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# Appeal Decision

Site visit made on 24 July 2015

**by Mrs J A Vyse DipTP DipPBM MRTPI**

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

**Decision date: 14 August 2015**

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**Appeal Ref: APP/N2535/W/15/3023013**

**Land east of Hackthorn Road, Welton, Lincoln, Lincolnshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Turley Farms Limited against the decision of West Lindsey District Council.
  - The application No 130150, dated 18 June 2013, was approved on 22 October 2014 and outline planning permission (with all matters reserved for future consideration) was granted subject to conditions.
  - The development permitted is the erection of 63 dwellings.
  - The condition in dispute is No 1, which states that: Application for approval of reserved matters for the first phase of the development shall be made to the local planning authority before the expiration of one year from the date of this permission. Application for the approval of each subsequent phase of the development shall be submitted within two years of the date of approval of the previous phase.
  - The reason given for the condition is: To conform with Section 92(2) of the Town and Country Planning Act 1990 (as amended).
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## Decision

1. For the reasons that follow, the appeal is allowed and the planning permission No 130150, for the erection of 63 dwellings on land at east of Hackthorn Road, Welton, Lincoln, Lincolnshire, granted on 22 October 2014 by West Lindsey District Council, is varied by deleting condition 1 and substituting for it the following condition:

*Application for approval of the reserved matters required by condition 2 shall be made to the local planning authority no later than 22 October 2016.*

## Procedural and Background Matters

2. The Council's Statement of Case advises that the authority is unable to demonstrate a five year supply of housing land. In light of that position, approval was granted for the development the subject of this appeal as a departure from the development plan in order to boost the supply of housing land in the District. The Statement confirms that the reason for the foreshortened timescales for the submission of the reserved matters set out in the appealed condition reflected those circumstances. Among other things, it is also confirmed that, with hindsight, a period of two years for the submission of all reserved matters would have been more appropriate, serving the same purpose, whilst allowing the appellant sufficient time to secure a developer for the site.
3. Although the appellant originally sought an amendment to allow for the submission of all reserved matters within three years of the date of the

permission, subsequent correspondence dated 30 June 2015 confirms agreement with the Council's suggestion of a period of two years. I shall deal with the appeal on that basis.

### **Main Issues**

4. The nature of this appeal means that the original permission is at risk. I am mindful, in this regard, that local residents raise objections to the principle of the development proposed. With that in mind, I consider the main issues in this case to be:
  - whether the original permission is so fundamentally flawed that it would result in unacceptable harm;
  - and if it would not, whether, in the light of the absence of a five year supply of housing land in the District, the time limits imposed in the appealed condition are necessary and reasonable having regard to the need to boost significantly the supply of housing.

### **Reasons for the Decision**

#### *Original Permission*

5. The appeal site comprises some 2.38 hectares of agricultural land lying outside, but immediately adjacent to the development boundary for Welton as set out in the West Lindsey Local Plan First Review 2006, an area where general market housing would be in conflict with the development plan. However, at the time the application was determined, the Council could not (and still cannot) demonstrate a five year supply of deliverable housing sites and it was accepted that relevant policies for the supply of housing were to be considered as out of date.
6. Welton is one of the larger settlements in the Districts, identified as a Primary Rural Settlement with a range of services and facilities that are readily accessible from the site, with the village having good public transport connections. In light of the shortfall in housing land, and given the sustainable location of the appeal site, planning permission was granted. However, those objecting to the application continue to be concerned about a number of issues.
7. There is continued concern about the ability to extend the local doctors' surgery and the local school to meet the needs of future occupiers of the development proposed, on the basis that there are currently no plans for expansion. However, as set out in the officer's report, both the NHS Property Division and the County Education Authority raised no objections in this regard. Rather, they were satisfied that the increased demand could be met by capital infrastructure contributions. Those contributions are secured by the planning obligation. Whilst no copy of the obligation is before me, there is no substantiated evidence to demonstrate that the contributions do not meet the relevant tests, or that they would not adequately mitigate the impact of the development proposed in these regards.
8. The obligation also secures a contribution towards upgrading the road junction with the A46, which junction is already at capacity. Although those objecting are concerned that no improvements are secured along Hackthorn Road itself, I note that the highway authority raised no objection in this

regard, subject to conditions which I understand to have been imposed. In the absence of any substantiated evidence to the contrary, I am not persuaded that the appeal scheme would, necessarily, result in harm to highway safety.

