



# Appeal Decision

Hearing held on 19 July 2022

Site visits made on 18 and 19 July 2022

**by S Dean MA MRTPI**

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

**Decision date: 1 August 2022**

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**Appeal Ref: APP/B2002/W/22/3296987**

**Grimsby Golf Club, Little Coates Road, Grimsby, North East Lincolnshire, DN34 4LU**

- 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 Land Developers (Lincs) Ltd against the decision of North East Lincolnshire Council.
  - The application Ref DM/1032/20/FUL, dated 17 November 2020, was refused by notice dated 4 February 2022.
  - The development proposed is to erect 5 detached dwellings with garages to include new access point, landscaping and boundary treatments.
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## Decision

1. The appeal is allowed, and planning permission is granted to erect 5 detached dwellings with garages to include new access point, landscaping and boundary treatments at Grimsby Golf Club, Little Coates Road, Grimsby, DN34 4LU in accordance with the terms of the application, Ref DM/1032/20/FUL, dated 17 November 2020, subject to the conditions in the Schedule attached to this Decision.

## Preliminary Matters

2. Although the site is located adjacent to Great Coates Road, its address in the appeal and my header above is given as Little Coates Road, as that is the address of the Golf Club.
3. The appeal submission included a Geophysical Survey of the site in response to the second reason for refusal. Having considered this survey, the Council's Heritage Officer has confirmed that the proposal would be acceptable with regard to any potential archaeological effects, subject to the imposition of a suitably worded condition. As a result, the Council no longer seeks to defend the second reason for refusal. Having considered the evidence on this point and the responses of the parties, I am satisfied with this position. As such, the archaeological assessment of the site is no longer a main issue in this appeal.
4. The appellant has submitted a ball-strike analysis, which considers the likelihood of golf-ball strikes from the 5<sup>th</sup> tee in a number of locations. The conclusions of this analysis proposed that the 5<sup>th</sup> tee be relocated to a location not formally considered by the Council or third-parties consulted on the application, and not shown in the drawings agreed and listed in Condition 2 in the Statement of Common Ground (SOCG).

5. The appellant now suggests that the 5<sup>th</sup> tee be repositioned in line with that report, not the drawings agreed in the SOCG, on which parties were consulted and the Council made their original decision.
6. The Procedural Guide to Planning Appeals – England states that the appeal process should not be used to evolve proposals and is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application. I have had regard to the Wheatcroft Principles, the degree of engagement of all parties with the issue, particularly third-parties, the comments of the Council and the interests of fairness. Although this matter did not form a reason for refusal, it was nevertheless an important issue for the Council and third-parties. I have therefore determined the appeal on the basis of the plans that were before the Council when it made its decision, on which parties were consulted and which form the agreed list of drawings in the SOCG.

### **Main Issues**

7. The main issues are therefore the effect of the proposal on i) the character and appearance of the area, and ii) community health and well-being as a result of the irreversible loss of land allocated for sport and recreation in the North East Lincolnshire Local Plan.

### **Reasons**

#### *Character and appearance*

8. The appeal site lies in the corner of the Grimsby Golf Club course, on the site of the existing 8<sup>th</sup> green, bounded by Great Coates Road to the north and 9 Great Coates Road (No 9), to the east. To the south the site is demarcated by a line of trees which separate the 8<sup>th</sup> green from the 5<sup>th</sup> tee. The boundary to the west is currently open as it forms part of the existing course.
9. The boundary between the golf course and Great Coates Road is defined by a reasonably deep and dense mixture of trees, then a tall, dense hedge and fencing immediately adjacent to the footway beyond. Views into and out from the course are extremely limited. There are no public rights of way within or across the course.
10. Whilst the course as a whole is largely open to provide the space needed for the game, at a closer scale it is characterised in my opinion by lines and stands of trees and vegetation which define the holes and features of the course. As a result, whilst I find that the course has an open character and appearance at a 'macro level', to my mind, this does not persist down to the 'micro level' of the particular appeal site and its immediate surroundings.
11. Around the appeal site, Great Coates Road itself has a broadly open character to its northern side with low-density residential development, of mixed character and appearance, lending a generally spacious and open character to that side of the road. By contrast, the southern side of the road, around and including the appeal site does not, in my opinion, have an open character or appearance, owing to the established boundary to the golf course, bolstered by the tall, dense hedgerow.

