



Appeal Decision

Site visit made on 25 January 2017

by **John Morrison BA (Hons) MSc MRTPI**

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

Decision date: 20th March 2017

Appeal Ref: APP/D2510/W/16/3160815

Former Julian Bower Playing Fields, Highfields, Louth, Lincolnshire LN11 9LG

- 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 King Edward VI Almhouse School Education Authority of Louth against the decision of East Lindsey District Council.
 - The application Ref N/105/01757/14, dated 29 June 2014, was refused by notice dated 13 April 2016.
 - The development proposed is the erection of 12 no. executive dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 12 no. executive dwellings at the Former Julian Bower Playing Fields, Highfields, Louth, Lincolnshire LN11 9LG in accordance with the terms of the application, Ref N/105/01757/14, dated 29 June 2014, subject to the conditions set out in the attached schedule.

Procedural Matters

2. I have taken the description of development as it appears on the planning application form. This is for clarity in that it best describes the development to which the appeal relates in the most straightforward form.
3. The appellant has submitted a Landscape and Visual Impact Assessment (LVIA) with their appeal. This was not part of the suite of documents in front of the Council when they determined the planning application. Nevertheless, I note it was submitted at an early stage in proceedings and both the Council and other parties have had opportunity to view it and make comment. It is for these reasons that I am content no party would be prejudiced by my acceptance of the LVIA as part of the appellant's evidence.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area.
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Reasons

The approach to the decision

5. The Council accept that they are unable to demonstrate a deliverable supply of housing sites as required by the Framework¹. As a result, the Council's policies relevant to the supply of housing are considered to be not up to date. The appeal site lies outside the settlement boundary as defined in the Local Plan². I have not been provided with a copy of the Policy that gives effect to this. Nevertheless insofar as it restricts housing provision I consider it to be a policy relevant to the supply of housing.
6. The Council refer to saved Policies A5, C11 and H12 of the Local Plan. These Policies address matters of quality and design of development, The Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB) and the design of new housing respectively. These policies are consistent with the aims of the Framework and as such I attach significant weight to them.

Character and Appearance

7. The appeal site is described as a former school playing field. It is located to the south side of Louth, outside of but abutting the settlement boundary as defined by the Local Plan. By definition therefore, the appeal site is in the countryside. It is currently overgrown, mainly laid to rough grass with trees and hedges to its boundaries. A housing estate lies to the north and parts of the east and west and the more open and undeveloped countryside to the south and beyond. It is a partially sloped site, which runs downhill to the south, plateauing roughly at its centre. There is a more pronounced dip to the northern extent.
8. Whilst being outside of the settlement boundary, its own defined landscaped boundaries and size and siting of the lane known as Julian Bower to the south make the appeal site noticeably distinct from the much larger open and undulating agricultural fields that extend further south. Its development would therefore be contained and closely related in spatial terms to the edge of the settlement.
9. Given the topography and other development surrounding the appeal site, main views of the proposed development would be from the south. The two main road approaches from the south are via the A16 and the B1520. Views of the appeal site and thus the proposed development from these routes would be transient. They would also be available mainly from higher ground and read against a backdrop of built development. They would be of low sensitivity.
10. The key views of the proposed development would be via a stretch of the Greenwich Meridian Tail (GMT), a public footpath that extends south from Julian Bower, and diagonally across a number of agricultural fields in the direction of the A16. Whilst the appeal site itself is not in the AONB, the footpath is and the landscape that the route cuts through shares its key open and undulating characteristics.
11. On the approach from the south, there are clear, open and panoramic views available of the hillside leading up to Julian Bower and parts of the southern

¹ The National Planning Policy Framework 2012

² East Lindsey Local Plan Alteration 1999.

