



Appeal Decision

Site visit made on 25 June 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th August 2024

Appeal Ref: APP/H0520/W/23/3330136

Land to the East of Ivy Way, Spaldwick PE28 0UN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Blenheim Land and Homes Ltd against the decision of Huntingdonshire District Council.
 - The application Ref is 23/00649/FUL.
 - The development proposed is construction of 15 no. dwellings with associated access, car parking and landscaping.
-

Decision

1. The appeal is allowed and planning permission is granted for construction of 15 no. dwellings with associated access, car parking and landscaping at Land to the East of Ivy Way, Spaldwick, PE28 0UN in accordance with the terms of the application, Ref 23/00649/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. The appellant has made an application for an award of costs. This is the subject of a separate decision.

Preliminary Matters

3. The description of the development in the heading above is taken from the application form. However, I have omitted the reference to it being a re-submission and the previous application number as this is not an act of development.
4. In response to two of the reasons for refusal the appellant has submitted additional information through the submission of a swept path analysis for refuse vehicles and a revision to the Fenland Hydrotech Drainage Report (Revision F). The Procedural Guide for Planning Appeals makes clear that the appeal process should not be used to evolve a scheme and it is important that what is considered is essentially what was considered by the Council, and on which interested people's views were sought. This additional information would be minor in nature and does not amend the proposed development the subject of the appeal. Accordingly, under the principles established by the Courts in *Holborn Studios Ltd*¹ the amendment does not involve a substantive difference or a fundamental change. Furthermore, having regard to the procedural tests, I do not consider that any other party would be prejudiced by my acceptance of

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWCH 2823 (Admin)

it. I have therefore determined the appeal based on the revised technical evidence.

5. It is understood that planning permission has been granted for a near identical form of development². Be that as it may, I have determined the appeal on its own merits, based on the evidence before me.
6. As part of this appeal a signed and dated Unilateral Undertaking (UU). The appeal scheme includes a formal, signed Unilateral Undertaking made under section 106A of the Act, dated 24 May 2024. I find that it meets the tests set out in paragraph 57 of the National Planning Policy Framework (the Framework) and the Community Infrastructure Levy Regulations 2010 and I have had regard to this as a material consideration.
7. Since the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. In addition, on 30 July 2024 the Government published a consultation on proposed reforms to the Framework and made a written ministerial statement (WMS) titled "Building the homes we need". Given that those parts of the draft Framework most relevant are not proposed to be amended I consider there is no requirement for me to seek further submissions on the Framework, the consultation or written ministerial statement. I am satisfied that no party's interests would be prejudiced by my taking this approach.

Main Issues

8. The main issues are:
 - i) the effect of the proposal on highway safety, with particular regard to the operation of waste service vehicles;
 - ii) whether the proposed development would be provided with adequate means of drainage; and
 - iii) whether the proposal would protect and enhance the public right of way, known as Public Footpath No 12 Spaldwick.

Reasons

Highway Safety

9. Whilst the original submission did not include a vehicle tracking drawing for refuse vehicles the proposed plans show that the housing would be laid out around a circular estate-road, meaning that a refuse vehicle would not need to reverse to service the properties. Furthermore, it is also of note that the local Highways Authority had no objection to the application on highway safety grounds.
10. Nonetheless, a tracking drawing has been provided to demonstrate that a refuse vehicle could manoeuvre safely within the site. I have no reason to reach a different view in this regard.