12. But for the relatively small number of trees to be removed in the site itself, those to be removed to create the access, and the relatively small amount of hedging to be removed to form the access and visibility splays, much of the existing vegetation is to be retained. As a result, I consider that the established character and appearance of this particular part of Great Coates Road, which I do not consider to be fundamentally open, would be retained.
13. It is plain that the proposal would lead to a loss of openness of the appeal site itself as well as a change to its immediate character and appearance. However, the site lies between existing lines of trees, which are common across the course, providing ready-made and matured elements to the proposed landscaping, and indeed, already limiting the openness of this part of the course.
14. I note the concerns of the Council over the reliance on landscaping to mitigate visual effects of the proposal. I also note their concerns over the level of effects set out in the Landscape and Visual Assessment (LVA) submitted by the appellant. However, as discussed at the hearing, the terminology in the LVA is based on industry standard methodology and terminology, and I am satisfied that the conclusions within it are appropriate.
15. As was discussed at the hearing, the Landscape Character Assessment (LCA) extract submitted by the Council presents a high-level, strategic assessment of landscape character and its potential for development, prepared as part of the plan-making process, whereas the LVA is a more detailed, site-specific assessment. I note that the Council accepts the conclusions of the LCA extract in general terms but considers the specific effects of the proposal unacceptable. However, I disagree. In my opinion, the proposal, and its detailed effects set out in the submission and discussed at the hearing, and assessed in detail in the LVA meet the requirements of, and expectations set out in, the LCA.
16. The use of landscaping to mitigate the visual effect of development is not unusual, nor, in my opinion, is it unusual for the effects of that landscaping to take several years to take full effect. Coupled with the retention of most trees within and immediately around the site, I am therefore satisfied that the visual effect of the proposal can be appropriately mitigated by the proposed landscaping. Furthermore, as was discussed at the hearing, it would be within the gift of the Council to ensure, through the approval of landscaping details via condition, to control the size and maturity of landscaping delivered with the proposal. For the same reasons, I am satisfied that the appearance of the boundary fencing, seen from within the golf course would not be unduly harsh, jarring or otherwise unacceptable.
17. In considering the effect of the proposal on the character and appearance of the area, my attention has been drawn specifically to the effects of the proposal on 7 and 9 Great Coates Road, which representors have described as locally listed buildings, significant for their connections to local architect William Wells, as well as for their contribution to the overall established character and appearance of the area. Although I have not been presented with a copy of a local list, given the representations made on this point, and the submission of a heritage statement by the appellant which considers it, I find it an appropriate point to consider in the overall assessment of the proposal on the character and appearance of the area.

18. Having visited the site, and No 9 in particular, I consider that both of these buildings are well established in their own particular setting, with strong boundaries, well set back from the public domain and possessing their own distinct character and appearance, separate from their surroundings. As a result, I do not consider they rely on their mixed surroundings for their significance as non-designated heritage assets. Whilst the proposal would lead to a change to their setting, given the proposed separation distances, landscaping (both retained and new), and the retention of their spacious settings, I am satisfied that the proposals would not cause harm or loss to their significance as non-designated heritage assets, in line with guidance in Section 16 of the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (the PPG).
19. The Council and third parties have referred to the transition which takes place along the southern side of Great Coates Road, across the site, from developed to open land. Whilst I agree that along Great Coates Road as a whole there is a transition, I do not find that it is such a significant part of the character of the site that the same effect would not continue to occur, or that it is unique to the current arrangement. Given the overall scale of the wider landscape, I am satisfied that the effects of the proposal would be limited, as set out above, and that the overall transitional character, from the built form of the town out towards the Freshney Valley would remain.
20. I therefore find that although the proposal would result in a limited loss of openness of the golf course, it would not harm the overall character, appearance and visual amenity of the area. I do not consider that visibility is the same as visual intrusion. To my mind, the effects of the proposal on the openness, overall character and visual amenity of Great Coates Road are limited to the site itself and its immediate surroundings. The overall character of the wider area, at a strategic level remains, in my opinion, fundamentally unchanged, being relatively low density, mixed residential adjacent to a private, green, open, sport and recreational space in the golf course.
21. I therefore find that the proposal would accord with Policies 5 and 22 of the North East Lincolnshire Local Plan 2013-2032 (the Local Plan). These policies seek, amongst other things, to ensure that the size, scale and effects of a proposal are acceptable in light of their context, and that a high standard of sustainable design is delivered, with due regard to the particular site's context. The proposal would also accord with guidance in the Framework.

