



---

## Appeal Decision

Hearing held on 26 November 2015

Site visit held on 27 November 2015

**by Helen Heward BSc Hons MRTPI**

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

**Decision date: 31 March 2016**

---

### **Appeal Ref: APP/B2002/W/15/3035911**

#### **Land off Station Road, Waltham, Grimsby, North East Lincolnshire**

- 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 Peter Strawson against the decision of North East Lincolnshire Council.
  - The application Ref DM/1231/14/FUL, dated 24 November 2014, was refused by notice dated 11 March 2015.
  - The development proposed is 51 dwellings, including garages, access, landscaping, attenuation ponds and buffer planting.
- 

#### **Decision**

1. The appeal is allowed and planning permission is granted for 51 dwellings, including garages, access, landscaping, attenuation ponds and buffer planting at land off Station Road, Waltham, Grimsby, North East Lincolnshire in accordance with the terms of the application, Ref: DM/1231/14/FUL, dated 24 November 2014, subject to the conditions set out in the attached schedule.

#### **Procedural Matters**

2. The appellant requests that the description of development on the application form be used, including the reference to 'buffer planting' and the parties agree the correct Landscaping Plan is RD: 3264-26 Revision C.
  3. The appeal was accompanied by a S106 Agreement. This would secure 10 (20%) affordable dwellings on site; a contribution of £112,766.40 in respect of works to Waltham Leas, Primary Academy Waltham; £11,000 in respect of real time bus displays at Grimsby Road and bus stop improvements on Station Road; the installation of a footpath to Grimsby Road; and open space and sustainable urban drainage.
  4. Documents and appendices referred to in the appellant's grounds of appeal and CF Landscape's supporting Landscape and Visual Impact Appraisal (LVIA) May 2015 were submitted prior to the hearing. Upon checking the information the Council's witness advised that the Council had not been provided with all the information, in particular Appendix B of the appellant's LVIA which comprises the photographic viewpoints referred to. All parties agreed that if the site visit took place the following day and the hearing kept open so that I could hear submissions relating to the viewpoints, then the hearing could carry on and so this is how I proceeded.
-

### **Application for costs**

5. An application for costs by Mr Peter Strawson against the decision of North East Lincolnshire Council was made, and responded to, in writing before the hearing. It was also discussed at the hearing. This application is the subject of a separate decision.

### **Development Plan and Supply of Housing**

6. Paragraph 49 of the National Planning Policy Framework (Framework) advises 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. In the submitted Statement of Common Ground the appellant and Council agree that the Council's Housing Land Supply Assessment May 2015 identifies only a 2.5 year housing land supply and the Council recognises that there has been a persistent under supply of housing land and that a 20% buffer for under delivery should be applied to current housing need. The supply of housing land is therefore significantly below 5 years and this attracts substantial weight in support of the appeal proposal.
7. Policy GEN2 of the North East Lincolnshire Local Plan (2003) (Local Plan) relates to development in the open countryside. It is in two parts. The first is restrictive of housing in open countryside and therefore relevant to the supply of housing. The Council accept that this part of the policy is out of date.
8. They argue that the second part sets criteria to control the nature and quality of development consistent with advice in the Framework, and is not about the supply of housing, and should be given appropriate weight. However, GEN2 is constructed as one policy and, like the Inspector in the recent appeal decision APP/B2002/W/14/3001106, I consider that the whole 'raison d'être' of GEN2 is to restrict development in the open countryside and therefore relates to the supply of housing. I find the whole of the policy to be out of date and attach minimal weight to it.
9. The site is within an area covered by Local Plan Policy NH9 which deals with strategic gaps. At the Hearing the main parties were of the view that NH9 does not preclude development, is not a policy for the supply of housing, and seeks only to prevent the coalescence of the urban area and defined settlements. The Council put to me that Policy NH9 is concerned with the control of the nature and quality of development and consistent with advice in Section 11 of the Framework for protecting and enhancing the countryside, and advice at Section 7 for respecting the design and character of an area. The appellant argued the proposal complies with the requirements of Policy NH9 that development must not be in the form of ribbon or a fragmented pattern, and not result in a significant increase in the scale of built development between defined development areas.
10. The Policy states that for development to be permitted in the strategic gap it must be compatible with a countryside setting and the explanatory text describes Policy NH9 as providing 'an additional policy of restraint'.
11. Whilst Policy NH9 might not preclude development, it seeks to restrict all development, to keep open land around the built up areas. The Local Plan Proposals Map shows that the strategic gap relates to large areas of land to the north and west of Waltham. I find that the generic nature and wide area application have the effect of severely restricting all development, including

housing and make Policy NH9 a policy for the supply of housing. Comments in the Planning Officer's report for the planning application and of the Inspector in appeal case APP/B2002/W/14/3001106, on this matter strengthen my conclusion.

