

Appeal Decision

Hearing held on 23 February 2016

Site visit made on 23 February 2016

by Matthew Birkinshaw BA(Hons) Msc MRTPI

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

Decision date: 24th March 2016

Appeal Ref: APP/N2535/W/15/3138200

Land to the rear of Weir Farm Paddock, Scothern, Lincolnshire, LN2 2XA

- 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 Jackson & Jackson Developments Limited against the decision of West Lindsey District Council.
 - The application Ref 132790, dated 16 March 2015, was refused by notice dated 23 October 2015.
 - The development proposed is for the erection of thirty-three (33) new dwellings; associated hard and soft landscaping, including drainage provision and formulation of new vehicular access to Weir Farm Paddock, and, the erection of two (2) self-build plots with all matters reserved.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application seeks full planning permission for the erection of 33 dwellings and outline planning permission for the erection of 2 self-build plots. I have therefore considered the appeal on the same 'hybrid' basis, treating the access, layout, landscaping, scale and appearance of the self-build plots as indicative.
3. Submitted prior to the Hearing was a signed copy of the appellant's Unilateral Undertaking, dated 8 February 2016. Given that this was the final copy of a previous draft, and its contents formed part of the appellant's initial case it did not introduce any substantive information which had not previously been considered. As a result, I have taken the signed undertaking into account.

Main Issue

4. The main issue is whether or not the proposal constitutes sustainable development, having particular regard to;
 - The effect of the proposal on the character and appearance of Scothern;
 - Whether or not the proposal would represent a suitable location for housing, having regard to the availability of local services and infrastructure; and
 - The effect of the proposal on the availability of the best and most versatile agricultural land.
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Reasons

5. The appeal relates to a parcel of agricultural land to the north of Scothern. For the purposes of the adopted development plan Scothern is a 'Primary Rural Settlement' under Policy STRAT 3 of the *West Lindsey Local Plan First Review*.
6. Situated outside the village and within the countryside Policy STRAT 12 of the Local Plan applies. This states that planning permission will not be granted for proposals unless the development is essential to agriculture, horticulture, forestry, mineral extraction or other land uses which require a countryside location. The erection of up to 35 open market houses therefore conflicts with Policy STRAT 12.
7. However, the National Planning Policy Framework ('the Framework') states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Where relevant policies are out-of-date paragraph 14 applies. This sets out a presumption in favour of sustainable development and advocates granting planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or specific policies indicate that development should be resisted.
8. At the Hearing the Council pursued two main points in relation to this matter, namely; that Policy STRAT 12 is not a policy for the supply of housing, and, that the latest *Central Lincolnshire Five Year Land Supply Report* identifies some 5.37 years' worth of deliverable housing sites.
9. By restricting new residential development to specific settlements Local Plan Policy STRAT 12 directly controls the supply of housing. Whilst the Framework advocates that planning should "*recognise the intrinsic character and beauty of the countryside*", it does not place a blanket ban on development of the type proposed. This was recognised in a recent appeal at Saxilby¹, with the Inspector confirming that such an approach "*...cannot be consistent with Framework intentions*". Another recent appeal in Nettleham also identified STRAT 12 as a policy relevant to the supply of housing². Based on the evidence provided I agree.
10. In terms of the Council's supply the main area of dispute is the inclusion of sites coming forward over the next 5 years from potential allocations in the emerging *Central Lincolnshire Local Plan*. Although the National Planning Practice Guidance³ advises that such sites may be considered capable of being delivered if there are no significant constraints to overcome, it also confirms that "*Local Planning Authorities will need to provide robust, up to date evidence to support the deliverability of sites, ensuring that their judgements on deliverability are clearly and transparently set out*". No such evidence has been provided to substantiate how the figures have been derived. Whilst the sites may have been subject to a sustainability appraisal, when explored further at the Hearing it was accepted that none have actually been tested. As a consequence, I can only apportion the *Central Lincolnshire Five Year Land Supply Report* limited weight.