² Office reference 23/01948/FUL

11. For the reasons stated above, I conclude that the proposed development would not be harmful to highway safety. The proposal would accord with Policies LP16 and LP17 of Huntingdonshire's Local Plan to 2036 (Local Plan) which among other things states that proposals will be supported where it incorporates appropriate space for vehicle movements and facilitates accessibility for service and emergency vehicles. I also find no conflict with the Framework which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Drainage

12. It is understood that the appeal site lies within Flood Zone 1 and is at a low to medium risk of surface and groundwater flooding. With regards to drainage the information submitted indicates that surface water is to be directed to a watercourse. However, no rate had been agreed. From the evidence before me the consultees had no in principle issues with the drainage strategy but sought clarification on technical matters, which was not pursued by the Council.
13. Whilst a revised Drainage Report is included as part of the appeal submission the Report is largely identical to the initial Drainage Report, albeit there are some areas where additional commentary is provided. It is understood that the revised Drainage Report is fully endorsed by the Lead Local Flood Authority.
14. Accordingly, there is no evidence before me to suggest that, subject to the imposition of a pre-commencement of works condition for such drainage details, that the proposed development would not meet the criteria of Policies LP5, LP6 and LP15 of the Local Plan. Collectively these policies seek to secure appropriate drainage systems. Nor do I find conflict with the Framework which seeks to avoid development in the areas at highest risk of flooding and to provide appropriate sustainable drainage.

Public footpath

15. A Public Right of Way (PRoW) dissects through the appeal site from the middle of the southern boundary through to the northwestern corner of the site. The PRoW comprises an unmade path through a field of vegetation. The proposal retains the existing alignment of the PRoW.
16. My attention has been drawn to the guidance in the Cambridgeshire Rights of Way Improvement Plan 2016 which states that PRoW's should be provided wholly or in the main separate from estate roads, private driveways and streets. The retention of the existing alignment through the appeal site would entail users crossing the proposed internal road in two locations and sharing the public footpath for a relatively short length. Given the limited length of the shared surface and the scale of development proposed I am satisfied that there would not be a conflict between pedestrian and vehicular traffic such that it would be harmful to pedestrian and highway safety.
17. Notwithstanding the above, from the evidence before me the proposed site layout could accommodate an alternative route for the PRoW to be diverted to the west of the appeal site through the 'Landscape Walk'. This would not traverse the internal road within the appeal site. However, this alternative provision would be secured through the diversion of the PRoW, under a separate regime.

18. Subject to the imposition of a condition regarding the management of the PRoW, including details of its surfacing, I am satisfied that a safe physical access from the public highway can be achieved, including the rights of way network.
19. For the reasons stated, I am satisfied that proposal would protect and enhance the public right of way known as Public Footpath No 12 Spaldwick. As such the proposal accords with Local Plan Policy LP16 which states that where a proposal would affect an existing public right of way or other formal non-motorised users' route, this route should be protected or enhanced within the proposed development and where this is not possible it should be diverted to a safe, clear and convenient alternative route. Nor do I find conflict with the Framework which seeks to protect and enhance public rights of way and access.

Other Matters

20. The appellant has submitted an executed UU. The UU includes a planning obligation to secure 100% affordable housing and a financial contribution would provide for highway improvements. Given the highway improvement works would take place off-site, the contribution cannot be secured by condition. The obligation secures the provision of wheeled bins and open space. These contributions are reasonably related in scale and kind to the development.
21. On the evidence before me, I consider the obligations in the UU are necessary, directly related to the development and related to it in scale and kind. As such they would accord with the provisions of Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the tests for planning obligations in paragraph 57 of the Framework. I have given significant weight to the UU in my decision.
22. The site lies outside, but adjacent to the Spaldwick Conservation Area (CA). The CA encompasses much of the historic core of the village. Its significance and special interest are drawn in part from its historic buildings but also from its green features and often open and rural nature of its fringes and its surroundings.
23. The appeal site sits adjacent to the periphery of the CA and would be viewed in the context of the more recent suburban housing. The proposed development would have a greater visual impact in the streetscene than the existing open field it would replace. However, the scale and design of the dwellings would be in-keeping with the existing residential development in the immediate vicinity of the site.
24. By virtue of being located immediately adjacent to the CA boundary the proposal would have a small negative impact on the setting of the CA, however, I consider this would be limited. Clearly, therefore, the harm to the significance of the heritage asset would be less than substantial. Nevertheless, in this respect, I give considerable importance and weight to the desirability to preserve the heritage asset and its setting. The Framework states that great weight should be given to the asset's conservation, irrespective of whether the harm to the significance is substantial or less than substantial. This harm must be weighed against any public benefits of the proposal.

