



Appeal Decision

Site visit made on 9 April 2018

by Elizabeth Pleasant DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2018

Appeal Ref: APP/Y2003/W/17/3185421

Old Railway Sidings, A18 from Althorpe to Gunness, Althorpe DN17 3HN

- 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 Mr T Webster against the decision of North Lincolnshire Council.
 - The application Ref PA/2017/464, dated 21 March 2017, was refused by a notice dated 21 June 2017.
 - The development proposed is residential development of up to 14 dwellings with associated works and access.
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Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 14 dwellings with associated works and access at Old Railway Sidings, A18 from Althorpe to Gunness, Althorpe DN17 3HN in accordance with the terms of the application, Ref PA/2017/464, dated 21 March 2017, subject to the conditions set out in the attached Schedule.

Application for costs

2. An application for costs was made by Mr T Webster against North Lincolnshire Council. This application is the subject of a separate Decision.

Procedural Matter

3. The application is for outline planning permission, with all matters except for access reserved for future consideration. Drawings showing an indicative site layout were submitted with the application and I had regard to these in determining the appeal.
4. A completed planning obligation under Section 106 of the Town and Country Planning Act 1990 which include obligations to come into effect if planning permission is granted has been submitted by the appellant. I will address this matter later on in my decision.

Main Issue

5. The main issue in this case is whether or not the proposal would represent sustainable development, having regard to national and local policies concerning the location of new housing.

Reasons

6. The appeal site is approximately 0.55 hectares in extent and is situated to the west of the main A18 and south of the railway line. The site has an established vehicular access to the A18 and palisade fencing along its road frontage. Visually, its appearance is one of former railway sidings, characterised by rough vegetation and areas hard surfacing. The land to the south of the appeal site is open pasture and to the east of the A18 is Althorpe Wharf.
7. The development plan comprises the North Lincolnshire Local Development Framework, Core Strategy (CS) adopted, June 2011; North Lincolnshire Local Development Framework, Housing and Employment Land Allocations, Development Plan Document (DPD) adopted March 2016; and those policies in the North Lincolnshire Local Plan (LP), adopted May 2003 which were saved by direction of the Secretary of State and have not been superseded by the CS and DPD.
8. Policy CS2 of the CS says the Council will adopt a sequential approach to the delivery of their spatial strategy and future development needs in North Lincolnshire. Development will be focussed in or on the edge of Scunthorpe and other market towns, and smaller scale development within the defined settlement limits (DSL) of rural settlements to meet identified local needs. All development that takes place outside of DSL will be restricted to that which is essential to the functioning of the countryside. In addition, all future development will be required to contribute towards achieving sustainable development and Policy CS2 sets out how this will be achieved.
9. Policy CS3 of the CS says how the DSL will be applied and restricts development outside of these defined boundaries to that which is essential to the functioning of the countryside.
10. The Council's spatial distribution of housing sites is set out in Policy CS8 of the CS. It says that sites for 12,063 new dwellings will be allocated and delivered in accordance with sustainable development principles.
11. Saved Policy RD2 of the LP restricts development in the countryside, outside of DSL, to development that is required for certain purposes which are listed in this policy.
12. North Lincolnshire's Sustainable Settlement Survey, 2016 (SSS) identifies Keadby as a Larger Rural Settlement (LRS). It advises that LRS are a tier below the Major Town and Market Towns/Large Service Centres and are the largest settlements in terms of population size that have the majority of the 'key facilities and services' and score well in terms of either 'other services' provision or accessibility. They are in areas that are more accessible in terms of frequent public transport. The SSS further advises that small additional development may be appropriate in these larger rural settlements if there is an identified need, and whilst they are unsuitable for substantial growth, they are capable of accommodating an allocation either within or adjoining the settlement.
13. The appeal site is in the countryside outside of the DSL for Keadby, where CS policies say that development will be limited to that which is essential to the functioning of the countryside and Policy RD2 of the LP restricts development to that which is required for a number of listed purposes. The site adjoins the

DSL boundary for Keadby and I understand that until 2016, it had been allocated as an employment site with planning permission for the development of industrial units and storage. However, it is not allocated for any development in the DPD.

14. The appeal proposal would not satisfy any of the exceptions permitted by LP Policy RD2 and it would not be for a development which is essential to the functioning of the countryside. As such, the appeal proposal would conflict with the development plan and in particular with Policies CS2, CS3, CS8 of the CS and LP Policy RD2, the aims of which are set out above.