12. The preparation of the Waltham Community Led Plan 2015, included eight planning for real events, was overseen by a Steering Group of 15 and has been adopted by the Parish Council. At the hearing the Council confirmed that this plan is recognised by the Council, but it is not a Neighbourhood Plan and does not form part of the Development Plan.
13. Therefore, having regard to paragraph 14 of the Framework, if the proposed development can be judged to be sustainable, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole or where specific policies in the Framework indicate development should be restricted.

### **Main Issue**

14. At the Hearing the parties agreed that in this case, the main issue is the effect of the proposal on the character and appearance of the site and surroundings, with particular regard to the form and pattern of development and separation of settlements.

### **Reasons**

#### *Landscape Character*

15. Three roads roughly demark a quadrant of land which forms a gap between the settlements of Waltham, Scartho, and New Waltham. The appeal site is part of a larger field close to the southwest corner. On the site visit I noted that the proximity of the settlements, busy roads and some incursions of development along the roads contribute to an urban fringe character and detract from the quality of the landscape. The LVIA assesses the sensitivity of the landscape to accommodate change as medium.
16. The appeal site is adjacent to a small triangle of development which 'eats' into the corner. Located in proximity to other development in a corner of the quadrant, close to the settlement, the proposal would not significantly increase the scale of the built form of the settlement nor significantly extend into the area of open farmland in the quadrant. At the broad scale the magnitude of change would not be so significant in scale or otherwise to be so intrusive. It would not make a marked change in the form and pattern of settlements, in the transition from settlement to countryside, the perception of entering and leaving the settlements, or of making Waltham feel 'swallowed up', as referred to in the Waltham Parish Council Community Led Plan 2015. Therefore, at this broad scale I agree with the assessment in the LVIA that the effect would be slight adverse.
17. The North East Lincolnshire Council (NELC) Landscape Character Assessment (2010) (LCA) defines the Local Landscape Type as Flat Open Farmland and Guideline 18 includes seeking to avoid insensitive and inappropriate expansion, or loss of character and the separation, through coalescence of settlements. Advice at page 95 of the NELC Landscape Character Assessment Sensitivity and Capacity Study (2015) (LCASACS) recognises the need to avoid coalescence

between Waltham and New Waltham. It states that the overall landscape sensitivity to change is medium-low and the capacity to accommodate development is medium-low but advises that in the south-eastern and south-western perimeter 'pockets of development' could be located at the edges of Waltham and New Waltham. The LCASACS does not identify sites nor define 'pockets of development'.

18. On my visit I observed that the proposal would be separated from existing residential development by two roads, and wrapped around the outer edge of the fire station and telecoms sites. I am not persuaded that it would have the character and appearance of a 'pocket of development' consolidating and contained within existing residential development.
19. On Station Road the proposal would extend built form towards New Waltham. At the site visit, in the vicinity of Grove Farm, the main parties differed in their views as to where the gap between these settlements started, and there was no clear demarcation. The Council inform me that the gap is approximately 0.6km long in this area. This may not be significantly shorter than other stretches, but this stretch of Station Road contains built form incursions and on my visit I found the quality of the landscape in this area and the perception of the separation of the settlements ill-defined, weak and more sensitive than that of the landscape of the quadrant as whole. In this already fragile landscape on the northern side of Station Road the development would increase and consolidate built form. It would further reduce and weaken the perceived gap and sense of separation of settlements. In these ways it would have a localised significant negative effect on settlement pattern and the quality of the landscape character.
20. The development would create a simplified line of built form on the eastern side of Waltham, but the paragraph on the potential for development on page 95 of the LCASACS also includes advice that boundaries should be irregular. I observed that development on the opposite side of Grimsby Road to the appeal site appeared attached to the settlement beyond or behind, and not as a ribbon of development.
21. The LCASACS recognises the importance of woodland in this landscape. The proposal includes open space and green infrastructure and in time the development would be enclosed by a robust woodland belt. This would have some beneficial impacts but would not fully mitigate or compensate for the localised adverse impacts of the proposed built form upon landscape character and the separation of settlements along Station Road.

