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## Appeal Decision

Site visit made on 24 October 2017

**by Jonathan Price BA(Hons) DMS DipTP MRTPI**

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

**Decision date: 22<sup>ND</sup> November 2017**

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**Appeal Ref: APP/B2002/W/17/3178259**

**Land at Toll Bar, New Waltham, Lincolnshire DN36 4RX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Monmouth Properties against the decision of North East Lincolnshire Council.
  - The application Ref DM/0118/15/OUT, dated 10 February 2015, was refused by notice dated 31 March 2017.
  - The development proposed is outline application with access to be considered for residential development (of up to 400 dwellings) including the provision of a small corner shop, open space and associated infrastructure.
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### Decision

1. The appeal is allowed and planning permission is granted for outline application with access to be considered for residential development (of up to 400 dwellings) including the provision of a small corner shop, open space and associated infrastructure at land at Toll Bar, New Waltham, Lincolnshire DN36 4RX in accordance with the terms of the application, Ref DM/0118/15/OUT, dated 10 February 2015, subject to the conditions set out in the Schedule attached to this decision.

### Application for costs

2. An application for costs was made by Monmouth Properties against North East Lincolnshire Council. This application is the subject of a separate Decision.

### Procedural Matters

3. The application was made in outline with reserved matter approval sought only for access and I have dealt with the appeal accordingly. The revised Application Masterplan (21696 CAD004 rev D) shows two accesses to the main housing development, one onto the B1219 Station Road and the other onto the A16 Louth Road. Details of these two accesses, which are signalised and with pedestrian crossings, are included in a plan (drawing no 2666-65) also showing off-site highways works, including additional road crossings and bus stops. Details of the proposed Tollbar Academy Drop-off Area (TADA) which is integrated with the site access on Station Road are also provided (drawing no 2666-59 rev G). The Illustrative Layout (21696 02 rev D) has been considered as indicative only of what is proposed.
4. The description of development is that amended subsequent to the revised Illustrative Layout of 24 July 2015.

## Main Issues

5. The main issues are:

- Whether the proposal would result in safe and suitable access for all users with regard to the drop-off arrangements made for the Tollbar Academy.
- Whether the proposal makes adequate provision for later road infrastructure necessary to support future growth in the area.

## The Proposal

6. The site for up to 400 dwellings comprises a roughly rectangular area of farm land of around 23 hectares, of which some 12.6 hectares is intended to be developed. Up to 80 of the units (20%) would comprise affordable housing in line with the Council's policy requirements. The land is located immediately south-west of the Toll Bar roundabout at the junction of Station Road (B1219) and Louth Road (A16). These roads abut the northern and eastern site boundaries respectively and a stream runs alongside the western limits.
7. The Council has funding to replace the Toll Bar roundabout with a signal controlled junction which is intended to improve traffic capacity and provide better pedestrian facilities. This proposal under appeal contributes a small strip of land adjacent the highway to help facilitate this scheme.
8. The site comprises flat arable land with a large agricultural building towards its south eastern corner with hedges and trees defining the site boundaries to the main roads. Two pipelines cut diagonally across the site and influence the layout of housing and open space. The proposal is adjacent to the existing built-up area New Waltham, where there are local services, which extends up to the east side of the A16. To the north, on the opposite side of the B1219, is the Tollbar Academy which is a large school serving over 2,000 pupils.
9. The internal estate layout illustrated is configured to deter use by through traffic. One development entrance would be towards the southern part of the site onto the Louth Road (A16) with pedestrian crossing signal phases over the site access and across the A16 north arm of the junction. The other access is opposite the Tollbar Academy with pedestrian crossings over the site entrance and over Station Road (B1219) on both the east and west arms of the new junction. Adjacent to the northern access the proposal includes the 33 space TADA. Vehicular access to the TADA would be by means of an in-out, one-way arrangement. There would be a right hand turning lane on the B1219 for cars arriving from the west and the access would be controlled by barriers and traffic control flaps. Exit would be onto Station Road via the housing development access.
10. The off-site highway and pedestrian improvements proposed include relocated and upgraded bus stops with bus shelters, two new bus stops near the southern entrance and two demand-activated pedestrian crossings; one across the Louth Road and the second on Station Road east of the Toll Bar junction. In the latter residential area the development would provide a series of small improvements, involving the provision of dropped kerbs and/or tactile paving, to improve pedestrian accessibility to local schools. The development proposes financial contributions, by means of a Section 106 obligation, towards the Toll Bar junction scheme and improvements to the Low Farm and Scartho Fork roundabouts to help mitigate the highway impacts.