25. Fifteen dwellings would make a modest contribution to the Council's housing land supply and add variety to house types, including the provision of 100% affordable housing. There would be social and economic benefits associated with the proposal relating to construction employment and spend within the local economy once the dwellings are occupied.
26. Having regard to the above and my Statutory Duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act, 1990 (the Act) I am satisfied that collectively these public benefits are sufficient to outweigh the less than substantial harm to the setting, and thereby the significance, of the designated heritage asset.
27. The Local Plan policies require me to consider the heritage impacts in line with the Framework. Whilst I find that the proposed development would result in less than substantial harm to the setting of the CA, having regard to the Framework I conclude that the public benefits arising from the development would outweigh the less than substantial harm. Consequently, I therefore find that the proposal would accord with Policies LP9, LP10, LP11, LP12 and LP34 of the Local Plan which are concerned with safeguarding heritage assets.
28. Local residents have raised many issues including, but not limited to, the principle of development, the house types proposed, parking and increase in traffic, impact on trees and biodiversity, harm to living conditions of existing residents including by reason of noise and disturbance, loss of privacy and light pollution. I have had full regard to all points raised in reaching my decision. Nonetheless, whilst I note these and other valid concerns, the Council has not indicated that it shares any of these concerns and I have not been presented with any substantive evidence that would lead me to conclude otherwise.

Conditions

29. The Framework states that conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development, enforceable, precise, and reasonable in all other respects.
30. I have considered the conditions put forward by the Council against the Framework and Planning Practice Guide (PPG). I have included those which meet the six tests set out in the Framework and reworded, where necessary, for clarity. The appellant has agreed to the pre-commencement conditions set out in the conditions schedule below and also to their wording. The circumstances and nature of this proposal mean that these are appropriate and are necessary to make the development acceptable in planning terms.
31. In addition to the statutory commencement condition, a condition is necessary to ensure that the development complies with the submitted plans in the interests of clarity.
32. Conditions regarding site levels are necessary in the interests of character and appearance as well as safeguarding nearby residents living conditions.
33. The Council has requested a condition which would prevent the development from taking place or being occupied until the PRoW has been diverted. However, such a condition would fail the test of relevance to planning and be unnecessary because any grant of planning permission does not authorise any obstruction to or interference with any PRoW. Having regard to the Framework

- a condition requiring the submission and approval of details of a PRoW management scheme would be reasonable and necessary.
34. A condition in relation to trees is necessary for protection during construction to protect features of visual and ecological value. The conditions on landscaping are necessary to secure in the interests of visual amenity and biodiversity.
35. Conditions regarding noise mitigation and to secure a Construction Environmental Management Plan (CEMP) are necessary to ensure that the effects of construction are minimised so as to not adversely affect the living conditions of the occupants of nearby residents. I have amended the suggested condition, as some of the requirements are onerous. However, I am satisfied that my editing has not substantially altered the overall intent of the condition.
36. A condition to secure the submission and implementation of a Biodiversity Method Statement is required to ensure that the development does not have an adverse impact on and improves local biodiversity.
37. I will impose a condition to secure details of hard and soft landscaping to help assimilate the development into the area and enhance biodiversity.
38. Whilst I recognise that the appeal site is adjacent to a CA the Council has not provided clear justification as to why each of the detailed criteria of their suggested materials condition is reasonable or necessary for all units. I have therefore amended the suggested materials condition which is attached in the interests of preserving the character and appearance of the area.
39. The materials condition for Units 1 and 2 is reasonable to reflect its position within the wider street scene to preserve character and appearance. Similarly, the condition for the window details of Units 5 and 6 is reasonable given their location at the periphery of the site proximate to the CA boundary.
40. The Council suggested a condition that Unit 9 has a 'tax window'. This request is ambiguous as to how this will be achieved in terms of the visual appearance. Accordingly, whilst recognising a need to avoid overlooking of properties, I will impose a condition which requires the precise details of the elevational treatment to be submitted to the local planning authority for approval and subsequent implementation.
41. In the interests of highway safety conditions would secure an appropriate access, parking and turning arrangements, including those for construction vehicles. I have not included the suggested condition for a route for construction traffic as whilst the operatives may be able to control the use of their own vehicles on the public highway, how deliveries from other companies should be routed or the times such deliveries would arrive would be unenforceable.
42. Conditions to manage any risks associated with surface water and drainage are necessary to ensure no environmental harm arises.
43. A lighting condition is necessary in order to prevent light pollution and protect biodiversity.
44. Further to the request for a condition for the provision of a fire hydrant no further justification has been provided. In the absence of clear and precise reason for this condition having regard to the PPG I do not consider that this