#### *Community health and well-being*

22. Policy 43 of the Local Plan states that the Council will "*safeguard against any loss of public or private green spaces, sport and recreation and equipped play facilities in recognition of their importance to the health and well-being of residents and visitors to the Borough*".
23. The appeal site is covered by this policy, and there is no dispute that the proposal would lead to the loss of a part of the golf course, which parties agree is a facility safeguarded by that policy.

24. There appears to be some discretion in the meaning of the wording of the policy, such that there was no agreement at the hearing as to whether the policy sought to prevent the loss of any part of any facility, or the loss of facilities as a whole. In light of the evidence of the parties, the discussion at the event, the overall tone and tenor of the policy and the supporting text<sup>1</sup>, I consider that the latter is more appropriate.
25. Against that understanding of the policy, I find that the proposal would not lead to the loss of a sport and recreation facility. Indeed, in light of the financial position and context outlined by the appellant, the proposal would appear to increase the chances of the long-term survival and retention of the golf course as a sport and recreation facility protected by the policy.
26. Even if I were to take a different view on the meaning of Policy 43 it does not include an absolute prohibition on such development and includes a test with two criteria against which any loss should be assessed.
27. In light of the comments of Sport England, England Golf, and indeed, the fact that it is the Golf Club itself which has sought to deliver the appeal proposal, as well as the evidence which shows that the course can retain its 18-hole status, albeit slightly altered, I am satisfied that site can be considered surplus to green space and recreation requirements, meeting criteria A of the policy test.
28. Despite third-party comments around the wildlife seen on site, I note the contents of the submission in this regard and that there are no statutory consultee objections to the proposal with regard to the biodiversity value of the site or the effects of the development. I accept that the Golf Club may emphasise the biodiversity of the course as a whole, but in light of the evidence before me, I am satisfied that the overall biodiversity value of the course can be considered separately from the biodiversity value of the site itself. In this regard, I am satisfied with the conclusions in the submission and agree with that position.
29. The proposal makes clear that the golf course would retain its 18-hole status. I note objections to the proposal on the basis of the historic design of the course and of the particular challenge of the two affected holes. However, evidence from the appellant, who, it is important to note, is acting on the instructions of the Golf Club, suggests that whilst the challenge of the course as a whole would change, it would still be playable and attractive as a golf course.
30. As such, I am satisfied that current standards of provision and accessibility of the facility as a whole can be retained, meeting criteria B of the policy test. For the same reasons I am satisfied that the overall historic interest of the golf course and as noted above, the significance of the nearby locally-listed buildings would be accommodated by the proposal, in line with section 6 of Policy 43.
31. Whilst I agree that the covid-19 pandemic has highlighted the importance of green space for wellbeing, I do not consider that a private golf club, not otherwise accessible to the public necessarily meets that need, despite the explicit remit of Policy 43 to protect public and private spaces.

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<sup>1</sup> Notably paragraph 14.239; "Policy 43... sets out criteria to guard against the loss of **facilities**" (my emphasis).