- edge of the settlement. As a public right of way used for recreational purposes, and the extent of views offered, it is my opinion that views would be of a high sensitivity.
12. There are dips along this route where the appeal site would be completely obscured. Due to the slope of the hill, this would also be true of the route of the footpath as it leads across the narrow rectangular field immediately south of the appeal site to meet Julian Bower. At the stiles and footbridges of points B and C of the appellant's LVIA one can appreciate wide panoramic views of the southern edge of Louth. Whilst these are mainly of sloping fields and trees, they are punctuated by both roofs and entire elevations of what are in some cases dwellings of a noticeable scale. Due to the plateau of the appeal site more than just roofs of the proposed development would be visible but even if this were to be the case, It would not be significantly different a view to what is on offer currently.
 13. New buildings would be visible, but in a similar partially obscured and punctuating manner that they are currently due to both the levels of the site and the hedging and trees that surround it. Some existing buildings are rendered and painted and naturally appear more obvious against the skyline, adding to the eclectic mix of buildings in view. This would also to my mind go some way to soften the overall effect of what would clearly be more modern development as result of the proposals before me.
 14. The layout of the proposed development is very formal and structured. It would have large dwellings in conventionally shaped and substantially portioned plots arranged either side of an access road running down its spine. This layout would be more suburban than truly rural. With specific regard to the where the southern end of the appeal site meets Julian Bower, four clearly defined and liner curtilages would not relate well in character terms to the more informal scattered and lower density development that occurs along Julian Bower.
 15. This would however be in effect the rear elevation of the site which would continue to be separate and distinct from Julian Bower without a street frontage to it. The proposed development would therefore be contained in character terms, much the same as the site is now. Its access would be from the exiting built development of the settlement to the north which is an area where the site will share a functional relationship.
 16. For the reasons set out above, I do not find that the proposed development would be harmful to the character or appearance of this edge of settlement location with specific regard to the open and undeveloped nature of the countryside and the particular undulating and rural characteristics of the AONB. In addition, there would be no harm arising out of the design or layout of the housing. The proposed development would therefore accord with saved Policies A5, C11 and H12 of the Local Plan. These Policies seek to ensure, amongst other things, new development is of a high quality and contextually appropriate design, layout and appearance and does not cause harm to local character or the landscape features which contribute to it and protection of the natural beauty of the AONB.

Other Matters

Archaeology

17. There is some considerable interest in the appeal site from third parties concerning its potential to be one of significant national archaeological interest. Notwithstanding the Council's conclusions on this matter, I have reviewed the relevant evidence before me.
18. I do not doubt the credentials of those representing third parties and specifically how they consider the archaeological significance of the appeal site may have been down played. Nevertheless, the evidence that has been provided to the Council and Historic England has been robustly investigated. It is the opinion of these bodies that whilst there is no compelling evidence on matters of national significance, a proportionate response would be justified. I agree with this approach since there is clearly some evidence of archaeology on the appeal site. Taking a pragmatic view on this matter, a suitably worded condition to require a written scheme of archaeological investigation to be submitted, considered and agreed would be necessary.

Playing Fields

19. I refer to the objection to the proposed development by Sport England (SE). This is with specific regard to the fact that it would result in the loss of a playing field. Notwithstanding the Council's views on this matter, SE maintained their objection when the planning application was presented to the Council's Planning Committee.
20. I understand the position adopted by SE and also the assertions of the Framework and the Local Plan³ on the matter of community facilities, specifically guarding against their loss.
21. However, I equally accept the pragmatic approach that the Council have taken. They have made a full and detailed assessment of matters that are specific to the appeal site that could not in my view be repeated or held up as an example that would justify loss of playing fields in other areas. I am particularly mindful of the current state of the site, its siting, available facilities and accessibility. There is also evidence of marketing that has taken place to seek its continuing use for recreational purposes.
22. For these reasons therefore, I do not reach a different conclusion to the Council on the loss of the playing field. The continued protection of it for recreational use would indeed be difficult to justify given the particular circumstances of the specific case before me.

Local Residents

23. Whilst the appeal site is in Flood Zone 1, I note that a drainage scheme was discussed in detail with the relevant stakeholders during the determination of the planning application to ensure that the proposed development would not exacerbate any existing flood risk issues from surface water. Particular attention to this matter was paid given not only the requirements of the planning process to ensure the proper functioning of the proposed development but also the concerns of residents of Hunters Place.

³ Saved Policies REC2 and REC3

24. The proposed drainage scheme would be appropriate in terms of its management of surface water runoff. In addition, there is an available connection to the local foul sewer network which has capacity for the required flows. Furthermore, the scheme would follow sustainable drainage principles that would be incorporated into the site's design and layout. I am therefore satisfied that the effect on existing neighbouring occupiers in terms of flood risk would not be adverse.
25. Given the intended use of the appeal site, the separation distances between existing dwellings and proposed as well as the siting and orientation of the proposed, I do not consider that there would be any adverse effects on the living conditions of existing neighbouring occupiers. Whilst there would be some additional noise and movements associated with new occupiers, this would be in respect of a contextually small new development and would not be significantly different to that which occurs typically in residential areas.
26. Additional traffic would use the existing highway which the roadway for the proposed development would join. The Highways Authority (HA) has not objected to the width, layout or design of the roadway and there is no further evidence which would lead me to a different conclusion. There appears to be no obvious constraints to its access by either refuse or emergency vehicles.