request meets the tests. The Council has suggested a condition for Units 10, 11 and 12 (all single storey dwellings) to be fitted with a wet room/level access shower. No further explanation of this requirement is provided. Based on the evidence before me I am not satisfied that the condition would be reasonably necessary and relevant to planning and as such would not meet the tests as set out within the PPG.

Conclusion

45. For the reasons given above, I conclude that the proposal accords with the development plan and the Framework. The appeal is therefore allowed.

R. Gee

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan - 0025-000-03 F
Footpath Overlay - 0025-001-00
Site Plan - 0025-010-04
Site Plan - 0025-100-16
Site Plan - 0025-101-05
Site Plan - 0025-102-04
Site Plan - 0025-103-02
Site Plan - 0025-104-00
Floor Plans Unit 03 & 04 - 0025-110-06
Floor Plans Units 01, 02, 05 & 06 - 0025-111-04
Floor Plans Units 07, 08, 13 & 14 - 0025-113-04
Floor Plans Units 09 & 15 - 0025-114-04
Floor Plan Units 10 & 12 - 0025-117-00
Floor Plans Unit 11 - 0025-118-00
Bike and Bin Store - 0025-120-00
Street Elevations - 0025-300-02
Unit 3 & 4 Elevations - 0025-310-05
Unit 1 & 2 Elevations - 0025-311-05
Unit 07 & 08 Elevations - 0025-313-04
Unit 15 Elevations - 0025-314-04
Unit 10 Elevations - 0025-317-04
Unit 11 Elevations - 0025-318-04
Unit 05 & 06 Elevations - 0025-321-04
Unit 13 & 14 Elevations - 0025-323-04
Unit 12 Elevations - 0025-327-04
Unit 09 Elevations - 0025-328-04
Hard and Soft Landscaping Plan - 10480L.HSLP.001 Rev F
Swept Path Analysis for Refuse Vehicle
Spaldwick Drainage Assessment Revision F – Fenland Hydrotech

3. No development, demolition, clearance, or preparatory operations (including excavations and archaeology), hereafter referred to as "the works", shall commence on site in connection with the development hereby approved, until a Tree Protection Plan has been submitted to, and approved in writing by the Local Planning Authority. The approved Tree Protection Plan shall be implemented before any equipment, machinery, or materials are brought on to the site in connection with the works, be retained intact for the duration of the construction works and only be removed or altered with the prior written approval of the Local Planning Authority.

Any trees, shrubs or hedges covered by the agreed protection measures, which die or become severely damaged either from natural causes or as a result of the construction works; during the construction works or within five years from the completion of the construction works, shall be replaced with trees, shrubs or hedge plants of similar size and species, unless otherwise agreed in writing with the Local Planning Authority. Replacement planting to be undertaken by the end of the next available planting season (Planting season is 1st November to 31st March).