32. As noted above, the appeal proposal is intended to bolster the finances and future financial viability of the golf course and the Club, ensuring that the Club is able to service its debts, remain financially viable and continue to serve the community into the future.
33. Third parties have cast doubt on that position, suggesting instead that the Club is in fact in a better financial position than suggested, that membership is rising, and that the proposal itself would significantly affect the attractiveness of the course, and in turn, the overall viability and future success of the Club.
34. Whilst I have some sympathy with these concerns, and I note the evidence provided, I am again drawn to the application being made on behalf of, and apparently at the instruction of the Golf Club itself. In such a situation, I must assume that the Golf Club knows its own mind, and that the management of the Club has fully assessed the effects of the proposal on the current and future financial position, including effects on the course, effects on members and the future sustainability of the Club.
35. A unilateral undertaking (UU) under section 106, has been submitted which requires that prior to the commencement of development, the appellant will exercise their option to buy the land and pay the purchase price to the owner (i.e. the Golf Club). This UU was sought by the Council to ensure that the proceeds of the site sale would go to the Golf Club. However, whilst the UU does that, being a *unilateral* undertaking, it is binding only on the appellant to purchase the site, it does not compel the Golf Club to sell it. Sales typically require a willing buyer and a willing seller, and there is nothing before me to suggest that is not the case here. I am therefore satisfied that whilst the appeal has been made on the basis of delivering financial support for the Club, if the financial context and situation has changed such that it were no longer required, there would be no compulsion on the part of the Club to sell the site upon any grant of planning permission.
36. I note concerns of third-parties that the appeal proposal is a 'stalking horse' for future development proposals on the golf course. However, such proposals are not before me. In any event my decision on this proposal, taken on the basis of the evidence before me and applying the clear tests in the Local Plan, would not affect or otherwise limit the ability of the Council to apply the policies in their Local Plan in future.
37. The proposal would result in the irreversible loss of a piece of land allocated for sport and recreation. However, it would not lead to the loss of the sport and recreation facility as a whole and could increase its chances of long-term survival and availability, thereby not harming community health and well-being. I therefore find that the proposal accords with the requirements of Policy 43 of the Local Plan. I also find that the proposal does not conflict with guidance in the Framework around promoting healthy and safe communities.

### **Other Matters**

38. Objections have been made to the proposal on the basis of its effect on the living conditions of occupiers of nearby properties, specifically at No 9, with regard to outlook, light, privacy, noise and disturbance. I acknowledge these concerns, and accept that the setting, situation and outlook for No 9 would change.

39. However, given the separation distances proposed, the existing mature planting which is to be retained, and the relatively small scale of the development proposed, I am satisfied that the proposal would not have an unacceptable effect on the living conditions of the occupiers of No 9. In reaching this conclusion, I note that Officers of the Council, in their report to Committee reached the same conclusion.
40. Objections have also been made to the proposal with regard to flooding, drainage, traffic and ecology. Whilst all of these comments are noted, I am also in receipt of assessments and reports which deal with all of them and which have satisfied the statutory consultees as to their acceptability, in terms of effect and the suitability of any required mitigation where it is proposed. Again, this is consistent with the position taken by Council Officers in their report to Committee, and nothing in the evidence before me suggests I should reach a different conclusion.
41. The compatibility of the proposal with the use of the golf course has also been raised, with objectors citing the amount of ball strikes at existing houses from the current configuration of the course. On the basis of the evidence before me, and my site visit, it appears that whilst ball strikes already occur, some of these appear to come from holes unaffected by the proposals. In addition, there is technical evidence to show that there is sufficient distance between the 8<sup>th</sup> hole and the proposal such that the potential for ball strikes would be low, and the risk they would pose is negligible. Similarly, the position of the 5<sup>th</sup> tee has been designed to minimise conflict between the course and the proposal. Added to this, I note the 'agent of change' principle clearly set out in the Framework. As a result, I am satisfied that the proposal and the use of the golf course are compatible.
42. I note the concerns of the Council over the deliverability of this site. However, they have provided no evidence to support this concern, and both the appellant and the original report to committee note that the site is readily deliverable. Given the scale of the proposal and the lack of any evidence to the contrary, I agree with this conclusion.

### **Planning balance**

43. The Framework states at paragraph 11 that plans and decisions should apply a presumption in favour of sustainable development. It continues at paragraph 11d)ii, stating that where the policies which are the most important for determining the planning application are considered out-of-date, 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.
44. Footnote 8 of the Framework confirms that in considering whether the policies that are most important are indeed out-of-date, this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. In this instance, the parties agree that there is currently a shortfall in the housing land supply in North East Lincolnshire, and as a result, the provisions of paragraph 11d of the Framework apply.