## Policy Context

11. The current development plan comprises the saved policies of the North East Lincolnshire Local Plan 2003 (LP). The appeal proposal is outside the settlement boundary defined in the LP and where Policy GEN2 regarding development in the open countryside applies.
12. The emerging North East Lincolnshire Submission Local Plan (2013 – 2032) (SLP) is reaching an advanced stage having been the subject of Examination in the spring of 2017. Consultation has recently taken place on the main modifications proposed. In the SLP the appeal site is included within the proposed settlement boundary as a preferred residential allocation for 400 dwellings (site HOU15). This allocation is not the subject of any unresolved objections. SLP Policy 2 permits development within settlement boundaries having regard to matters which include access and traffic generation.
13. The Council has confirmed that its objection relates to access and not the principle of the development. The appellant disagrees with the Council that the criterion over the assessing the suitability of proposals in relation to access set out in LP Policy GEN2 should apply since this refers only to development permissible in the open countryside. Based on the appeal evidence supplied by both parties I am persuaded that the proposal is contrary to LP Policy GEN2 in being outside the current development limits and its criteria do not therefore apply to this proposal. However, as the LP is quite evidently out-of-date in respect of its time horizon and in not providing for a five year housing land supply the weight that can be afforded Policy GEN2, based on paragraph 215 of the Framework, is limited.
14. Based on paragraph 216 of the Framework greater weight is given to the SLP and to any conflict with SLP Policy 2. This is due to the advanced stage of preparation of the SLP, the lack of unresolved objections to the housing allocation on the appeal site and the general degree of consistency with the Framework. In permitting development within the defined boundaries SLP Policy 2 requires that, *inter alia*, regard be had to access and traffic generation. This is considered to include the issue of highway safety.
15. In addition the National Planning Policy Framework (the Framework) is a material consideration. The following parts of the Framework are considered to be the most pertinent to this appeal. These are the presumption in favour of sustainable development for decision-making (paragraph 14), that development decisions should take account of whether safe and suitable access to the site can be achieved for all people (paragraph 32) and the requirement to boost significantly the supply of housing through providing five years' worth of land for this purpose (paragraph 47).

## Reasons

### *Safe and suitable access*

16. The Council's refusal in relation to access centres upon the proposed TADA in respect its layout and highway works not resulting in safe and suitable access for all people and thereby having a severely detrimental effect on highway safety. The Council has subsequently clarified that these reasons relate to the pedestrian crossing points from the TADA rather than any adverse operational effects on the highway network.