Planning Obligation

15. The completed, signed and dated planning obligation under Section 106 of the Town and Country Planning Act 1990, includes obligations to provide financial contributions towards affordable housing in North Lincolnshire and towards the maintenance of playing fields at Station Road, Keadby.
16. Consideration of planning obligations is to be undertaken having regard to paragraph 204 of the National Planning Policy Framework (the Framework) and the statutory requirements contained in Regulation 122 and 123 of The Community Infrastructure Levy (CIL) Regulations 2010.
17. The planning obligations secured would be directly related to the development proposed. They are fairly and reasonably related in scale and kind, and necessary to make the development acceptable. I conclude that the obligations, which also have policy support, would comply with the requirements of Regulation 122 and 123 of the CIL regulations and with the tests in the Framework.

Five-Year Housing Land Supply Position and Overall Planning Balance

18. Paragraph 49 of the Framework says housing applications should be considered in the context of the presumption in favour of sustainable development, and 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. The Council states that based on their own assessment they currently have a 3.9 year housing land supply. Consequently, their relevant policies for the supply of housing should not be considered up-to-date.
19. The proposal would be contrary to LP Policy RD2 and CS Policy CS3 which seek to strictly control development outside town and village boundaries. However, their strict application would prevent improvement to the shortfall in the supply of housing. Because of this I attribute limited weight to the conflict with these policies, especially as the proposal would adjoin the DSL boundary.
20. Policies CS8 and CS2 of the CS seek to allocate and deliver new housing in accordance with sustainable development principles. The site is not a greenfield site and the Council does not consider that its development would have a harmful effect on the character and appearance of the area. The site has the appearance of previously developed land and contrasts sharply with the appearance of the open pasture that extends to the south of it. The land on the opposite side of the A18 is an employment area and in my view residential development on the appeal site would not appear as an encroachment into

open countryside. Indeed, the appeal proposal would provide an opportunity to improve the site's visual appearance.

21. Furthermore, the site is in an accessible location. It is within walking distance of the local primary school, convenience store, post office and close to the train station and bus routes. There would be some reliance on the private car, as employment opportunities within the village are likely to be limited. However, in view of the nature and appearance of the site, accessibility and proximity to the settlement edge, I attribute only limited weight to the proposal's conflict with Policies CS8 and CS2.
22. I have found that the proposal would conflict with the development plan as it would be for a housing development outside of the DSL. However, the Council cannot demonstrate a five-year supply of deliverable housing land, which is a material consideration of substantial weight in this appeal.
23. In terms of the social role, the proposed development would provide up to 14 new dwellings. New homes at a time when the Council cannot demonstrate a five-year supply of housing land is a significant benefit. Furthermore, the planning obligation would provide a financial contribution towards providing affordable housing within the parish of Althorpe, and North Lincolnshire, and a financial contribution towards the maintenance of playing fields at Station Road, Keadby. These are significant benefits of the scheme.
24. There would also be a modest benefit to the local economy during the construction phase and an increase in local household spending which would help to support local shops and services. Again, these are benefits that weigh heavily in favour of the development.
25. In the overall balance, the adverse impacts identified would not significantly and demonstrably outweigh the social and economic benefits set out above. The presumption in favour of sustainable development as set out in paragraph 14 of the Framework is a material consideration which outweighs the conflict with the development plan as a whole.

Conclusion

26. For the reasons given above the proposed development would represent sustainable development, having regard to national and local policies concerning the location of new housing. Taking into account all other matters raised, I conclude that the appeal should be allowed.

Conditions

27. The Council has suggested a number of conditions which I have considered against advice in the Framework and Planning Practice Guidance. As a result I have amended and amalgamated some for clarity and omitted others.
28. In addition to the standard conditions relating to the submission of reserved matters and commencement of development, it is necessary to specify the approved plans as this provides certainty.
29. In order to provide a safe means of access to the site and provide acceptable living conditions for future occupiers, conditions are necessary to ensure the existing site access junction is improved and that the access roads and footways are constructed and lighting are provided. Off-road parking is