¹ Appeal Decision Ref APP/N2535/A/14/2223170, dated 9 December 2015

² Appeal Decision Ref APP/N2535/W/15/3133902, dated 2 February 2016

³ Paragraph 031 – ID Reference: 3-031-20140306

11. Consideration of this appeal is not the place to test the allocations in the emerging *Central Lincolnshire Local Plan*, and the site specific evidence provided by both parties is limited and generally inconclusive. That being the case, it is common ground that achieving the supply of housing needed in the District will inevitably rely upon departures from the *West Lindsey Local Plan First Review*, and accordingly, the extant plan no longer meets the objectively assessed needs of the area. On this basis the Council's policies for the supply of housing cannot be considered up-to-date, and for the reasons given above this includes Local Plan Policy STRAT 12.

Character and Appearance

12. Scothern is a relatively modest rural settlement surrounded by agricultural land. At the Hearing it was described as a typical Lincolnshire village. Along Main Street and throughout its centre are primarily traditional 2-storey buildings constructed from local materials. There are also examples of more modern developments including suburban cul-de-sacs such as Weir Farm Paddock, Lime Tree Paddock, Meadow Close and The Alders. This eclectic mix of properties adds to the varied character and appearance of the village.
13. However, despite their varied style and appearance the vast majority of residential properties in the village are 2-storey. This is acknowledged by the appellant in the submission of a revised planning application in December 2015. The covering letter for application Ref 133708 confirms that "*Principally, the proposed dwellings are of 2 storey in scale, contributing in a consistent manner with the prevailing scales of the surrounding village locality*".
14. In contrast, several of the dwellings proposed as part of the appeal scheme would have accommodation over 3-storeys. Plots 1-3, 6, 14, 17/18, 22, 25, 27/28, 30, 32 and 34/35 would all have front facing dormer windows with a maximum ridge height of approximately 10m. Even some of the properties without dormer windows would still have a substantial ridge level relative to their eaves, such as Plots 9 and 10 which would also extend to a maximum height of roughly 10m. Although the appellant argues that this would provide articulation to the roofscape, I consider that the introduction of such large, primarily detached houses would be directly at odds with the prevailing pattern of housing in Scothern. When viewed alongside the majority of development nearby the scheme would be out of scale and context on the northern edge of the village.
15. Furthermore, due to the topography of the area the appeal site is higher than Lime Tree Paddock, with ground levels varying from 15.09m AOD in the north to 12.35m AOD in the south-east corner. The submitted Flood Risk Assessment also states that finished floor levels of the properties would be at least 150mm higher than their surroundings, and at the Hearing the appellant confirmed that Plots 9/10 nearest Lime Tree Paddock would be visibly higher than no.11. Thus, because the appeal site is on higher ground the visual impact of the scheme would be exacerbated. The change in level would therefore emphasise the contrasting, unsympathetic size and scale of the proposal.

