and matters relating to surface water flood risk could be resolved by way of a planning condition, the proposed development would harm the living conditions of the existing occupiers of the host property in relation to outlook and thus conflicting with the development plan as a whole. There are no other considerations that individually or cumulatively outweigh this harm and development plan conflict. The appeal should therefore be dismissed.

N Teasdale

INSPECTOR