45. As set out above, I have found that the Framework and Policy 43 of the Local Plan are consistent, and given my conclusions on that policy, I do not find that there are any relevant Framework policies which therefore protect areas or assets of particular importance, providing a clear reason for refusing the development proposed.
46. In addition, whilst there may be minor adverse impacts from granting planning permission, in terms of minor loss of openness of the golf course, these would not significantly and demonstrably outweigh the benefits of housing delivery in an area of shortfall, in a manner which does not cause unacceptable harm to the character and appearance of the area, and which potentially protects the long-term retention of the Golf Club as a sport and recreation facility.
47. The proposal therefore benefits from the presumption in favour of sustainable development set out in the Framework.

### **Conditions**

48. The Council and appellant have submitted an agreed list of conditions to be attached, should planning permission be granted in their signed SOCG. It was agreed that the SOCG serves as the written agreement that the appellant has no objection to the terms of the pre-commencement conditions proposed by the Council. It is necessary and reasonable that the information required by those conditions be provided prior to the commencement of development, as they relate to matters which cannot properly or reasonably be addressed following the commencement of the development.
49. Having had regard to the requirements of the Framework and the PPG I have imposed standard conditions concerning commencement (1) and compliance with the submitted plans (2).
50. Condition 3, requiring the installation of surface and foul water drainage in accordance with the submitted details is necessary to ensure drainage, flood risk and water quality is appropriately managed. Conditions 4 and 8, requiring the approval and implementation of bin store details, external materials and landscaping are necessary to ensure the satisfactory appearance of the completed development.
51. Condition 5 requires compliance with the submitted Construction Management Plan, but following discussion at the hearing, I have amended it to allow the submission and approval of an alternative. This is necessary to ensure that the delivery of the development does not harm the amenity of occupiers of neighbouring properties. Conditions 6 and 7 are necessary to ensure the safety of the development in highway safety terms.
52. Condition 9, ensuring that the development is carried out in accordance with the recommendations in the Ecology Appraisal is necessary to protect biodiversity and ecology interest. Condition 10, which controls boundary treatment details, requiring submission, approval and implementation is necessary both in the interests of the amenity of the occupiers of neighbouring properties, the character and appearance of the area and to protect biodiversity interests. Condition 11 is necessary to ensure that the proposal meets development plan standards around water efficiency.

53. As noted in my Preliminary Matters, condition 12 was requested by the Council's Heritage Officer to overcome the second reason for refusal. It is therefore necessary to protect any heritage interest within the site, in accordance with the development plan policy and the requirements of the Framework.
54. Despite the SOCG, dispute remains over the necessity of a separate condition<sup>2</sup> specifying the location of the 5<sup>th</sup> tee and the 8<sup>th</sup> hole. I have addressed the proposed amendment to the location of the 5<sup>th</sup> tee in my Preliminary Matters above, but the issue of this proposed condition remains. Although these works are shown on the approved drawings listed in Condition 2, that condition is positively worded and reliance on that condition to deliver the works would be unreasonable and unenforceable.
55. Instead, I have imposed the condition suggested by the Council in their Statement of Case, as condition 13. This 'Grampian' condition is negatively worded and would therefore be enforceable. Parties broadly agree that reconfiguration works are necessary (albeit there remains dispute over the precise location of the 5<sup>th</sup> tee), and as the Golf Club owns the appeal site and the land around it, and would need to reconfigure the course to accommodate the development, I consider that there is a reasonable prospect of the works required being implemented. As such, I find that the condition as attached is necessary and I am satisfied that it is reasonable, meeting the appropriate tests.
56. At the hearing, it was latterly suggested by the Council that they would prefer to see the removal of national permitted development rights for outbuildings and hardstandings, despite this not being suggested in the original Officer Report, the Statement of Case or the SOCG. The appellant suggested that they would be willing to accept such a condition. However, I am mindful of the Framework presumption against the removal of national permitted development rights, the need for clear justification and the guidance in the PPG. In light of that, given the restrictions imposed in the permitted development order itself, the generous plot sizes, proposed landscaping, conditions which retain that, and separation distances between the proposed houses and the existing houses, I do not consider that such a condition would be necessary, nor do I consider that I have been provided with clear justification for it.
57. I have removed tailpieces from the suggested conditions as they are inappropriate and can bypass other statutory processes. In conclusion I am therefore satisfied that the conditions I have imposed meet the tests in, and requirements of both the Framework and the PPG.