*Views of the settlement and gap*

22. In most views the appeal site can be seen to be part of the quadrant of open land between the settlements and in this way contributes to views of open countryside beyond and between the settlements. Appendix B of the appellant's LVIA includes a map of the photographic viewpoints. They are located at various positions on or close to these roads and around the edge of the quadrant. At the hearing the parties agreed that this was generally representative of the main area from where the site could be seen. On the site visit we visited and considered most of these viewpoints.
23. In longer range views from Toll Bar the site forms a very small part of the overall view and development would be seen together with views of other

- development on the horizon. From the north, topography and hedgerow trees restrict views of the site. In all of these views development would form only a small part of the view and I found that distance, topography and a few intervening hedgerows and trees all have the effect of restricting and limiting what would be seen.
24. Medium range views are represented by viewpoints 3 and 6. I observed that a strong hedgerow along Station Road limits public views from the east, such that for most receptors the views available at viewpoint 3 would be passing, glimpsed views through the gateway and break in the hedgerow. Hedgerow planting and trees limit views from Grimsby Road in the vicinity of viewpoint 6. I found that in the locality of these viewpoints the telecoms building and fire station tower are discernible and residential development can be seen in the locality, one is also generally aware of approaching Waltham.
25. In the available longer and medium range views the point at which development and open farmland form the edge of the quadrant would not appear to change significantly. Nor would there be a significant change in the composition of built form, open countryside and sky. All in all I found no evidence to demonstrate that from the wider area of the quadrant, where the development would be exposed, it would appear isolated, or have a far reaching or otherwise significant impact. The proposed woodland belt would eventually screen most of what could be seen of the proposed development and reduce views of existing development. The residual wider area visual impacts, including screening existing built form, would be negligible to minor beneficial at most.
26. In close views the appeal site affords views of countryside from Grimsby Road and Station Road and contributes to the feeling of leaving and entering the village. In these views development is clearly present on the periphery but presently a large view of sky and countryside can be seen beyond the roadside hedgerow. The proposed residential development would be clearly visible on leaving and approaching Waltham and move the perceived boundaries between built form and open farmland.
27. For cyclists, pedestrians and motorists, most of these views would be transient, and at an oblique angle. On leaving Waltham the enclosed views would open out again on passing the site. The impact would be mitigated by the setting back of the building line and the creation of deep verges with tree planting. Nonetheless, the appellant's LVIA recognises that the change in these close views would be moderately significant, and I agree.

*Conclusions on main issue*

28. Effects would be limited by lack of visibility in longer and medium range views. The small area of open farmland that would be lost would not be so significant in scale as to make a marked intrusion into the area of the quadrant as a whole, or the form and pattern of settlements at the broad scale. Close to the site and along Station Road the development would have a significant adverse effect on the separation of settlements and character and appearance of the form and pattern of development, and moderate adverse impact upon close views. In time the robust landscaping proposals would provide a level of mitigation and compensation. There would be some long term minor beneficial landscape and visual impacts, but they would not outweigh the harm.

29. Overall the proposal would have an adverse effect on the character and appearance of the site and surroundings with particular regard to the separation of settlements. There would be conflict with the aims of Policies GEN2 and NH9 of seeking to protect the character and appearance of the countryside and protect the separation of settlements and prevent coalescence, although I have attributed minimal weight to this for reasons given above. There would also be conflict with advice within paragraphs 58 to 61 of the Framework which, amongst other things, includes that development should respond to local character, add to the overall character of the area, and integrate into the natural and built environment.

### **Other Matters**

30. The appellant draws my attention to several other sites within the broad area of the quadrant and elsewhere where planning permission has been either granted or recommended for approval by the Council, or allowed on appeal. I have considered all of the reports put before me, but the main issue in this case is one regarding the specific characteristics of this individual site and its surroundings and therefore I attach little weight to these other cases. For the same reason I do not consider that this decision sets a precedent for other proposals.
31. The development would be clearly seen from dwellings along Grimsby Road and Station Road which have front gardens and elevations facing toward the site. The mitigation measures would reduce the impacts. The LVIA recognises that the change in these close views would be moderately adverse, and I agree.
32. On my visit I noted that Grimsby Road and Station Road were both busy with traffic. I observed that the footpath/cycleway between Waltham and the Toll Bar Academy was well used, and I saw the general size of the Academy and the large, full cycle rack in the grounds. There is very little technical evidence to say that 51 dwellings would generate a level of traffic that would significantly add to the traffic in the area. It was suggested that delivery and refuse vehicles would reverse across the accesses, but there is no technical evidence to say that the access points would cause a hazard, in particular along Station Road where it would cross the public footpath/cycleway.
33. I noted the access to the fire station site, but find little evidence that the proposed development would impede this access or vice-versa. I noted the roads are generally straight and visibility is good in the locality of the proposed accesses. Nor is there any technical evidence to suggest that discharges from the flue at the adjacent veterinary site would be an impediment to development. The proposal includes attenuation ponds and drainage measures, including regulating run off/discharge. The evidence indicates that drainage and flooding matters can be dealt with by way of conditions and a legal agreement and I address that below. There is no evidence to suggest that the site is designated as green space or that occupiers of the dwellings would cause anti-social behaviour.
34. I was told that the village had expanded over several years, that residents are very keen to keep Waltham as a village, and it was put to me that it was now at a maximum size. I am not persuaded that this proposal would change the overall scale and character of the village. It was put to me that houses are available on other sites and for sale elsewhere within Waltham, and my attention was drawn to other planning permissions for housing. Whilst many