16. In reaching this view I have taken into account that the proposal would be bounded by the existing copse to the north and extensive mature landscaping to the west. New landscaping is also proposed as part of the scheme and wider views from Dunholme Road would be limited. Furthermore, situated to the north of the village it would not be viewed alongside other recently approved developments and there would not be a cumulative visual impact or harm to the wider rural landscape. Nonetheless, the proposal would still be clearly visible in the public domain from Lime Tree Paddock, Weir Farm Paddock and the public footpath running through the site. From these viewpoints the unsympathetic size and scale of the development would be evident, and its design and appearance would detract from the character and appearance of the village.
17. In seeking to justify the scale of development the appellant has provided a Village Character Audit and an Existing Village Precedents document⁴. Whilst this demonstrates the eclectic mix and style of properties in the village, some of which are substantial in size, it falls significantly short of a thorough assessment to demonstrate how the size and scale of the proposal would successfully assimilate into its semi-rural surroundings. On the contrary, where it does show the use of dormers in the village they are predominantly at first floor level. As a result, the photographs only serve to highlight the incompatibility of properties with accommodation over 3-storeys adorned with front and rear dormers and large pitched roof profiles.
18. At the Hearing the appellant also sought to demonstrate how the scale of development would increase from Weir Farm Paddock when moving through the site, and illustrations were presented to demonstrate that the eaves and ridge heights between 2-storey and 2.5-storey dwellings would be similar. However, only a single bungalow is proposed and the dwelling nearest the site entrance (Plot 1) would extend to some 9.86m. I am therefore not persuaded that the scheme would sit comfortably with neighbouring development. Moreover, as identified above, the ridge height of some plots, such as 9 and 10, are significant relative to their eaves. As a result, even some of the 2-storey properties would add to the unsympathetic scale and design.
19. I have also taken into account comments that the scheme would be low density with generous gardens, landscaping and open space. The submissions describe how the design has sought to create its own identity which is a 'place' in its own right through the inclusion of a central area of open space which would act as a 'village green'. Nonetheless, although these are positive features, by containing so many large, primarily detached houses with accommodation over 3-storeys the incongruous scale and appearance of the scheme would be harmfully out of place. Situated on rising ground to the north of the village the proposal would not deliver the low-key, subtle built form as suggested.
20. I therefore conclude that by reason of its design and scale the proposal would fail to be in keeping with, and would detract from the character and appearance of Scothern. As such it conflicts with *West Lindsey Local Plan First Review Policy RES 1(i)* which states that planning permission will be granted for new residential development provided that proposals are satisfactory with regard to, amongst other things, their scale and massing. It also conflicts with Local Plan Policy NBE 10 which requires proposals to respect and enhance local

⁴ Hearing Document 10

distinctiveness. Both criteria are broadly consistent with the Framework which requires planning to secure high quality design, take account of the different role and character of areas and promote or reinforce local distinctiveness. The proposal is therefore also contrary to the Framework.

Local Services and Infrastructure

21. The facilities in Scothern currently include a primary school, pub, village hall, playing field and a church. Situated to the north of Weir Farm Paddock all would be within walking distance of the proposed houses along established footpaths and pavements. Potential future occupants would therefore be able to access primary education, utilise facilities on offer at the village hall and support the local pub/restaurant without having to leave Scothern.
22. In order to reach secondary education, the nearest shops, healthcare provision and places of work residents would have to travel further afield. Nonetheless, paragraph 55 of the Framework advocates that *"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby."*
23. In this case the neighbouring villages of Sudbrooke, Welton and Nettleham are located roughly 0.8 miles, 2.0 miles and 2.6 miles away respectively. All are therefore within a comfortable cycle-ride along primarily flat, country roads and contain local employment opportunities, doctors' surgeries and convenience stores. Moreover, the Council's report to Committee confirmed that bus services 11/11A begin at 06:45 hours and provide an hourly service to Nettleham and Lincoln. It also confirmed that Welton can be reached by public transport starting from 09:39 hours. Although the services are not akin to those found in a town or city, they nonetheless provide a reasonable alternative to reaching neighbouring villages by car, and no confirmation has been provided to indicate that the services have been cancelled.
24. One of the Council's main concerns, which is also recognised by local residents, is that planning permission has already been granted for approximately 75 new houses in Scothern. When taking this into account is it considered that the cumulative effect of another 35 dwellings would represent an unsustainable pattern of development. Particular reference is made to education provision, healthcare and drainage.
25. In terms of education Lincolnshire County Council (LCC) assessed the impact of the proposal at the planning application stage and produced a formal consultation response. This confirmed that Scothern Primary School would not have a surplus as of 2017, and therefore a financial contribution of £67,658 would be required to fund the provision of 6 additional places. This is provided for in the appellant's Unilateral Undertaking and, based on the consultation response provided by LCC, would mitigate the impact of the appeal scheme on the local primary school. The obligation would make the development acceptable in planning terms, would be directly related to the development, and fairly and reasonably related in scale and kind. It therefore meets the relevant tests within the CIL Regulations and the Framework.

