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## Appeal Decision

Site visit made on 27 March 2017

**by Alison Partington BA (Hons) MA MRTPI**

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

**Decision date: 4<sup>th</sup> May 2017**

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**Appeal Ref: APP/R2520/W/16/3165903**

**Land to the east of Lincoln Road, Bassingham, Lincolnshire LN5 9HE**

- 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 and Mrs Vic and Sally Turzanski against the decision of North Kesteven District Council.
  - The application Ref 16/1136/FUL, dated 7 September 2016, was refused by notice dated 23 December 2016.
  - The development proposed is described as a "hybrid planning application for residential development – full submission in respect of 9 dwellings and outline submission in respect of up to 31 dwellings".
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appeal is in respect of a hybrid application, partly for full planning permission for 9 dwellings, and partly for outline permission for the construction of up to 31 dwellings. I have dealt with appeal on this basis, treating the Site Layout Plan (Drawing No. 1417T/002 Rev J) as indicative insofar as it relates to the part of the site subject to the outline application.
  3. A further layout plan (Drawing No. 1417T/004) was submitted at appeal stage which showed up to 16 houses on the area of the site subject to outline approval. As the matter of layout remains a reserved matter, this plan is also indicative. It does not therefore alter the nature of the original application which seeks up to 31 dwelling on this part of the site.
  4. I am normally required to deal with an appeal on the basis of the same plans that informed the Council's decision. Nonetheless, and irrespective of the merits or otherwise of a reduced scheme, I have considered whether it would be appropriate to take the revised drawings into account in this case, and whether a lesser number of dwellings could be appropriately secured by condition. I have concluded that it would not. Firstly because to do so would result in a substantially different scheme to the one originally applied for, which the Planning Practice Guidance advises should be avoided. Furthermore, to do so would potentially run contrary to the Wheatcroft principles. The key test in this regard, is whether dealing with the proposal in that way would so change the development that to grant permission on that basis would deprive those who should have been consulted on the changed development, the opportunity to make representations. As I cannot be assured that all those consulted would not be prejudiced by a revised scheme I cannot proceed on that basis.
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5. The *Central Lincolnshire Local Plan 2012 – 2036* (CLLP) is at an advanced stage in its preparation. During the appeal process, the Inspectors' Report (IR) into the plan was published, and as a result I sought the views of both parties regarding this.

### **Main Issue**

6. The main issue in the appeal is the effect of the proposed development on the settlement pattern for the area.

### **Reasons**

7. The appeal site is agricultural land that lies in the open countryside immediately outside the village of Bassingham. The 'full' part of the proposed development would occupy the northern part of the site closest to Fen Lane, whilst the outline element would occupy the southern part of the site adjacent to the village. A new access onto Lincoln Road would be created that would serve the entire development.
8. Policy C2 of the *North Kesteven Local Plan (2007)* (NKLP) permits new development in the countryside provided that it meets four criteria. These are that it: will maintain or enhance the environmental, economic and social value of the countryside; will protect and, where possible, enhance the character of the countryside; cannot be located within or adjacent to a settlement; and will not attract or generate a large number of journeys, and is located to provide opportunities for access by public transport, walking or cycling.
9. The proposed development was subject to an appeal in September 2016<sup>1</sup>. At that time the Inspector considered that in the absence of a Section 106 agreement to secure various contributions to infrastructure and facilities in the village, the proposal would not be sustainable development, and the proposal would be contrary to Policy C2. In the light of this, the current appeal includes a signed S106 agreement that secures contributions towards public transport, education, health, highways and public open space.
10. However, for reasons I will discuss below, I am not persuaded that the S106 agreement meets the requirements of the Community Infrastructure Levy (CIL) Regulations 2010, or the National Planning Policy Framework (the Framework). On that basis, although I am conscious that the agreement is bilateral, it has not been demonstrated to me that any weight can be given to its provisions, and therefore the proposal remains contrary to Policy C2.
11. Furthermore, at that time the Inspector considered that only limited weight could be given to the policies in the CLLP as they might materially change as a result of the examination process. As outlined above, the IR has now been published and found that, subject to the modifications set out in the report, the plan is sound. The Council have indicated that the Central Lincolnshire Joint Strategic Planning Committee have requested that they recommend any main modifications necessary to enable the plan to be adopted. In terms of Policies LP2 and LP4 the modifications suggested largely clarify the meaning of various terms used in the policies, rather than significantly changing the policies themselves. In the light of this, I consider that significant weight can be given to Policies LP2 and LP4 of the CLLP referred to by the Council in its reason for refusal, as modified by the IR.