### **Planning obligation**

58. The appellant has offered, and the Council considers it necessary, for the appeal proposal to be accompanied by a planning obligation which would ensure that the proceeds of the sale of the site would go to the Golf Club to support its future. The Application Form confirms that the Golf Club owns the land, and the recitals in the UU reaffirm this.

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<sup>2</sup> Condition 10 in the Council's Statement of Case

59. I consider that such an obligation would clearly be necessary to make the development acceptable in planning terms, directly relates to the development and is fairly related in scale and kind to the development.
60. It was discussed at the hearing and agreed that it would neither be appropriate nor practical to seek to control the disbursement of those proceeds beyond their receipt by the Golf Club.
61. A signed and sealed obligation under section 106 of the Act has been provided., The Council has confirmed that this undertaking meets their requirements, and I am satisfied that it meets the legal requirements and that it would deliver what has been sought, namely, that the proceeds of the sale of the site would be received by the Golf Club.

### **Conclusion**

62. I have found that the proposal would not result in an unacceptable loss of openness or lead to an unjustified visual intrusion to the detriment of the character and amenity of Great Coates Road. I have also found that whilst it would result in the loss of *land* allocated for sport and recreation, that loss would be justified and the retention of the facility as a whole falls complies with the development plan and would not harm community health and well-being.
63. For the reasons given above I conclude that the proposal accords with the development plan. In addition, it benefits from the presumption in favour of sustainable development set out in the Framework. There are no other material considerations which indicate that a decision be taken other than in accordance with the development plan.
64. The appeal should therefore be allowed, and planning permission granted.

*S Dean*

INSPECTOR

## **Schedule of Conditions**

1. The development hereby permitted shall begin within three years of the date of this permission. That the development hereby permitted shall be carried out in accordance with the following approved plans:
2. The development shall be carried out in accordance with the following plans:
  - RD4072-01A Site location plan
  - RD4072-10D Proposed site plan
  - RD4072-11D Proposed site plan
  - RD4072-12A Plot 1 plans and elevations
  - RD4072-13A Plot 2 plans and elevations
  - RD4072-14A Plot 3 plans and elevations
  - RD4072-15A Plot 4 plans and elevations
  - RD:4072-16A Plot 5 plans and elevations
  - RD4072-18E External works plan
3. The surface and foul water drainage plans referenced:
  - 1115-2014-A Micro drainage
  - 1115-2014-A Micro drainage
  - 1115-2014-CIV-10-P2 Drainage layoutshall be fully installed and operational prior to any dwelling being occupied and the drainage as detailed so retained thereafter.
4. Development shall not begin until details of the bin store and all external materials to be used in construction of the buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall then be built out in accordance with the approved details.
5. The development shall be built out in accordance with the Construction Management Plan submitted 2nd December 2020 or in accordance with a replacement plan formally submitted to and approved in writing by the Local Planning Authority.
6. The existing hedgerow shall be removed to allow for the relevant visibility splays of 2,4m x 43m in both directions from the proposed site access point as shown on plan ref: RD4072-10D prior to the occupation of any dwelling on the site. The visibility splays shall then be maintained at all times thereafter.