26. Prior to the Hearing the Council contacted LCC with a copy of their decision notice and draft Statement of Case and asked for further information on where the education contribution would go. At this point LCC responded with a new request for almost £200,000 to cover primary, and secondary education at William Farr School in Welton. The Council sought to justify this change in position by identifying that the new request reflected LCC's response to the appellant's planning application submitted in December 2015 (Ref 133708).
27. I appreciate that circumstances change and several developments are coming forward in Scothern and the surrounding area. Nevertheless, there is no objective evidence before me to indicate how or why there has been such a significant change in position. The email provided by LCC contains no assessment as to how the figures have been calculated, or what factors have been taken into account. There is also nothing to demonstrate any correlation with the development proposed, such as an assessment of the house types and/or their intended occupation. Whilst noting local residents' concerns the Council's evidence therefore falls short of a robust case to demonstrate that the proposal would place undue pressure on education services.
28. In terms of healthcare the nearest doctors' surgeries are located in Nettleham and Welton, which are approximately 2.6 miles and 2.0 miles away respectively. NHS England confirms that whilst the surgery in Nettleham has issues with the size of the practice, financial requests have already been made under different proposals, and taking into account further contributions would be contrary to the CIL Regulations which limit pooling towards a specific infrastructure project.
29. Although local residents raise concerns that allowing the appeal could put the Nettleham surgery under more strain, there is also a practice at Welton which has not been identified as subject to any constraints or capacity issues by the NHS. At the Hearing some residents even suggested that they attended surgeries in Lincoln. Whilst Nettleham may require expansion, I am therefore not persuaded that residents of the appeal scheme would be entirely reliant upon this practice. The NHS has also received at least 5 financial contributions towards the expansion of services at the surgery.
30. Other statutory undertakers for the purposes of Policy STRAT 19 include the drainage board and highways authority. Prior to the Hearing photographs of flooding in the village were provided and residents have raised concerns regarding additional foul and surface water. However, Anglian Water confirms that the foul drainage from the development would be within the catchment of Nettleham Water Recycling Centre and that the sewerage system has available capacity. Approval of the final details could also be secured by a suitably worded planning condition to ensure the use of adequate connections and on-site infrastructure.
31. Similarly, the appellant's drainage engineer confirms that a combination of attenuation ponds, permeable road surfaces and restrictive flow devices would limit surface water run-off from the site to a greenfield rate. Subject to these controls, which could also be agreed as part of a final drainage scheme prior to commencement of development, the proposal would not exacerbate surface water flooding in the immediate surrounding area. The Witham Third District Internal Drainage Board also confirm they have no objections to the scheme and describe the appellant's assessment as 'thorough'.

32. Other infrastructure concerns raised during the Hearing related to the capacity of the local highway network to accommodate the additional houses proposed. In response the appellant refers to the submitted Transport Statement which outlines that the development is anticipated to generate 24 two-way trips on the local highway network during the evening peak. This equates to less than 1 vehicle entering Weir Farm Paddock every 2 minutes. Whilst it is appreciated that there would be an increase in vehicles using the cul-de-sac, the County Council's Highways Officer has not objected to the ability of the network to safely accommodate the scheme. Based on the evidence provided I have no reasons to disagree. With a minimum width of approximately 5.5m there would be sufficient space on Weir Farm Paddock for additional vehicles to pass parked cars.
33. Finally, although not listed as a reason for refusal the Council sought to rely upon draft Policy LP4 of the emerging *Central Lincolnshire Local Plan* at the Hearing. This defines Scothern as a 'Medium Growth Village' and seeks to only allow an increase of 10% in the number of dwellings in the village. On this basis it is argued that Scothern has already taken its 'fair share' of new housing. However, consultation on the 'Further Draft' stage only ended in November 2015 and additional comments will be sought on the publication Local Plan in due course. In turn the submission plan will also be subject to independent examination. When considering that draft policies might change, only limited weight can be attached to this emerging policy.
34. I therefore conclude that the proposal would provide a suitable location for housing having regard to the availability of local services, and would not have a significant adverse impact on local infrastructure subject to the mitigation proposed. As a result, there is no conflict with *West Lindsey Local Plan First Review* Policy STRAT 19 which states that development must take account of the need to provide on and off-site service and social/community infrastructure and other services in accordance with the requirements of statutory undertakers and other providers of essential services.