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<sup>1</sup> Appeal Reference APP/R2520/W/16/3148722

12. Policy LP2 of the CLLP sets out the settlement hierarchy for the area, and identifies Bassingham as a 'Medium Village'. Unless otherwise promoted via a neighbourhood plan, or through the demonstration of clear local community support, it is indicated that such villages will accommodate a limited amount of growth in order to support their function and/or sustainability. Normally, in appropriate locations, this will be on sites of up to 9 dwellings, but in exceptional circumstances on larger sites of up to 25 dwellings where proposals can be justified by local circumstances.
13. The proposed development would be for up to 40 dwellings which would be significantly greater than the number of dwellings normally expected to be provided on any one site within a 'medium' village. Even if the layout was revised so that only 25 dwellings were provided on the site, Policy LP2 indicates that it is only in exceptional circumstances that sites of this size should be considered. In this case, I have not been provided with any exceptional circumstances to justify the development of a site of this size in Bassingham. The proposal therefore conflicts with this policy.
14. In order to promote sustainable development the CLLP seeks to direct the majority of development to Lincoln, Gainsborough and Sleaford. However, it is recognised that smaller towns and villages need to contribute towards the housing supply. Policy LP4 of the CLLP seeks to ensure an appropriate level of growth in each village, and indicates that over the plan period Bassingham would be expected to grow by 15% in terms of the number of dwellings. Where a proposal would exceed this growth level, in conjunction with other developments built, permitted or allocated since April 2012, it is stated that the proposal should be accompanied by demonstrable evidence of clear local community support for the scheme. The policy also sets out a sequential test with priority being given to brownfield land or infill sites in appropriate locations within the developed footprint of the settlement, then brownfield sites at the edge of a settlement in appropriate locations, and then greenfield sites at the edge of settlements in appropriate locations.
15. The Council have indicated that due to the level of growth that has already taken place in the village since the start of the plan period, even if the site is only developed for 9 dwellings, the proposal would result in the 15% growth target for the village being exceeded. Given the lack of support from the Parish Council, and the large number of objections from local residents to the proposal, the development does not have the clear public support sought by Policy LP4, for where the growth level would be exceeded.
16. In addition, in the absence of any clear explanation of why brownfield land or infill sites within the developed footprint of Bassingham, or brownfield sites at the edge of the village, are not available or suitable, as a greenfield site on the edge of the settlement the proposal would not accord with the sequential test in Policy LP4.
17. All in all, with the overall aim of delivering sustainable growth, the CLLP recognises that Bassingham is a village that can accommodate a limited amount of growth. However, in seeking to develop a large number of houses on a single site, in exceeding the growth target for the village, and in utilising a sequentially less preferable site, the development would not provide the

limited growth in accordance with the development strategy for the village. As such it would not accord with Policies LP2 and LP4 of the CLLP.

18. Bringing these points together, notwithstanding the S106 agreement submitted with the appeal, the proposal would not comply with Policy C2 of the adopted development plan. In addition, it would conflict with the relevant policies within the emerging CLLP. Consequently, I consider that the proposed development would be contrary to the settlement pattern for the area.

### **Other Matters**

19. The Council have indicated that they can currently demonstrate a five year housing land supply. Whilst this was originally disputed by the appellants, they now acknowledge that the conclusion in the IR is that a 5 year housing land supply is present. Notwithstanding this, the appellants argue that as the CLLP relies heavily on large sites that may take some time to come forward, delivery needs to be progressed in the short term, by utilising sites that can come forward quickly. In this respect the appellants have indicated the appeal site would be able to be brought forward and developed within a short timescale. Nevertheless, the evidence indicates at the present time the Council has a 5 year housing land supply, therefore policies for the supply of housing can be considered up to date.
20. As outlined above a S106 agreement has been submitted with the appeal. This provides contributions to the local bus service, education, health, highways, and open space. Whilst I understand why such contributions are likely to be necessary, I have not been provided with any policy justification for these contributions, or how the amounts have been calculated. As such, I am unable to ascertain if the agreement meets the requirements of the CIL Regulations 2010, or the Framework. In particular, it has not been demonstrated that the agreement is necessary to make the development acceptable in planning terms, is directly related to the development, or that it is fairly and reasonable related in scale and kind to the development. As such, I have given no weight to it in my decision.
21. The construction of the houses would provide work for local contractors, and spending by new residents would also be beneficial to the local economy. Bassingham has a range of services and facilities which would be within walking distance of the site. However, these benefits would be common with developments that accord with the development strategy for the area.
22. It is indicated that the scheme would provide a mix of both market and affordable housing. However, there is no mechanism before me, either within the S106 agreement or elsewhere, to secure the provision of affordable housing on the site. Therefore I give no weight to this argument.
23. The site is currently agricultural land, and its development would result in the encroachment of the built form into the open countryside. However, the site is not covered by any statutory or local landscape designations, and the visual impacts of the development would be localised. In addition, I am satisfied that a form of development could be achieved that respected the local vernacular.

## **Conclusion**

24. To conclude; in the scheme's favour it would provide new houses in a location that is not solely reliant on the private car, and would have some limited economic benefits. However, it would be contrary to the development strategy for the area, in both the adopted and emerging local plan, and these benefits would be common with developments that did accord with the strategy. Whilst I have given weight to the benefits of the scheme in my decision, I conclude that in this instance they would be outweighed by the adverse impacts. Consequently the proposal would not represent sustainable development.

25. For the reasons set out above, I conclude the appeal should be dismissed.

*Alison Partington*

INSPECTOR

Richborough Estates