7. Development shall not begin until the following details have been submitted to and approved in writing by the Local Planning Authority.
  - (i) Detailed plans to a scale of at least 1/500 showing:-
    - (a) the proposed layout of the carriageways and footways on the development;
    - (b) the wearing course materials proposed for the carriageways and footways;
    - (c) cross sections;
    - (d) the highway drainage system;
    - (e) the proposed locations of street lighting columns, all services and ducts for services, within the carriageways and footways;
    - (f) management arrangements for any carriageways, footways and/or landscaped areas not to be adopted by the local authority;
    - (g) swept path analysis demonstrating turning manoeuvres for emergency vehicles on all carriageways (adopted and private), and refuse vehicles on all adopted carriageways;
  - (ii) A Stage 1 and 2 Road Safety Audit (RSA) must be provided. The RSA should take into consideration the new access point on Great Coates Road. The Road Safety Audit must be undertaken by a fully qualified independent Road Safety Auditor. Once approved, development shall only proceed in strict accordance with the approved details.
8. No development shall commence until:
  - (a) A scheme of landscaping showing the details of the number, species, sizes and planting positions of all trees and shrubs to be planted;
  - (b) A plan including details of all trees to be retained, any to be felled, hedgerows to be retained, any sections of hedgerow or trees to be removed, along with an Arboricultural Method Statement;
  - (c) Measures for the protection of trees and hedges during construction work;
  - (d) Timing for the landscaping works to be completed;
  - (e) A management plan for the landscaping,have been submitted to and approved in writing by the Local Planning Authority. The approved Tree Protection Measures shall be fully installed prior to any construction works commencing on the site and shall be retained in place throughout construction works. The landscaping shall then be fully completed in accordance with the approved details and thereafter managed in accordance with the approved management plan.
9. The development shall be built out in full accordance with the recommendations set out in the Ecology Appraisal submitted 4th December 2020 unless otherwise agreed in writing with the Local Planning Authority. The measures shall be implemented prior to the occupation of any house to which it relates in relation to bat bricks and prior to the occupation of any dwelling in relation to all other measures.
10. Prior to development commencing full details of all boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The details shall include hedges and fences to the boundaries to the golf course. The approved fencing shall then be fully installed prior to the occupation of any dwelling on the site and the hedging fully planted out in accordance with the details required and approved under condition 8 of this permission.

11. Prior to occupation of any dwelling, final details of how water will be reused and recycled on site shall be submitted to and agreed in writing by the Local Planning Authority. Once approved, the details shall be adhered to at all times following first occupation of each dwelling.
12. No development shall take place until the applicant has:-
  - (i) submitted a Written Scheme of Investigation or Specification for Works, for a programme of archaeological work, to the Local Planning Authority.
  - (ii) received written approval of the Written Scheme of Investigation for a programme of archaeological work from the Local Planning Authority.
  - (iii) implemented, or secured implementation of the Written Scheme of Investigation for a programme of archaeological work.

Use of the development shall not take place until the applicant has:-

  - (a) published, or secured the publishing of the findings resulting from the programme of archaeological work within a suitable media.
  - (b) deposited, or secured the deposition of the resulting archive from the programme of archaeological work with an appropriate organisation.
13. Prior to the occupation of any dwelling the 5<sup>th</sup> tee box and 8<sup>th</sup> green on the golf course shall be relocated to the positions shown on the plan referenced RD4072-10D and they shall then be retained in the approved locations and not relocated at any time.

**End of Schedule of Conditions**

## **Appearances**

### For the Appellant:

Paul Bedwell	Paul Bedwell Town Planning
Daniel Snowden	Ross Davy Associates
Simon Dixon	Land Developers Lincs
Paul Bannister	Land Developers Lincs
John Collis	Land Developers Lincs

### For the Local Planning Authority:

Cheryl Jarvis	North East Lincolnshire Council – EQUANS
Martin Dixon	North East Lincolnshire Council – EQUANS

### Interested Parties:

Kerry Henderson	Local resident
Paul Henderson	Local resident
Cllr James Cairns	North East Lincolnshire Council



# Appeal Decision

Site visit made on 20 June 2022

by **J Downs BA(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 19 July 2022

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**Appeal Ref: APP/B2002/W/22/3292436**

**Red Sun, 23 Louth Road, Grimsby DN33 2ER**

- 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 Wei Jie Chen against the decision of North East Lincolnshire Council.
  - The application Ref DM/0773/21/FUL, dated 28 July 2021, was refused by notice dated 18 November 2021.
  - The development is described as retrospective application to install two roller shutters to front elevation.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. I note from the appeal documentation and my site visit that the two roller shutters have been installed. I have considered the appeal accordingly.

## Main Issue

3. The main issue is the effect of the development on the character and appearance of the surrounding area, with particular regard to the effect on the character and appearance of the Scartho Conservation Area (CA).