17. In assessing the effects of the proposed TADA I have accounted for the fact that current arrangements for taking and collecting students by car are largely uncontrolled and unrestricted. The proposal has the support of the Academy Trust which will be dedicated the TADA to manage.
18. The TADA provides 33 parking spaces to compensate for the existing 11 on-street spaces adjacent to the school which the new site access onto Station Road would remove. The evidence is that pupil drop-offs occur at these existing on-street spaces and along other street locations in the area. The basis for the Council's refusal on highway safety grounds rests on the proposed TADA being less safe for pupils as this will involve them having to cross Station Road. The Council's statement is expanded upon by that provided by the Deputy Chair of the Planning Committee and I have had regard to this, as well as the statements of other local Councillors and interested parties.
19. The access to the development at Station Road would be a three arm all movements traffic signal junction. The three pedestrian cross-overs would be integrated with these signal points providing access across the new site entrance and Station Road at either side of the junction. The TADA will include annotated pedestrian walkways running along the end of both sides of parking leading to an exit at the north-east corner. Along with the surrounding landscaping, fencing and entry barrier this arrangement would encourage pedestrians to exit at a point near to the crossings. Guard railing along the edge of the highway would focus pedestrian movements onto the road crossings. This would deter attempts to cross the road at other points. Although the arrangements would not prevent drop-off and road crossings at other points I am persuaded that parents would be encouraged to make use of the TADA where pupils dropped off would then be channelled to the signalled crossing points.
20. The 33 parking spaces proposed in the TADA would be an amount reasonable to compensate for the 11 on-street spaces removed and to cater for pupil movements generated by the proposed houses, which are located close enough to the school to encourage some access by foot or bicycle.
21. The evidence is that the existing ad hoc, uncontrolled and unrestricted drop off and pick up parking causes traffic congestion and conflict between road users. I am not persuaded that the existing situation is preferable to that provided by the proposed TADA. This has been the subject of independent Road Safety Audits which have informed the final design. The 33 spaces can be safely accessed by car and this would off-set some of the indiscriminate and less safe parking that currently occurs in this locality. Although on the opposite side of Station Road to the Tollbar Academy the design of the TADA would encourage and permit safe crossings.
22. The evidence demonstrates that the layout and highway works proposed to provide the TADA would secure a safe and suitable access for all people and not have a severely detrimental effect on highway safety. Consequently in this regard there would be no material conflict with the aims of LP Policy GEN2, SLP Policy 2 and paragraph 32 of the Framework.

### *Provision for later road infrastructure*

23. The Council's Highway Strategy<sup>1</sup> refers to the A1136/A46 link as a commitment identified in the SLP but also to the requirement to consider future scenarios and long term growth with the further link between the A46 and the A16 having undergone preliminary testing.
24. The evidence is that this further link, referred to as the Western Access Route, is at an early stage of consideration with no firm line identified. It is not identified in the SLP and, if it were to cross the appeal site, would have conflicted with the allocation of this site for housing. I am not persuaded the appeal development would close down all options for a future link between the A46 and A16.
25. The greater weight is given to the more advanced policy to allocate this site for housing in the SLP over the tentative case made for a potential Western Access Route in the Highway strategy. It is agreed that the delivery of new transport infrastructure is necessary to support planned growth. However, the safeguarding of land for this purpose requires an acceptable degree of policy support. Insufficient policy grounds are currently in place to support the dismissal of the appeal for failing to demonstrate a proper consideration of the safeguarding of a potential route for the Western Access Route.

### **Other Matters**

26. Consideration has been given to the other matters raised by interested parties at both the application and appeal stages, including local members, Waltham and New Waltham Parish Councils and the neighbouring East Lindsey District Council.
27. Concerns are raised over the proposal adversely affecting the overall operation and safety of the local highway network. The Council has funding for a pinch-point improvement to the Toll Bar roundabout which will be replaced by a signalised crossroad with associated pedestrian and cyclist safety measures. This proposal provides for the dedication of a strip of land to help deliver this scheme and a financial contribution towards the computerised SCOOT<sup>2</sup> system which would operate signals to optimise the passage of road traffic. Contributions are made also made to improvements to Low Farm and Scartho Fork roundabout. Occupation is conditional upon these junction capacity improvements being first carried out. The proposal also provides for a range of off-site improvements to pedestrian accessibility.
28. The proposed two accesses to the development are signalised and pedestrian crossings are integrated as part of these. Consequently, the interests of users of the existing cycleway which the new access points intersect are adequately addressed. I am not persuaded the location of new accesses would lead to greater difficulties for existing residents entering the main road network. It is noted that the revised masterplan has removed the originally proposed third site entrance almost opposite to the Hawthorne Avenue junction over which a concern has been raised.
29. The appellant has provided Transport Assessments which have modelled the impacts of the proposal and this has informed the on and off-site highway

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<sup>1</sup> North East Lincolnshire Local Transport Plan – Highway Strategy 2016

<sup>2</sup> Split Cycle and Offset Optimisation Technique.



