



Appeal Decision

Hearing held on 25 November 2014

Site visit made on 25 November 2014

by Matthew Birkinshaw BA(Hons) Msc MRTPI

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

Decision date: 29th January 2015

Appeal Ref: APP/N2535/A/14/2222549

Marquis of Granby, High Street, Waddingham, Gainsborough, DN21 4SW

- 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 Punch Taverns c/o Midland Assured against the decision of West Lindsey District Council.
 - The application Ref 130898, dated 20 December 2013, was refused by notice dated 22 May 2014.
 - The development proposed is the development of 10 residential dwellings, which include three 2 bed and five 3 bed units along with two 2 bed affordable units, each with associated parking and 12no. parking bays being retained for the public house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the Hearing the appellant confirmed that a Unilateral Undertaking had been prepared with input from the Council which sought to address the implementation of affordable housing and open space. Although the document was not signed, all parties present at the Hearing agreed that its completion would not be prejudicial to anyone's interests. Additional time was therefore agreed for the appellant to obtain the requisite signatures and the undertaking was duly submitted. In the interests of fairness further representations were sought from the Council, and these comments, along with the final signed document have been taken into account in reaching my decision.
3. Following the Hearing the National Planning Practice Guidance has been revised. Of particular relevance to the appeal scheme is Reference ID: 23b-012-20141128. This states that affordable housing and tariff style planning obligations should not be sought from developments of 10 units or less which have a maximum combined gross floorspace of no more than 1,000m².
4. In response to the change the appellant states that affordable housing should no be longer required. However, the Unilateral Undertaking is still before me and no alterations have been made to the proposed development, which includes the provision of two affordable houses. I have therefore determined the appeal on this basis, and on the proposal considered by the Council.

Main Issue

5. The main issue is whether or not the proposal would provide a suitable site for housing, having particular regard to the principles of sustainable development.

Reasons

6. The appeal relates to a parcel of land at the rear of the 'Marquis of Granby' pub, within the centre of Waddingham. Policy STRAT 3 of the *West Lindsey Local Plan First Review* defines the village of Waddingham as a 'Subsidiary Rural Settlement'. Within such areas Local Plan Policy STRAT 7 limits new housing to development which meets a local need or is otherwise required for a local resident with a connection to the settlement. The construction of 8 open market houses would therefore conflict with both development plan policies.
7. However, it is common ground between the parties that the Council cannot currently demonstrate a five-year supply of deliverable housing land. Although it was suggested at the Hearing that new housing was coming forward, the evidence provided with the appeal refers to a current supply of only 3.5 years. As a consequence, paragraph 14 of the National Planning Policy Framework ('the Framework') and its presumption in favour of sustainable development applies.
8. For decision taking this directs granting planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole, or, specific policies indicate that development should be restricted. In achieving sustainable development the Framework identifies three dimensions; the economic, social and environmental. It also confirms that these roles should not be undertaken in isolation because they are mutually dependant, and I have considered the appeal proposal on the same basis.

Economic

9. Waddingham is a relatively small rural village surrounded by farmland. Due to its location and the availability of services the village is classified as a third-tier settlement under Local Plan Policy STRAT 3. I therefore appreciate the Council's concerns that potential future occupants would be reliant upon the need to commute out of the village by car in order to access employment.
10. However, Waddingham still contains a post office, local shop, pub, primary school, village hall and a church. Whilst public transport links are limited, the local bus stop also provides a daily service for children accessing secondary education in neighbouring settlements. Furthermore, at the Hearing residents identified that services such as the local post office and shop were struggling, and confirmed that the butchers had been forced to close in the last few years.
11. With this in mind the provision of 10 new family dwellings would help to maintain and support the remaining local services in the village, and those in neighbouring settlements. The two affordable properties would also help local people to stay in the area without having to move to larger towns in order to access housing. The scheme would therefore contribute towards supporting the sustainable economic future of the village, the importance of which is recognised by the National Planning Practice Guidance which suggests that rural housing is essential to ensure the viable use of local facilities.