4. No development, demolition, clearance or preparatory operations (including excavations) and the siting of site huts and WCs, shall commence on site in connection with the development hereby approved until a programme of monitoring (tree protection) has been submitted to, and approved in writing by the Local Planning Authority. Monitoring shall be undertaken in accordance with this agreed programme for the duration of construction and associated works unless the Local Planning Authority gives written approval to any variation.

5. No demolition/development shall commence until the applicant, or their agents or successors in title, has implemented a programme of archaeological work, commencing with the evaluation of the application area, that has been secured in accordance with a Written Scheme of Investigation (WSI) that has been submitted to and approved by the Local Planning Authority in writing. For land that is included within the WSI, no demolition/development shall take place other than under the provisions of the agreed WSI, which shall include:

- a. The statement of significance and research objectives;
- b. The programme and methodology of investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works;
- c. The timetable for the field investigation as part of the development programme;
- d. The programme and timetable for the analysis, publication & dissemination, and deposition of resulting material and digital archives.

6. No development including preparatory works, shall commence until details of measures indicating how additional surface water run-off from the site will be avoided during the construction works have been submitted to and approved in writing by the Local Planning Authority. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved measures and systems shall be brought into operation before any works to create buildings or hard surfaces commence.

7. Prior to the commencement of development, including site clearance works, a Construction Environmental Management Plan (CEMP), shall be submitted to and approved in writing by the Local Planning Authority. The CEMP shall include, but not be limited to, the consideration of the following aspects of construction:

- a. Construction programme.
- b. Contractors' access arrangements for vehicles, plant and personnel including the location of construction traffic routes, details of their signing, monitoring and enforcement measures, along with location of parking for contractors and construction workers.
- c. Construction hours.
- d. Delivery times for construction purposes.
- e. Soil Management Strategy including a method statement for the stripping of top soil for reuse; the raising of land levels (if required); arrangements (including height and location of stockpiles) for temporary topsoil and subsoil storage to BS3882:2015 (or its subsequent revision); and a strategy for dealing with unexpected contamination.
- f. Noise monitoring method including location, duration, frequency and reporting of results to the LPA in accordance with the provisions of BS 5228-1:2009+A1:2014 (or its subsequent revision).
- g. Maximum noise mitigation levels for construction equipment, plant and vehicles.
- h. Vibration monitoring method including location, duration, frequency and reporting of results to the LPA in accordance with the provisions of BS 5228-2:2009+A1:2014 (or its subsequent revision).
- i. Setting maximum vibration levels at sensitive receptors.
- j. Dust management and wheel washing measures to prevent the deposition of debris on the highway.
- k. Site lighting.
- l. Drainage control measures including the use of settling tanks, oil interceptors and bunds.
- m. Screening and hoarding details.
- n. Access and protection arrangements around the site for pedestrians, cyclists and other road users.
- o. Procedures for interference with public highways, (including public rights of way), permanent and temporary realignment, diversions and road closures.
- p. External safety and information signing and notices including who to contact in the event of a complaint.
- q. Liaison, consultation and publicity arrangements including dedicated points of contact.
- r. Consideration of sensitive receptors.
- s. Prior notice and agreement procedures for works outside agreed limits.

t. Location of Contractors compound and method of moving materials, plant and equipment around the site.

The CEMP shall be implemented in accordance with the agreed details.

8. No development shall begin until details of the finished floor levels of all buildings and associated external ground levels have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall show the existing and proposed site levels and contours in relation to the adjacent highway, adjacent properties and to existing vegetation and surrounding landform. The submitted details shall include details of levels of all accesses to include pathways, driveways, steps and ramps to above Ordnance Datum (AOD). The development shall be carried out in accordance with the approved details.

9. No laying of surfaces, creation of hard surfaces or erection of a building shall commence until a detailed design of surface water drainage of the site has been submitted to and approved in writing by the Local Planning Authority. Those elements of the surface water drainage system not adopted by a statutory undertaker shall thereafter be maintained and managed in accordance with the approved management and maintenance plan.