- measures proposed. There is no technical evidence to refute this evidence or that the development, when considered with other proposals, would exceed highway capacity.
30. Based on what is proposed and the highway mitigation provided I am persuaded that the proposal can be accommodated within the local road network and result in no material harm to the convenience and safety of all highway users.
31. There are concerns over the need for this housing, in respect of meeting the Council's housing supply targets, adversely affecting brownfield regeneration and not preserving the green gap between New Waltham and Waltham. However, the evidence is that the allocation of this site in the SLP forms a part of the future five year housing land supply. The decision to allocate this green field site for housing has been made through the course of the preparation of the SLP and there are insufficient grounds to reject the principle of up to 400 dwellings.
32. The evidence is that adequate foul and surface water drainage arrangements could be provided for the development through it being conditional upon the detailed agreement to an appropriate drainage strategy submitted at the reserved matters stage. Consequently, I am satisfied that measures could be agreed to ensure that this development provides for adequate foul drainage and does not lead to any local flooding.
33. There would be no overriding objection to the proposals in respect of any material harm to biodiversity or landscape character subject to the landscaping measures agreed later as reserved matters and the conditional requirement to provide for and implement an agreed Landscape/Habitat Management Plan. Natural England has concluded that this development is unlikely to lead to the irreversible loss of over 20 hectares of best and most versatile land. There are no reasons to question this or to find any material conflict with the requirements of paragraph 112 of the Framework in regard to the development of agricultural land.
34. The Council has not found the housing proposed unacceptable in exceeding the capacity of local services, including medical surgeries and schools, and there is not the evidence for me to conclude differently. Weight has been given to the financial contributions secured in lieu of providing a primary school.

### **Planning Obligation**

35. Consideration has been given to the Section 106 obligation signed by the appellant and the Council dated 27 September 2017. I am satisfied that the obligation meets the requirements of Section 106 of the Town and Country Planning Act 1990 and the three tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and in paragraph 204 of the Framework.
36. The highway works contribution of £270,000, the education contribution of £11,276.44 payable for every four qualifying houses, the up to 80 dwellings on the site to be provided as affordable housing and the public open space management provided by the Section 106 obligation have all been given weight in arriving at this decision.

## Conditions

37. Based on the advice in paragraph 206 of the Framework consideration has been given to the suggested conditions with some amendments necessary. In addition to the standard time limits for the submission of reserved matters and commencement (1) it is necessary in the interests of certainty that a condition specifies the reserved matters for which approval should be sought and requires the development to be carried out accordingly (2). These reserved matters include the details of the estate roads and footways rather than the suggested vehicular and pedestrian accesses which are already part of the application
38. The suggested condition setting a limit of 400 dwellings and requiring vehicular and pedestrian access to accord with submitted details is unnecessary. This is because the application is for up to 400 dwellings and a later condition (13) specifies the plans the development shall accord with, which includes the details in drawing no 2666-65 showing the vehicular and pedestrian access to the site.
39. In the interests of the satisfactory appearance of the development a condition is necessary that ensures the submitted reserved matters accord broadly with the design and access statement and illustrative layout drawing (3). To ensure the road network can accommodate the development it is necessary that occupation of the housing be conditional upon the completion of the Toll Bar junction improvement (4). For certainty a condition is necessary to ensure the TADA is provided and operated as intended (5). A condition is required in the interests of satisfactory highway operation and safety that the off-site highway works proposed are carried out (6).
40. A condition is required to ensure any temporary access arrangements put in place during the phased construction are safe and convenient for users (7). To encourage lower private car use a condition requires implementation of an agreed Travel Plan for the phases of development (8). In the interests of the living conditions of neighbouring occupiers a condition requiring implementation of an agreed Construction Method Statement is necessary (9).
41. To ensure the provision of adequate play space a condition is needed governing this (10). In the interests of the natural environment a condition is required that an agreed Landscape/Management Plan be implemented as part of the development (11). To ensure the estate road and footways are provided to an acceptable standard a condition specifies the plans required to meet this particular reserved matter (12). In the interests of certainty a condition specifies the plans to which the development should accord (13).