12. In reaching this view I appreciate comments that the residents of previous developments in the village do not use the local shop. However, whilst future occupants would be free to choose what services they use, compared to the existing use of the land the introduction of family housing in the centre of the village would generate more demand for some of the services on offer. In this regard the scheme is consistent with paragraph 55 of the Framework which states that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities.
13. Although the Council also argue that there is no need for development in Waddingham given the number of properties up for sale, no details have been provided. Nonetheless, there is nothing in the Framework to suggest that the Council's need for new housing land, as evidence by the lack of a five-year supply, only applies to certain parts of the District. As a result, this does not justify withholding the grant of planning permission.
14. I therefore conclude that in terms of the economic dimension of sustainability the proposal would provide a suitable site for housing. In this regard there is no conflict with the aims and objectives of the Framework which seeks to ensure that sufficient land of the right type is available in the right place at the right time to support growth and innovation. Although the Council has also referred to the emerging *Central Lincolnshire Local Plan* this is still at an early stage with adoption not expected until 2016. As a result, and given that it could be subject to change, I have not given this any significant weight in reaching my decision.

Social

15. At the Hearing it was agreed between both parties that there is a need for affordable housing in the area. The main area of dispute therefore relates to its implementation, and whether or not the requirement to provide 2.5 houses facilitates the need for a financial contribution to cover the remaining 'half'.
16. However, despite some erroneous references to planning guidance and the Council's previous use of nomination agreements, the submitted Unilateral Undertaking restricts the commencement of development until an Affordable Housing Scheme has been agreed. This could also form part of a suitably worded planning condition to control the delivery of the affordable houses indicated on the proposed plans.
17. It is also pertinent to consider that Local Plan Policy RES 6 only states that 'in the region of' 25% will be sought on relevant sites. By ensuring that 2 out of the 10 properties are affordable the scheme therefore represents in the region of the 25% required. Furthermore, no evidence has been provided to justify how the off-site payment has been calculated, or how it meets the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations. As a result, I find no conflict development plan policy in this regard.
18. The Council has also raised concerns that the scheme would affect the viability of the pub and result in the loss of a community asset which provides space for gatherings, recreational activities and events. However, at the Hearing local residents confirmed that the site is used relatively infrequently by a local club and for annual bonfires. During my inspection I also saw that it was largely overgrown, uninviting and appeared to be used primarily as a short-cut to the adjacent public footpath and primary school to the south-east.

19. In contrast, the appeal proposal would create an attractive and useable area of open space. Ensuring the future maintenance of this area could be secured through the use of an appropriately worded planning condition, and it would not restrict use of the public right of way to the south. I am also mindful that situated within close proximity to the appeal site is the village green. Despite being close to a main road it occupies a central position, is close to the primary school and is overlooked by houses. When also taking into account that the pub benefits from a large beer garden at the rear, neither its long-term future nor the community's ability to hold events would therefore be prejudiced by the appeal proposal. Consequently, there is no conflict with Local Plan Policies CRT 4 or CORE 9 which are concerned with protecting post offices, convenience stores, pubs and areas of designated open space.
20. However, due to the proposed layout the rear elevations of Plots 6, 7 and 8 would only be roughly 10m away from the pub's beer garden which contains a BBQ and outdoor seating area. Whilst the noise associated with delivery vehicles would be temporary and infrequent, local residents confirm that the pub often operates under the terms of its licence until the early hours, with live bands on weekends. As a result, the Environmental Health Officer advises that the proximity of the properties to the pub would cause potential for noise nuisance. When considering that the scheme aims to provide family housing, I consider that this relationship would be unacceptable and lead to a poor standard of living accommodation for potential future occupants. Based on the evidence provided the harmful disturbance from customer noise would not be mitigated by the provision of a 1.8m high timber fence.
21. In reaching this view I have taken into account comments that rural pubs often operate within close proximity to residential properties. However, I have not been provided with details of similar circumstances to make any meaningful comparison with the appeal scheme. Nonetheless, just because this may be the case elsewhere does not justify granting planning permission for such a poor standard of living accommodation.
22. I therefore conclude that the scheme would contribute towards the provision of affordable housing and would not harm the long-term viability of the pub or the ability of the community to hold events. However, by reason of its layout the proposal would provide an inadequate standard of living accommodation for potential future occupiers. As a result, it conflicts with one of the Core Planning Principles of the Framework which seeks to provide a good standard of amenity for all existing and future occupants of land and buildings. In this regard the proposal would not provide a suitable site for housing, and is contrary to the social role of sustainable development which seeks to support the health, social and cultural well-being of communities.