Agricultural Land Classification

35. Annex 2 of the Framework defines the 'best and most versatile' agricultural land as land in Grades 1, 2 and 3a of the Agricultural Land Classification. Based on the maps provided by the parties a large area of Scothern and the wider surrounding countryside is defined as Grade 3 by the East Midlands Agricultural Land Classification Map, with a small area of Grade 2 land east of Dunholme Road.
36. Although this small area of 'very good' agricultural land is within close proximity to the appeal site the map does not provide sufficient detail to enable an assessment of an individual field. Moreover, the large swathes of 'Good to Moderate' land on the map do not distinguish between Grades 3a or 3b. Consequently, there is no evidence to demonstrate that the scheme would result in the loss of the best and most versatile agricultural land. Although the Council maintains that the responsibility lies with the appellant to test the soil and clarify the position, the second reason for refusal states that the scheme would use the best and most versatile land. No evidence has been provided to substantiate this position.

37. Nevertheless, even in the event that the appeal site did represent the best and most versatile land, it is necessary to consider the proposal in the context of the wider surrounding area. In this case the classification map illustrates a substantial proportion of Central Lincolnshire and West Lindsey falling within Grades 1, 2 and 3. In contrast there is only a comparatively small amount of poor quality Grade 4 land, which the appellant puts at less than 5% of the District's total land area. This is also largely found in the Lincolnshire Wolds Area of Outstanding Natural Beauty.
38. When considering the extensive areas classified as 'Good to Moderate' I am not convinced that the loss of the appeal site, which only extends to some 1.98 hectares, can be defined as 'significant' development of agricultural land under paragraph 112 of the Framework. Moreover, when the wider area is assessed as a whole it is clear that there are only very small pockets of poor, or non-agricultural land available. In the absence of any evidence to indicate that the site falls within the small area of 'very good' land it is not apparent that there are any areas of lower land quality available to accommodate the development. In this regard there is no conflict with paragraph 112 of the Framework.

Other Material Considerations

39. As part of the proposal the appellant's Unilateral Undertaking includes a financial contribution towards affordable housing provision within a 5 mile radius of the site. This has been agreed between the Council and the appellant as part of an open book Viability Appraisal and I have no reasons to question its accuracy or compliance with the CIL Regulations or the Framework. Alongside the provision of new family homes this would help deliver affordable housing in the area, widen opportunities for home ownership and contribute towards a balanced and mixed community. This is consistent with the social strand of sustainability set out in the Framework, and the appellant's evidence points to a high demand for properties in Scothern.
40. In support of the scheme the appellant has also referred to several appeal decisions, including a Secretary of State decision for residential development at Earls Barton⁵. However, whilst noting the findings of other Inspectors I am required to consider the proposal on its specific merits having due regard to the site specific circumstances of this particular case and I have determined the appeal on that basis.
41. Finally, running through the site is a public footpath (Scothern 154). Although the proposal does not preserve the route shown on the definitive map it is clear from aerial photography and observations on the ground that people using the footpath take a more direct and logical route diagonally across the site. This is reflected in the proposed layout which includes a pedestrian route through the site on the same basis.
42. Some local residents have suggested that the experience of using the footpath would change due to the need to cross estate roads. However, the layout of the scheme is focused around a central area of open space and a pond. The pedestrian route would be primarily taken through this area and would only entail crossing two relatively narrow roads before continuing through the copse and into the countryside beyond. As a result, it would not be an unpleasant route and the scheme would not prejudice the use of the footpath.