feel there is no need for more housing, not all third parties at the Hearing agreed. In any event the Council accepts that it has a significant shortfall in housing land supply in the District.

35. I have noted the concerns regarding conflict with the emerging Local Plan but this is not yet at a stage which attracts any significant weight in this decision. I have also considered the Waltham Community Plan and I note that the appeal site is not a site favoured for development in that document. I was informed that the plan was prepared by the community and the extensive consultation and decision making was explained. I note that it is not a Neighbourhood Plan or otherwise part of the Development Plan. There is also no evidence of the details of the housing consultation exercise or the actual sites considered. Therefore I can attach only limited weight to this document.

### **Planning Balance**

36. Advice in the Framework seeks to boost significantly the supply of housing and paragraph 14 of the Framework indicates a presumption in favour of proposed development if it can be judged to be sustainable development. Paragraph 8 advises that to achieve sustainable development economic, social and environmental gains should be sought jointly.
37. The building of the proposal would create economic activity and jobs in engineering and construction, albeit for a limited period, and assist in supporting the Council's aspirations for economic growth by providing housing. Although there are concerns that local services could not cope, there was little evidence to this effect and I consider that the development and future occupation of the scheme would both be likely to benefit local services economically. I attach a moderate degree of weight to these economic gains.
38. The contribution of 51 dwellings of different types and sizes, including 20% affordable housing, delivered within a relatively short time frame, would make an important contribution to the substantial shortfall in the delivery of housing in the Council's area. I attach very significant weight to these social benefits.
39. Environmentally the proposal would provide contributions towards sustainable transport and a footpath to increase connectivity. Attenuation ponds and landscaping would enhance biodiversity. But these are no more or less than would be necessary to create a satisfactory standard of development and are neutral in effect.
40. Landscape and visual effects would be limited by lack of visibility in longer and medium range views. Close to the site and along Station Road the proposed development would have a significant adverse effect on the character and appearance of the site and surroundings with particular regard to the separation of settlements. Although robust landscaping would mitigate and compensate some of the effects in time, resulting in some long term minor beneficial impacts, it would not mitigate or compensate this significant adverse impact to landscape character.
41. In this instance there would be a significant adverse environmental impact to character and appearance. There would therefore be conflict with Policies GEN2 and NH9 of the development plan, although I have attributed minimal weight to this conflict. There would also be conflict with advice within paragraphs 58 to 61 of the Framework which, amongst other things, includes that development should respond to local character and add to the overall character

of the area and integrate into the natural and built environment. However, and on balance, I find that these harms individually and collectively do not so significantly and demonstrably outweigh the more significant benefits to be gained in providing housing, including affordable housing, as well as supporting the Council's long term development strategy, when assessed against the policies of the Framework as a whole.

### **Conditions and Planning Obligation**

#### *Conditions*

42. An agreed list of conditions (agreed between the Council and Appellant) was submitted. There is agreement that the time limits for submission of details and commencement of development should be shorter than 'standard' to encourage early delivery. In light of the significant shortfall in housing delivery this is reasonable. Approved plans should be specified by condition for the avoidance of doubt and in the interests of proper planning.
43. Conditions specifying that development is undertaken in compliance with the approved plans and information, and that samples of external materials are approved by the Council are reasonable to ensure that the standard of the development is satisfactory. The requirement for the submission of a surface water scheme is also reasonable to ensure that runoff is managed properly to prevent risk of flooding. A construction method statement is also reasonable and necessary to ensure that local interests are safeguarded.
44. I have imposed a condition relating to the provision of the adequate accesses to the highways in the interests of highway safety. In the interests of the appearance of the scheme and biodiversity it is also reasonable and necessary to require detailed schemes for these matters to be approved and to require their implementation, management and retention.