The scheme shall be based upon the principles within the agreed Drainage Report, Fenland Hydrotech Ref: FH1529, Rev: F dated: September 2023 and shall also include:

- a. Full calculations detailing the existing surface water runoff rates for the QBAR, 3.3% Annual Exceedance Probability (AEP) 1 in 30) and 1% AEP (1 in 100) storm events including performance of the system when the outfall flap is closed;
- b. Full results of the proposed drainage system modelling in the above-referenced storm events (as well as 1% AEP plus climate change, inclusive of all collection conveyance, storage, flow control and disposal elements and including an allowance for urban creep, together with an assessment of system performance;
- c. Detailed drawings of the entire proposed surface water drainage system, attenuation and flow control measures, including levels, gradients, dimensions and pipe reference numbers, designed to accord with the CIRIA C753 SuDS Manual (or any equivalent guidance that may supersede or replace it);
- d. Full details on SuDS proposals (including location, type, size, depths, side slopes and cross sections);
- e. Site Investigation and test results to confirm infiltration rates;
- f. Details of overland flood flow routes in the event of system exceedance, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants;
- g. Demonstration that the surface water drainage of the site is in accordance with DEFRA non-statutory technical standards for sustainable drainage systems;
- h. Full details of the maintenance/adoption of the surface water drainage systems;
- i. Permissions to connect to a receiving watercourse or sewer;

j. Measures taken to prevent pollution of the receiving groundwater and/or surface water.

10. Prior to the commencement of development, a Noise Mitigation Scheme shall be submitted to and approved by the LPA. The Noise Mitigation Scheme shall be produced by a competent person, to demonstrate that the layout, design and mitigation measures will ensure that internal sound levels from road traffic noise shall not exceed 35dB LAeq 07:00-23:00 in any habitable room or 30dB LAeq 23:00-07:00 and 45dB L Amax 23:00-07:00 inside any bedroom and that sound levels from road traffic noise in any outdoor amenity area shall not exceed 55dB LAeq(1 hour) within the first 5 metres from the building façade to which the amenity area relates. The development shall be carried out in accordance with the Noise Mitigation Scheme and no dwelling shall be occupied until the mitigation measures associated with that dwelling, as identified in the Noise Mitigation Scheme, have been installed. The noise mitigation measures shall thereafter be retained in perpetuity. Where it has not been possible to achieve the aforementioned indoor sound levels with windows open, prior to the commencement of development a detailed Ventilation Scheme shall be submitted to and approved by the LPA.

The Ventilation Scheme shall demonstrate how adequate ventilation and cooling will be achieved for dwellings without undermining the performance of the Noise Mitigation Scheme. A suitable ventilation system would achieve between 2 to 4 air changes per hour for each noise sensitive habitable room. The approved scheme shall be fully implemented in the development and the ventilation measures shall thereafter be retained in perpetuity.

11. No development, other than demolition or site clearance works, shall commence until details of a hard and soft landscaping scheme have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

- a) proposed finished levels or contours; means of enclosure; car parking layouts, means of delineating parking spaces within shared driveways, other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting); proposed and existing functional services above and below ground (e.g. drainage, power, communications cables, pipelines indicating lines, manholes, supports); retained historic landscape features and proposals for restoration, where relevant;
- b) indications of all existing trees and hedgerows on the land and details of any to be retained; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
- c) a landscape maintenance plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas; d) boundary treatments indicating the positions, design, materials and type of boundary treatments to be erected.

12. Prior to commencement of development, a Public Rights of Way Scheme shall be submitted to and approved by the Local Planning Authority. Such scheme shall

include provision for the surfacing, width and gradients of the retained public right of way. The agreed scheme shall be implemented in full in accordance with a timescale agreed by the Local Planning Authority and maintained as such in perpetuity.