⁵ Ref APP/H2835/A/14/2221102

Balancing Exercise

43. Although the proposal lies beyond the settlement boundary of Scothern the Statement of Common Ground confirms that departures from the *West Lindsey Local Plan First Review* are necessary as it no longer meets the objectively assessed housing needs of the area. As such the conflict with Policy STRAT 12 must be considered in light of paragraph 14 of the Framework and its presumption in favour of sustainable development. In achieving sustainable development the Framework identifies three dimensions; the economic, social and environmental.
44. The proposal would bring about direct, tangible benefits through the provision of additional family housing in an area with an identified need and high demand. It would contribute towards the Council's supply and provide jobs to local trades in the construction process. This would give rise to a positive multiplier effect, and the expenditure from potential future occupants would help support local services such as the local pub, with the landlord in support of the development. Accessing local services could also be achieved without relying upon the use of a private car. I have afforded great weight to the economic benefits of the scheme.
45. It would also contribute towards the provision of affordable housing within a 5-mile radius of the site and expand the choice of properties available for families nearby. It has been designed in consultation with Lincolnshire's Crime Prevention Design Advisor, would retain the natural desire line through the site used by pedestrians and no concerns have been raised by the Council with regard to the living conditions of neighbouring residents. The submitted evidence also points to the public consultation carried out by the appellant, and the scheme would not utilise a significant area of best and most versatile agricultural land.
46. However, the social role of sustainable development also seeks to create a high quality built environment, and the environmental role requires planning to contribute towards protecting and enhancing the natural and built environment. As identified in paragraph 60 of the Framework, good design is a key aspect of sustainable development. It is indivisible from good planning and should contribute positively to making places better for people. The Core Planning Principles also advocate that planning should secure high quality design and take account of the different roles and character of different areas.
47. In this case the scale of the development proposed, which includes a large number of detached houses with accommodation over 3 floors, would be at odds with the predominant character and appearance of Scothern. Situated on higher ground to the north of the village the contrasting scale and design of the scheme would result in an incongruous form of development that would fail to adequately reflect its local context. The inappropriate design would lead to permanent, considerable harm to the character and appearance of the village.
48. In summary therefore, I consider that the visual harm caused by allowing the appeal would be substantial. It would be directly at odds with a key aspect of sustainable development defined by the Framework and would not resonate with the social and environmental roles. Thus, when considered against the Framework taken as a whole, the proposal is not the sustainable development for which there is a presumption in favour.

Conclusion

49. For this reason, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Matthew Birkinshaw

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

James Rigby	Globe Consultants
Will Thomas	Browne Jackson
Geoff Bowman	SCP Transport
Daniel Mutepfa	Ward Cole
Andrew Brown	Stem Architects
Dominic Jackson	Jackson & Jackson Developments

FOR THE LOCAL PLANNING AUTHORITY:

Rachel Woollass	Planning Officer, West Lindsey District Council
Councillor Stuart Curtis	West Lindsey District Councillor
Russell Clarkson	Planning Officer, West Lindsey District Council

INTERESTED PERSONS:

Cathryn Nicoll	Chair of Scothern Parish Council
Mike Thompson	Local Resident
Lorraine Thompson	Local Resident
Robert Creaser	Local Resident
William Payne	Local Resident
Karen Raby	Local Resident
Janet Fisher	Local Resident
Peter Housego	Local Resident
Kathleen Housego	Local Resident
Rod Newborough	Local Resident

DOCUMENTS

HD 1	Photographs provided by Mike Thompson
HD 2	Photographs provided on behalf of the appellant
HD 3	Highways Imagery Document
HD 4	Appeal Decision APP/N2535/A/14/2223170, dated 9 December 2015
HD 5	Appeal Decision APP/N2535/W/15/3133902, dated 2 December 2015
HD 6	Hearing Notification
HD 7	Letter from Marco-Lewis Farquharson, dated 19 February 2016
HD 8	Aerial photograph with proposed site layout
HD 9	Height differences illustration
HD 10	Existing village precedents illustration
HD 11	Letter from Sir Edward Leigh MP, dated 22 February 2016
HD 12	Anglian Water Suggested Informative Statements and Conditions Report, dated 29 May 2015