Conditions

27. I have had regard to the conditions that have been suggested by the Council. In the interests of clarity and enforceability, I have made some changes. These are reflected in the wording I have used.
28. For certainty, and as well as the standard time condition, I have specified the approved plans. A condition requiring the agreement of the detail of all external materials and boundary treatments has been included in the interests of ensuring a suitable external appearance to the development approved. As this would go to the heart of the planning permission, these details would be required prior to the commencement of works on site.
29. In order to ensure that the planted and landscaped character of the site and the edge of settlement location is maintained, a landscaping scheme and measures to protect existing and retained trees should be agreed. Given the nature of this element, it would be appropriate to agree it prior to the commencement of development. A further condition requiring its implementation and future management for a reasonable period is also imposed.
30. Given that the site is of archaeological interest, conditions requiring the submission and agreement of a suitably detailed written scheme of archaeological investigation, the implementation of works and reporting of findings would be justified. Given the potential below ground nature of this work, this would have to be done prior to the commencement of development.
31. I note suggested conditions 2 to 5 inclusive. As the site is small phasing is unlikely to be an issue but prior approval of construction details would be necessary to ensure provision to an appropriate standard. Essentially, it is not clear at this stage as to whether the proposed new road would be made up and put to the HA for adoption or remain private. To ensure the appropriate

function of the development therefore, I have therefore included a relevant condition.

32. A drainage scheme was discussed during the consideration of the planning application. I have been provided with a copy. The scheme is preliminary and it is evident some further investigation is necessary to find the appropriate solution in each respect with specific regard to, amongst other things, the use of deep bore holes. A condition requiring the agreement of a detailed scheme as well as one securing its future management would therefore be justified. For practical purposes, this scheme and its management should be agreed prior to the commencement of development.
33. Details of the finished floor levels of the proposed dwellings are important in the interests of the living conditions of existing neighbouring occupiers. However, they are shown on the approved plans which are covered by a separate condition. In the same respect, and given the separation distances between plots 1 and 2 and the dwellings fronting Hunter Place as well as their orientation and the difference in land levels it would necessary to restrict future extensions, new windows and dormer windows that would normally be permitted development.
34. A restriction on the hours of construction and the agreement of a management plan would be necessary to ensure adjacent occupiers are protected from unreasonable disturbance. In the absence of further details of what would be considered acceptable, timings and details shall be agreed prior to the commencement of development.

Conclusion

35. The proposed development would lie outside the settlement boundary as set out in the Local Plan. However, the Council is unable to demonstrate a 5 year supply of deliverable housing sites and the development would contribute to meeting the need for housing in the area. I attach considerable weight to this benefit. In addition, the development of the site would bring short term economic benefits in the shape of sustaining employment in the construction industry.
36. There would be no significant environmental harm as I have set out above and in this respect the proposed development would comply with the relevant saved Policies of the Local Plan. I therefore conclude that the adverse impacts of the development would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework. As such, and subject to the conditions set out in the attached schedule, the appeal is allowed

John Morrison

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: LDC0675-01 Rev A, LDC0675-02 Rev C, LDC0675-03 Rev C, LDC0675-04, LDC0675-05 Rev A, LDC0675-06, LDC0675-07, LDC0675-08, , LDC0675-09, LDC0675-10, LDC0675-11, LDC0675-12, LDC0675-13, LDC0675-14 and LDC0675-15.
- 3) No development shall commence until details/samples of the materials to be used in the construction of the external surfaces of and boundary treatments to the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details/samples.
- 4) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The scheme shall include details of all hard surfacing materials and indications of all existing trees and hedgerows on the land identify those to be retained and set out measures for their protection throughout the course of development.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) No development shall commence on until a Written Scheme of Archaeological Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions - and:
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- 7) The archaeological investigation shall be carried out in accordance with the written scheme approved under condition 6.
- 8) No development shall take place until details of the construction of the roads serving the development hereby permitted have been submitted to and approved in writing by the local planning authority. No house shall be occupied until the roads have been constructed in accordance with the approved details.

- 9) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and
 - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows or dormer windows other than those expressly authorised by this permission shall be inserted in the rear elevations of plots 1 and 2 hereby permitted.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), and with regards to plots 1 and 2 hereby permitted only, no development shall take place in respect of Schedule 2, Part 1, Class A.
- 12) No development shall take place until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from construction works; and
 - viii) delivery, demolition and construction working hours.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

Richborough Estates