Environmental

23. The centre of Waddingham is characterised by primarily traditional buildings which front onto the green and create an attractive, village feel to the area. Although the appeal site has historically remained free from development, it is set behind the pub and an area of hardstanding used to store heavy goods vehicles. From the public footpath to the south it is also viewed in the same context as the car park and beer garden. As a result, situated behind the built frontage along High Street the scheme would not erode an area of open space synonymous with the traditional character of the village.

24. In addition to the traditional centre of the village Waddingham contains a wide range of residential properties, from bungalows to modern detached houses. Because of this varied mix of styles the introduction of typical family houses facing onto the access road with parking to the front and private gardens to the rear would not be harmfully out of place. The density, design and detail of the 2-storey dwellings, combined with the mix of red facing brick and natural stone would also reflect the locally distinctive pattern of development in the area. Consequently, there would be no conflict with Local Plan Policies RES 1 or STRAT 1 which are concerned with design, and require development to be satisfactory in terms of local character and appearance.
25. However, to the north-west corner of the site is a group of 15 trees, 10 of which are orchard apples. Although the appellant states this is merely a few fruit trees used for domestic consumption, evidence provided with the appeal indicates that the group formed part of a larger orchard of 36 trees planted around 1940. The appellant's Arboricultural Report also confirms that despite the majority being in fair to poor condition, the trees have an estimated contribution of a further 20-40 years and should be retained and protected.
26. Although the trees are not aesthetically pleasing, the Council state that they are irreplaceable because of their biodiversity value, with decades of lichen, mosses and cavities which attract insects and beetles. Moreover, the Lincolnshire Wildlife Trust advises that traditional orchards are Habitats of Principal Importance under the Natural Environment and Rural Communities Act (2006), and therefore all the trees should be retained. Despite no objections being raised by Natural England, the appellant's Ecological Survey also found the orchard to be of some interest, concluding that there would be little impact provided all or most of the trees are retained.
27. Despite this the proposed plans illustrate that half the orchard would be removed, leaving only 5 apple trees. By removing such a large proportion of the remaining orchard the scheme would therefore have a significant adverse impact on its biodiversity value. Whilst the appellant refers to the possibility of retaining the trees in the rear gardens of properties, due to the layout and orientation of plots they would come under substantial pressure to be removed by future occupants seeking to gain more daylight and sunlight. Thus, in either scenario the layout and siting of the scheme would facilitate the removal of a substantial element of the remaining orchard which would cause demonstrable harm. In this regard the proposal is contrary to one of the Framework's Core Planning Principles which states that planning should contribute to conserving and enhancing the natural environment.
28. In reaching this view I have taken into account that new trees could be planted elsewhere on the site and could include grafting from the stems of existing specimens. However, new trees would take a significant period of time to establish and the biodiversity value from the decades of lichen and mosses would also be lost. Furthermore, paragraph 118 of the Framework directs that compensation should be treated as a last resort. In this case no evidence has been provided to substantiate that the proposed layout is the only way of delivering the scheme or that other alternatives have been considered. Consequently, I am not persuaded that the harm to the biodiversity value of the site is unavoidable, or that grafting new trees elsewhere onto the site is the last resort.

29. In addition to the effect of the proposal on biodiversity, Lincolnshire County Council advises that ditches and pits containing late Anglo-Saxon pottery have been identified by archaeological investigations nearby. Pottery from the 8th century has also been recovered from Silver Street as well as ditches and pits dating from the 13th-14th centuries through to the post-medieval period. The evidence provided therefore points to a potential for heritage assets with an archaeological interest in the area.
30. In such circumstances paragraph 128 of the Framework states that developers should be required to submit an appropriate desk-based assessment, and where necessary, a field evaluation. Despite this, no site specific information has been submitted. It is therefore not possible to reach a robust conclusion that the scheme would sustain the significance of heritage assets of archaeological interest in the area. Likewise, in the absence of any evidence having been provided to suggest that a field evaluation is cost prohibitive or disproportionate, I have not given these comments any significant weight.
31. In response to the concerns raised by the Council the appellant states that a planning condition could be used to restrict development until the appropriate investigations have been completed. At the Hearing it was also suggested that typically Anglo-Saxon remains do not restrict development going ahead. However, no information is before me to support such a view. Given that archaeological remains have been found in the area their presence could affect the ability to develop the site or determine the way in which site preparation or remediation work is carried out. Thus, without any information having been provided, it would not be appropriate to rely on the use of a planning condition.
32. I therefore conclude that the scheme would not be detrimental to the character and appearance of the area. However, it would cause demonstrable harm to a Priority Habitat, and in the absence of any information having been provided could adversely affect heritage assets with archaeological interest. As a result, it conflicts with Local Plan Policy STRAT 1 which states that development must take full account of the need to protect the environment so that present demands do not compromise the ability of future generations to meet their own needs and enjoy a high quality environment. In this regard the proposal would not provide a suitable site for housing, and is contrary to the environmental role of sustainability which seeks to protect and enhance the natural, built and historic environment.