## Reasons

4. The appeal site is an end-terrace property in a shopping parade although adjacent to residential properties on one side. It is within the Scartho CA where s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that "*special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area*".
5. Despite being firmly within the larger urban area of Grimsby, the CA was historically a separate settlement. It has a pleasant, suburban character and appearance from the tree-lined streets, traditional building styles including groups of terraced dwellings. The parade of shops containing the appeal site complements this overall feel and is within a similar style of terrace with commercial premises at street-level.
6. The shopping parade has a similar scale to the adjacent domestic buildings. The existing shopfront appears to be original, albeit with the addition of a modern fascia sign. The cornice detailing on the shopfront and the scale of the fascia signage that sits within it along with other detailing such as the arched header around the door, results in the shopfront overall having a traditional

- appearance which makes a positive contribution to the character and appearance of the CA.
7. The roller shutter is not well related to the features of the shopfront. The shutter box is not concealed, is considerable in scale in comparison to the restrained size of the fascia sign and projects forward of the shopfront making it a dominant feature regardless of whether the shutter is open or closed. The runners obscure the pilaster detailing and the solid, galvanised finish has an industrial appearance which is further exacerbated when the shutter is closed. The roller shutter within the door, while not harming the external features of the doorway, also appears as a dominant and incongruous industrial feature, particularly when closed.
  8. Both parties have put forward arguments in relation to the prevalence of shutters within the Conservation Area. Many of these examples have distinctly different circumstances to the appeal site, generally related to either the architectural features of the host property or the policy context under which those decisions were taken. The examples given do not have an overriding influence upon the character and appearance of the CA that I have described above. Allowing this development would cause further harm to the character and appearance of the CA.
  9. It has been suggested that the shutters could be colour treated, a new fascia sign provided to conceal the shutter box and that this could be secured by condition. However, this would not address the issue of dominance as the fascia would still project forward of the shop front and the shutters would still have a solid external appearance.
  10. Having regard to the advice in the National Planning Policy Framework (NPPF), I find that the appeal proposal results in less than substantial harm to the character and appearance of the CA. Paragraph 202 advises that less than substantial harm should be weighed against the public benefits of the proposal.
  11. I have very little to demonstrate the scale of the issue with anti-social behaviour that the appeal proposal is to address. I have no reason to doubt it exists and the Council has not contested this point. I noted at my site visit that other premises have taken steps to prevent access to recessed doorways. However, shutters can also have a negative effect on the perception of levels of anti-social behaviour in an area, particularly if closed during the day as these may be due to the evening nature of the use. I therefore conclude that any public benefits of the scheme in relation reducing the potential for anti-social behaviour would be very limited.
  12. The appellant has put forward that the installation of the roller shutters allows the preservation of the original features which are the only remaining original shop front features. It is not clear whether the nature of public disorder in the area is of a type that would put these original features at direct risk. However, whilst this could also be considered a public benefit of the scheme, it has very limited positive weight.
  13. I have had regard to the advice in paragraphs 199 and 200 of the NPPF that great weight should be given to an asset's conservation and that any harm to the significance of a designated heritage asset requires clear and convincing justification. The very limited public benefits of the appeal proposal I have identified above would not amount to a clear and convincing justification, nor

would they outweigh the harm to the significance of the CA that I have identified.

14. For the above reasons, the appeal proposal would not maintain or enhance the character and appearance of the CA. It would be contrary to NELLP Policy 5 which requires all development within development boundaries to be suitable, Policy 22 which requires a high standard of sustainable design, and Policy 39 which requires development to conserve historic townscape features and specifically refers to historic shop fronts.

### **Other Matters**

15. The appellants statement expresses concerns that there has been some amount of prejudice against this site, and that custom and practice in the area has been disregarded. I have little to indicate that this has been the case but even if it had, I have considered this appeal on its own merits and in accordance with the statutory requirements placed on me by s38(6) of the Planning and Compulsory Purchase Act 2004 and s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Conclusion**

16. For the reasons given, the appeal scheme would not be in accordance with the development plan when read as a whole and there are no material considerations of sufficient weight to justify a decision otherwise. The appeal should therefore be dismissed.

*J Downs*

INSPECTOR