13. No development above slab level shall take place until a Biodiversity Method Statement which provides details of how the recommendations contained in the Ecology Technical Note received by the Local Planning Authority on 13/10/2023 will be carried out has been submitted to and approved in writing by the Local Planning Authority. The details shall include but not be limited to: specification, location, timing, an implementation programme, maintenance, and monitoring. The development shall be carried out in accordance with the approved details.

14. No development, other than demolition or site clearance works, shall commence until the crossing of the ditch/watercourse along the frontage of the site has been constructed in accordance with a scheme to be submitted to and agreed in writing with the Local Planning Authority.

15. Notwithstanding the details shown on the plans hereby approved, no development above slab level shall take place until details of all the materials for the external surfaces of buildings to be used in the construction of the development 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.

16. Units 1 and 2, hereby permitted, shall be constructed with an external finish of red brick, string coursing, stone cills and sash windows, the precise details of which shall first be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full and maintained as such in perpetuity.

17. Plots 5 and 6 shall be constructed with sash, the precise details of which shall first have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be maintained throughout the life of the development.

18. No development above the slab level of Unit 9 shall take place until a scheme for the blocking up of the secondary first floor 'window' to the southern elevation has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the agreed details and maintained as such in perpetuity.

19. The access shall be constructed with adequate drainage measures to prevent surface water run-off onto the adjacent public highway, in accordance with a scheme submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be maintained in perpetuity.

20. The access shall be a minimum width of 5m, for a minimum distance of 20m measured from the near edge of the highway carriageway.

21. Prior to the first occupation of the development the junction of the access with the highway carriageway shall be laid out with 6m radius kerbs.

22. Prior to the first occupation of the development the vehicular access where it crosses the public highway shall be laid out and constructed in accordance with the Cambridgeshire County Council construction specification.

23. Prior to the first occupation of the hereby approved dwellings visibility splays shall be provided each side of the vehicular access in full accordance with the details indicated on the submitted plan No 0025-100 rev 18. The splays shall thereafter be maintained free from any obstruction exceeding 0.6m above the level of the adjacent highway carriageway.

24. Prior to the first occupation of the development the proposed on-site parking/servicing and turning area shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan and thereafter retained for that specific use.

25. Prior to the first occupation of the development hereby permitted the offsite highway improvement works based on drawing 0025-100 rev 18 shall be completed to the written satisfaction of the Local Planning Authority.

26. No dwelling shall be occupied until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the Local Planning Authority (The streets shall thereafter be maintained in accordance with the approved management and maintenance details until such time as an Agreement has been entered into under Section 38 of the Highways Act 1980 or a Private Management and Maintenance Company has been established).

27. Upon completion of the surface water drainage system, including any attenuation ponds and swales, and prior to their adoption by a statutory undertaker or management company; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall be carried out by an appropriately qualified Chartered Surveyor or Chartered Engineer and demonstrate that the surface water drainage system has been constructed in accordance with the details approved under the planning permission. Where necessary, details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed by an independent surveyor, with their findings submitted to and approved in writing by the Local Planning Authority.

28. No external lighting shall be provided or installed until details of a lighting scheme have been submitted to and approved in writing by the Local Planning Authority. The lighting scheme will follow guidelines from the Bat Conservation Trust and ILP (Institute of Lighting Professionals) – Guidance Note 08/23: Bats and Artificial Lighting at Night: Appropriate luminaire specifications 4.29.

The scheme shall include but not be limited to the following:

- (a) Luminaire source type (e.g., LED, fluorescent etc.).
- (b) Lighting colour (Kelvin scale).

- (c) Peak wavelength.
- (d) Mounting height and column height.
- (e) Lightguard/shield.
- (f) Timetable of implementation.

The development shall be carried out in accordance with the approved scheme before the development to which it relates is occupied or the use commenced and retained as such.