## Planning Balance and Conclusion

42. The LP is out-of-date in respect of its time horizon and in not providing for a five year housing land supply required under paragraph 47 of the Framework. Paragraph 49 goes on to state 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.
43. As relevant policies for the supply of housing are out of date the presumption in favour of sustainable development set out in paragraph 14 of the Framework applies. This would mean granting permission unless any adverse impacts of

doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Paragraph 6 of the Framework establishes that the purpose of the planning system is to contribute to the achievement of sustainable development, based on it performing economic, social and environmental roles which should be sought jointly and simultaneously.

44. The proposal would provide substantial social benefits in helping to boost the supply of housing, including with affordable provision. There would also be substantial benefits to the local economy through the construction of the dwellings, the servicing of the completed homes and the consumer spending of future residents. There would be limited environmental harm resulting from the development of open farmland but this would be mitigated by landscaping and suitable habitat management.
45. No material harm has been found to arise in respect of the TADA not providing for safe and suitable access for all users. There is no substantial basis to conclude that this proposal would not result in the adequate provision for later road infrastructure necessary to support future growth in the area. There are not shown to be the adverse impacts arising from this proposal which would significantly and demonstrably outweigh the benefits identified. The proposal would be supported by presumption in favour of sustainable development set out in paragraph 14 of the Framework. Consequently I conclude that, subject to the conditions set out below, the appeal should be allowed.

*Jonathan Price*

INSPECTOR

Richborough Estates



**Schedule of Conditions**  
**Appeal Ref: APP/B2002/W/17/3178259**  
**Land at Toll Bar, New Waltham, Lincolnshire DN36 4RX**

- 1) Applications for approval of the matters referred to in Condition 2 (hereinafter called "the reserved matters") shall be made within three years of the date of this permission and the development to which it relates shall begin no later than whichever is the later of the following dates:
  - (a) three years from the date of the grant of this outline planning permission
  - (b) two years from the final approval of the reserved matters, or in the case of approval on different dates, final approval of the last such matter to be approved.
  
- 2) The permission hereby granted is in outline form only and no development shall begin until full details of the following reserved matters have been submitted to and approved by the Local Planning Authority and the development shall then be carried out only as approved:
  - (a) the layout, scale and appearance of the development.
  - (b) design and construction details of the estate roads and footways serving the development.
  - (c) a landscaping scheme for the site including details of existing trees, hedges and planting to be retained
  - (d) phasing details including the phasing of highway works and infrastructure.
  - (e) existing and proposed site levels and the levels of the proposed roads.
  - (f) a drainage strategy outlining the system of drainage for foul and surface water flows arising from the entire development.
  - (g) lighting details.
  - (h) the results of archaeological investigation the scope of which shall have first been agreed in writing by the Local Planning Authority.
  - (i) air quality assessment and details on how any impacts highlighted are to be mitigated.
  
- 3) Applications for the approval of reserved matters (as required by Condition 2 of this permission) shall be in substantial accordance with the design principles and parameters contained in the submitted Design and Access Statement (December 2015) and as shown in the Illustrative Layout Drawing No. 21696 02 Rev D unless otherwise agreed with the local planning authority in writing.
  
- 4) No dwelling shall be occupied until signal controlled junction works to the Toll Bar roundabout have been completed and are operational.
  
- 5) Before any development is commenced details for the timing, construction, completion and future management arrangements for

the access, safety arrangements and setting out of the proposed school drop off area to provide for 33 no. car parking spaces to the Academy Trust as shown on Drawing No. 2666-59 Rev G shall be submitted to and agreed in writing by the Local Planning Authority. The school drop off area shall thereafter be retained for this purpose in accordance with agreed construction, safety and future management arrangements.