#### *Planning Obligation*

45. An executed planning obligation pursuant to S106 of the 1990 Act was submitted after the close of the hearing. This deals with a number of matters, as set out above. I am satisfied that these matters are in accordance with the Community Infrastructure Levy Regulations (CIL Regs). All of the matters within the obligation are necessary to make the development acceptable. A CIL compliance note has been submitted to support the obligation and in light of the evidence before me I accept that there would be no breach of the Regulations and that the obligation can be taken into account in reaching my decision.

### **Overall Conclusion**

46. For the reasons given, and having taken all other matters raised into consideration including representations of third parties, Waltham and New Waltham Parish Councils and a petition against the development submitted to the local planning authority with over 300 signatures, I conclude that the appeal should be allowed.

*Helen Heward*

PLANNING INSPECTOR



## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin within 18 months of the date of this permission.
- 2) The development shall be carried out in accordance with the following plans and documents: Flood Risk Assessment (July 2014), Ecology Appraisal (April 2014), Plans Referenced RD:3264.01 Rev A, 02, 03, 04 Rev D, 05, 06 Rev A, 07 Rev A, 08, 09, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 Rev C, 28, 29 Rev A, 30, 31, 33, and RCD-115-1063-CIV-01A
- 3) Development shall not begin until details of all external materials, including gates walls and fences, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.
- 4) Development shall not begin until a scheme to manage the surface water drainage for the development, up to 1% rainfall event with climate change, over the lifetime of the development, has been submitted to and approved in writing by the Local Planning Authority. This shall include full details regarding the maintenance of the proposed surface water system and of the ditch to which the surface water will discharge. The approved scheme shall be fully implemented in accordance with the approved details and subsequently maintained, in accordance with the timing or phasing arrangements embodied within the scheme.
- 5) Prior to works commencing on the development a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in complete accordance with the approved details. The Construction Management Plan shall include details of:
  - Construction Traffic Routing Plan;
  - Hours of work;
  - Hours of deliveries;
  - Designated area for storage of materials;
  - Designated area for deliveries;
  - Contractor's compound;
  - Wheel Cleaning for Construction Traffic, and
  - Visitor parking area.
- 6) Development shall not begin until details showing the location, layout, design and method of construction of any new or altered vehicular access, parking and manoeuvring space, including any necessary piping or culverting of any ditch or watercourse, have been submitted to and approved in writing by the Local Planning Authority, and before the development hereby permitted is brought into use the vehicular access, parking and manoeuvring space shall be constructed in accordance with those approved details and thereafter be so retained.
- 7) Notwithstanding the information shown on Drawing RD3264-26 rev C, 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; (c) measures for the protection of trees and hedges during construction work and (d) a scheme for the implementation and ongoing management of biodiversity enhancement; shall have been submitted to and approved in writing by the Local Planning Authority. The approved schemes shall then be implemented in accordance with the approved plans within 12 months of development commencing. All planting shall be adequately maintained for 5 years, beginning with the date of completion of the scheme and during that period all losses shall be replaced during the next planting season.

Richborough Estates

## **APPEARANCES**

### **FOR THE APPELLANT:**

Peter Strawson	Appellant
Daniel Snowden ACIAT	Ross Davy Architects
Dieter Nelson	Dieter Nelson Planning Consultant
Catriona Furness CMLI	C F Landscape

Site visit only: Rod Strawson                      Appellant's son

### **FOR THE LOCAL PLANNING AUTHORITY NORTH EAST LINCOLNSHIRE COUNCIL:**

Cheryl Jarvis FDA MSc	Senior Development Management Officer
Martin Dixon BA(Hons) DipTP MRTPI	Principal Planning Officer
Craig Woolmer BA PG Cert MSc MRTPI	Senior Planning Officer
Lesley Leach	Waltham Parish Council

### **INTERESTED PERSONS:**

Peter Sutherland  
Bill Frisby  
Paul Wisken  
Andrew Zielinski  
Linda Mumby  
Mr Gowen  
R Limmer

Site visit only: Frederick Sadler

### **DOCUMENTS RECEIVED AFTER THE CLOSE OF THE HEARING WITH THE INSPECTOR'S PERMISSION**

Signed S106 agreement for the appeal proposal dated 12 February 2016

NELC Statement on the level of compliance with the Community Infrastructure Levy Regulations 2010, 2012 and 2014 regarding the S106 agreement

NELC emails dated 30 November 2015 and 8 December 2015 relating to the need for and cost of education contributions

NELC email dated 16 November 2015 relating to sustainable transport contributions

NELC email relating to the level of affordable housing and the tenures required

NELC Supplementary Planning Guidance Note 4 Developer Contributions to Education Facilities (2005)

NELC Interim Planning Statement Affordable Housing (2010)