- required for each dwelling in the interests of highway safety, together with cycle parking/storage in order to encourage sustainable travel.
30. The potential for contamination has been identified and therefore a condition is required to secure any necessary remediation.
 31. In the interests of biodiversity wildlife protection and biodiversity, a biodiversity management plan is necessary.
 32. To ensure acceptable living conditions are provided for future residents a condition is necessary to secure a scheme for protecting against rail and road traffic noise.
 33. In order to avoid pollution and to prevent increased risk of flooding, details of foul water disposal and a sustainable surface water drainage scheme, including management of the system are required to ensure that the system continues to be effective.
 34. I have not been provided with any evidence to support the requirement for improvements to the footway across the site frontage, and from what I saw on site I am not satisfied that those works would be reasonable or necessary. In addition, the use of a Grampian condition to secure the refreshing of the white lining, including the right-hand holding lane would not be reasonable in view of the non-strategic and small scale nature of the development.
 35. It is not necessary to impose a condition relating to the driveway surface materials, as matters of appearance are reserved for subsequent approval and a separate condition requiring details of surface water disposal has been imposed.
 36. A condition to prevent development planting in any service strip is not necessary as landscaping details are been reserved for subsequent approval.

Elizabeth Pleasant

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Site Location Plan: DT/SPE/16/OUT/012 and, only in so far as it relates to the site access arrangements, Site Layout Block Plan: DT/SPE/16/OUT/011 Rev A.

- 5) No development shall take place until details of the standards to which the site access road, residential access road and shared surface route and vehicular accesses, including details of footways and lighting serving the development are to be constructed shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and no dwelling shall be occupied until the roads serving it have been constructed in accordance with the approved details.
- 6) No dwelling shall be occupied until the access road junction with the A18 has been improved, including the required visibility splays, in accordance with the details set out in the Transport Statement prepared by bsp consulting, ref:16253 dated 1 August 2016.
- 7) No dwelling shall be occupied unless and until related provision of off-road car and cycle parking/storage has been provided in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. Once provided, such facilities shall be retained thereafter for their intended use.
- 8) No development shall take place until a remediation strategy that includes the following components to deal with the risks associated with the contamination of the site has been submitted to and approved in writing by the local planning authority:
 - i) a preliminary risk assessment which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors; and
 - potentially unacceptable risks arising from contamination at the site.
 - ii) a site investigation scheme, based on (i), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
 - iii) the results of the site investigation and detailed risk assessment referred to in (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken;
 - iv) a verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.
- 9) The development hereby permitted shall not be occupied until a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation has been submitted to and approved, in writing, by the local planning authority. The report shall include the results of sampling and monitoring carried out in accordance with the approved verification plan to

demonstrate that the site remediation criteria have been met. It shall also include a plan (a 'long-term monitoring and maintenance plan') for longer-term monitoring or pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

- 10) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 11) No development shall take place until a biodiversity management plan has been submitted to and approved in writing by the local planning authority. The plan shall include:
 - (a) details of measures to avoid harm to nesting birds, reptiles and hedgehogs during vegetation clearance and construction works;
 - (b) details of bat roosting features and bird nesting sites to be installed;
 - (c) restrictions on lighting to avoid impacts on bat roosts, bat foraging areas, bird nesting sites and sensitive habitats;
 - (d) prescriptions for the eradication of Japanese knotweed prior to the commencement of development;
 - (e) prescriptions for the planting and aftercare of native trees and shrubs of high biodiversity value;
 - (f) prescriptions for the management of land demarcated by the blue line on submitted drawing number DT/SPE/16/OUT/012 for the benefit of habitats and species of principle importance;
 - (g) proposed timings for the above works in relation to the completion of the buildings.
- 12) The biodiversity management plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority. Prior to the occupation of the 10th dwelling hereby approved, the applicant, or their successor in title, shall submit a report to the local planning authority providing evidence of compliance with the biodiversity management plan.
- 13) Construction work shall not take place until a scheme for protecting the proposed dwellings from noise from the adjacent railway and A18 shall have been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before any dwelling is occupied and retained thereafter.
- 14) i) No development shall take place until a drainage scheme for the disposal of surface water and foul sewage have been submitted to and approved in writing by the local planning authority. The strategy for the management of surface water drainage shall be based on the principles set out in the approved FRA incorporating a Preliminary Surface Water Drainage Strategy (Drawing No: 16253/SK001, dated 28.07.2016), that

include the implementation of SuDS and their adoption and maintenance arrangements.

ii) The drainage scheme shall be implemented in accordance with the approved details and shall be completed prior to the occupation of any dwelling and thereafter retained and maintenance in accordance with the scheme for the life time of the development.

- 15) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA), prepared by BSP Consulting, Ref: 16253/FRA, dated July 2016, (Revision A, October 2016). Finished floor levels shall be set no lower than 5.24 metres above Ordnance Datum (AOD). Prior to the occupation of the dwellings, the approved mitigation measures shall be implemented in full and shall thereafter remain in place.

Richborough Estates