- 6) No development shall commence until detailed design drawings have been submitted to and approved in writing by the local planning authority indicating the proposed highway improvements to Low Farm and Scartho Fork junctions. No dwelling shall be occupied until the subsequently agreed Low Farm and Scartho Fork junction improvements have been completed along with the off-site highway improvement works for the provision of safe crossing points and the relocation of bus shelters as shown on Drawing No. 2666-65, 'Proposed Highway Improvements' and the Improved Pedestrian Accessibility to local schools as shown in drawing no 2666-66, unless as otherwise agreed in writing with the Local Planning Authority.
- 7) No development shall commence within any phase until a detailed scheme (including a timetable for implementation and completion) for any temporary access arrangements (including pedestrian and cycling facilities to serve that phase) have been approved by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.
- 8) Prior to the occupation of the first dwelling within a phase a Travel Plan (in accordance with North East Lincolnshire Travel Plan Guidance) to improve accessibility by sustainable modes for residents of dwellings within that phase shall have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include:-
  - a. Appointment of a named Travel Plan Co-ordinator,
  - b. Details of measures to encourage sustainable travel patterns,
  - c. A scheme for the management and implementation of the Travel Plan,
  - d. Targets for modal shift,
  - e. Implementation timescales,
  - f. A strategy for marketing and proposed incentives,
  - g. Arrangements for monitoring and review.

The approved Travel Plan shall be implemented, monitored and reviewed in accordance with the agreed details for development within that phase for a period of time not less than 5 years following completion of the final parcel of development.

- 9) No development shall commence within a phase until a Construction Method Statement (CMS) for that phase has been submitted to and approved in writing by the Local Planning

Authority. The approved CMS shall be adhered to throughout the construction period. The CMS shall provide for:-

- a. The routing of heavy construction vehicles,
  - b. Parking of vehicles of site operatives and visitors within the site,
  - c. Loading and unloading of plant and materials,
  - d. Storage of plant and materials used in constructing the development,
  - e. Erection and maintenance of security hoardings including decorative displays and facilities for public viewing, where appropriate,
  - f. Wheel washing facilities,
  - g. A management plan to control the emission of dust and dirt during construction identifying suitable mitigation measures,
  - h. A scheme for recycling/disposing of waste resulting from construction works, and precluding burning of materials on site.
  - i. A scheme to control noise during the construction phase,
  - j. Details of lighting to be used during the construction period.
- 10) Prior to commencement of development within a phase, a play space management plan including long term design objectives, timing of the works, management responsibilities and maintenance schedules for the play areas within that phase, shall be submitted to and approved in writing by the Local Planning Authority. The play space management plan shall also provide precise details of all play equipment and other related structures in that phase and its maintenance and indicate a timescale when the play spaces and related structures shall be provided and made available for use within that phase. The play space management plan shall be carried out in accordance with the details as approved.
- 11) No site clearance, site preparation or development work shall take place within a phase until a Landscape/Habitat Management Plan to include long-term design objectives, timing of the works, habitat creation, enhancement, management responsibilities and maintenance schedules of all landscaped areas (other than privately owned domestic gardens) within that phase has been submitted to and approved in writing by the Local Planning Authority. The Landscape/Habitat Management Plan shall include (but not be limited to) the recommendations for habitat protection and creation set out in the Habitat Survey and Protected Species Report by Penny Anderson Associates Ltd dated February 2015. The Landscape/Habitat Management Plan shall be carried out as approved.
- 12) The reserved matters required under Condition 2(b) shall include detailed plans to a scale of at least 1:500 showing :-
- (a) the proposed layout of the carriageways and footways on the development;

- (b) the wearing course materials proposed for the carriageways and footways;
  - (c) cross sections;
  - (d) the highway drainage system;
  - (e) the proposed locations of street lighting columns and all services and ducts for services within the carriageways and footways;
  - (f) the number, location and layout of the vehicle garaging and/or parking facilities within the site to serve the proposed residential development.
- 13) The development hereby permitted shall be carried out in accordance with the following approved plans; Drawing No. 21696 CAD01 - Site Location Plan, Drawing No. 21696 CAD004 Rev D Application Masterplan, Drawing No. 2666-65 - Proposed Highway Improvements, Drawing No. 2666-66 - Improved Pedestrian Access to Local Schools.

---End of Conditions---

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