9. The officer's report sets out that, following discussions with the Environment Agency, the Internal Drainage Board and other stakeholders, the surface water drainage arrangements proposed were considered as being suitable to prevent increased surface water run-off and flooding. Indeed, it would seem that there would be an added benefit in that the scheme also has the potential to help alleviate flooding problems currently encountered by residents of properties to the south of the site. Those arrangements are secured by condition and I find no harm in this regard.
10. Local residents are concerned that the sewerage system is already working beyond its designed capability. However, there is no suggestion in the officer's report that objections were raised by the relevant statutory undertaker at application stage. In the absence of any substantiated evidence to support the views of local residents in this regard, I am not persuaded that there is, necessarily, insufficient foul drainage capacity to accommodate the development proposed.
11. Objectors maintain that the village already has sufficient affordable housing to accommodate its own specific needs. Be that as it may, given the need of the District as a whole for affordable housing, I see no reason why a site such as this, which has been assessed as being in a sustainable location, should not include an element of affordable housing as required by the West Lindsey Local Plan First Review 2008. Moreover, as I understand matters, the affordable housing in the village that there is (and which has been approved) would be available to occupiers from outside the village via the cascade mechanism used to assess the eligibility of future residents. All in all, I consider that the concerns raised in this regard do not tell against the development scheme.
12. Moving on to the emerging Welton Neighbourhood Plan (WNP), I see that the pre-Examination/Consultation Draft was published in November 2014, after the application had been determined by the Council. Policy H4 of the WNP indicates that all development east of Hackthorn Road, including that for which outline consent is in place (eg the appeal site) *'should be refused or at least deferred until the joint Central Lincolnshire Local Plan is in place and can properly, in conjunction with the WNP, determine its long term sustainability, taking into account Policy H7 in particular, and other relevant policies of the WNP.'*<sup>1</sup>
13. In coming to a view on this, it would appear that the WNP has not yet progressed beyond Step 3: Pre-submission publicity & consultation.<sup>2</sup> So, whilst the WNP may well provide an indication of how local people wish to see the Parish evolve in the future, its adoption process still has quite a way to go. In my view, the WNP remains at a relatively early stage which limits

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<sup>1</sup> Among other things, Policy H7 indicates that, where outline planning permission has been granted and timescale restrictions applied, these should be rigorously enforced and no extenuating circumstances should be considered or granted that would allow developers to, in effect, land bank these sites until they felt they would be viable commercially.

<sup>2</sup> Planning Practice Guidance ID: 41-080-20150209

the weight it can be afforded. Moreover, since the Council cannot currently demonstrate a five year supply of housing land, policies in the emerging WNP relevant to the supply of housing which could, it seems to me, include H4, are to be considered as out of date, as directed by the National Planning Policy Framework.

14. To conclude on the first main issue overall, I am satisfied that the original permission is not so fundamentally flawed that it would result in unacceptable harm.

#### *Appealed Condition*

15. I am advised that the site has been actively marketed since approval was given and that a single developer has now won the bid process with an offer having been accepted for the site. Whilst necessary legal and financial checks are now being carried out before the sale can be completed, such checks take time and the process is a slow one. There is concern, therefore, on the part of the appellant, that the sale may not be completed in sufficient time to allow for the submission of a full reserved matters application before 22 October 2015, ie one year after the date that permission was first granted (the time limit imposed by the appealed condition).
16. I have no good reason to suppose that the site has been 'land banked' as referenced in policy H7 of the emerging WNP. Neither is there any evidence that the appellant has been unduly tardy in securing a sale. Indeed, correspondence from the Council prior to the appeal being lodged indicates that the two year period now sought was more appropriate in the circumstances. As set out at the start, that position is re-confirmed in later correspondence.
17. All in all, I consider the time limit imposed in the appealed condition for the submission of reserved matters for the first phase of development to be unduly onerous, with the potential that it might actually stifle development of the site, rather than encourage it. As such, it is not reasonable. It is necessary, however, still to include a shorter time limit than is usually the case, in the light of the need to bring the development forward as early as possible, given the pressing need for new housing in the District. I consider the two year time limit agreed by the main parties to be appropriate in this regard.

#### **Conclusion**

18. For the reasons set out above, I conclude that the appeal should succeed. I endorse the two year time limit for the submission of all reserved matters agreed between the appellant and the Council although, in the interest of clarity, I have deleted the reference to *'the expiration of two years of beginning with the date of the grant of the outline permission'* and replaced it with reference to the actual date by which they should be submitted, namely 22 October 2016.

*Jennifer A Vyse*

INSPECTOR