Other Considerations

33. In refusing planning permission the Council also states that the proposal lacks detail in relation to drainage and highways. However, at the Hearing both parties agreed that details of foul and surface water drainage systems could be adequately controlled and enforced through the use of a planning condition. Given that no evidence has been provided to indicate that the sewerage system is at capacity or that surface water flooding has led to problems in the past, and when taking into account the size of the site and scope for attenuation measures, I find no reasons to disagree.
34. Similarly, whilst several local residents referred to the junction outside the pub as one of the most dangerous in the region, no details have been provided. Moreover, as part of the scheme the access onto High Street would be reconfigured with a section of wall and trees around the entrance removed. Forward visibility for drivers leaving the site would therefore be significantly

improved and intensifying the use of the site entrance would not prejudice highway or pedestrian safety.

35. In support of the proposal the appellant also states that the scheme would help to secure the future of the pub which has gone through several tenants over the past few years. The economic benefits that the scheme would bring about therefore weigh in its favour, albeit no evidence has been provided to substantiate that the long-term viability of the pub is dependent upon the site coming forward for housing.
36. Finally, given the proximity of the appeal site to the Grade II listed 'Old School House' I have also had special regard to the desirability of preserving its setting. However, as the proposed development would be separated by the intervening pub and the junction between High Street and the B1205, I am satisfied that the setting of the building would be preserved.

Balancing Exercise

37. The Council cannot currently demonstrate a five-year supply of housing land and the *Central Lincolnshire Local Plan* is not expected to be adopted until 2016. The provision of 10 family houses would therefore contribute towards the supply of housing in the area, with the Unilateral Undertaking providing a commitment to affordable housing. Although future occupants would be reliant upon the car to reach places of work, the scheme would help maintain the vitality of the local rural community and support services in neighbouring villages. Compared to the existing use of the site the provision of a dedicated area of open space also weighs in favour of allowing the appeal, as do the improvements to the site access and pub car park.
38. However, by reason of the proximity of the houses to the rear of the pub the scheme would fail to provide an adequate standard of living accommodation. It would also result in significant harm to a recognised Habitat of Principal Importance and have the potential to adversely affect the significance of heritage assets of archaeological interest. As a result, the proposal conflicts with three of the Framework's Core Planning Principles which state that planning should seek to secure a good standard of amenity for all existing and future occupants of land and buildings, contribute to conserving and enhancing the natural environment and conserve heritage assets in a manner appropriate to their significance.
39. On balance therefore, in this case I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole. Thus, for the purpose of paragraph 14 the proposal is not the sustainable development for which there is a presumption in favour.

Conclusion

40. For this reason, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Matthew Birkinshaw

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Lawrence Wilbraham
John Goodman

Wilbraham Associates Ltd
Assured Property Group

FOR THE LOCAL PLANNING AUTHORITY:

Russell Clarkson
Joanne Sizer

West Lindsey District Council
West Lindsey District Council

INTERESTED PERSONS:

Jeff Summers	Ward Councillor
John Bywater	Local Resident
Karen Grafton	Local Resident
Tony Grafton	Local Resident
Kevan Dent	Local Resident
Paul Dent	Local Resident
Carol Chapman	Local Resident
Colin Metcalfe	Local Resident
Val Bowles	Local Resident
Fred Bowles	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Attendance list
- 2 West Lindsey Local Plan First Review Policy STRAT 1
- 3 West Lindsey Local Plan First Review Policy STRAT 7
- 4 Scale copy of drawing no. 2651 PA 100 Revision A.

Richborough Estates