*****End of Schedule*****

Richborough



Costs Decision Site visit made on 25 June 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th August 2024

Costs application in relation to

Appeal Ref: APP/H0520/W/23/3330136

Land to the East of Ivy Way, Spaldwick PE28 0UN

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by Blenheim Land and Homes Ltd for a full award of costs against Huntingdonshire District Council.
- The appeal was against the refusal of planning permission for construction of 15 no. dwellings with associated access, car parking and landscaping.

Decision

1. The application for an award of costs is allowed in the terms set out below.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. It states examples of unreasonable behaviour include (i) preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations; (ii) failure to produce evidence to substantiate each reason for refusal on appeal and (iii) vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
4. On procedural grounds the appellant cites a lack of co-operation stating that the Local Planning Authority (LPA) concealed relevant information at the planning application stage, particularly the response from the Public Rights of Way Officer (PRoW) and HDC Waste Officer which was not made publicly available until the day before determination and the response from the Urban Design (UD) Officer, which was not made publicly available until a week before determination. The Appellant further alleges that the LPA had falsely suggested that the comments from the PRoW and UD officers had objected to the application, which was not the case and did not give time to the Appellant to respond and did not reasonably give them time to be aware of these comments.
5. On substantive grounds the appellant submits that the LPA has not provided any evidence to substantiate the reasons for refusal, making vague, generalised or inaccurate assertions about a proposals impact which are unsupported by any objective analysis, including highways impacts and flooding. The Appellant puts forward that all reasons for refusal could be dealt with by condition and could not have amounted to informal amendments. In this respect the appellant states that by failing to engage with the applicant

throughout the course of the application to resolve the issues arising with the application this has caused the appeal to come forward.

6. I have had regard to the PPG that indicates at Paragraph 047 that LPA's will be at risk of a procedural claim being made against them for reasons including lack of co-operation and failure to adhere to deadlines. Paragraph 049 of the PPG indicates that LPA's will be at risk of a substantive award being made against them for, amongst other things, vague, generalised or inaccurate assertions about a proposals impact, which are unsupported by any objective analysis.
7. The reasons for the refusal set out in the decision notice are complete, precise, specific and relevant to the application. It also clearly states the policies of the Huntingdonshire Local Plan to 2036 that the proposal would be in conflict with. However, in my view, the appeal statement does not adequately substantiate these reasons.
8. In respect to the first reason for refusal it is clear from the submitted plans that the layout provides for a circular route and that it would not be necessary for refuse vehicles to undertake a reverse manoeuvre within the site to service the properties. Nor has the vague assertion about harm to highway safety been substantiated. Accordingly, I conclude that the LPA behaved unreasonably in assessing the application as being in conflict with the highway safety policies of the development plan and national planning guidance. This has led to unnecessary and wasted expense having to address this matter in their appeal.
9. With regards to flooding and drainage whilst further clarification was sought for the drainage strategy, overall, the consultee raised no objection in principle. Accordingly, such matters could have been dealt via clarification prior to determination or through the imposition of a suitably worded planning condition.
10. In respect of the consideration of the public right of way I have had regard to the evidence provided by both parties. Whilst the policy cited seeks a preference for a separate public footpath from the streets, given the relatively short length of shared surface and the limited scale of the development proposed the LPA has not demonstrated with any clear evidence how the existing public right of way alignment through the site would be unacceptably harmful to pedestrian and highway safety. The re-alignment of a PROW would be secured under a separate regime. As such, I conclude that the LPA behaved unreasonably in assessing the application as being harmful in this regard. This has led to unnecessary and wasted expense having to address this matter in their appeal.
11. On procedural grounds the applicant's claim is that the LPA acted unreasonably in the lack of engagement by not seeking clarification on matters contained in the reason for refusal within the statutory time period for determining the application. The applicant claims that this lack of engagement has resulted in the need to submit an appeal.
12. Whilst I do not dispute that the LPA publicises that it will not entertain amendments to a proposal this is not in the spirit of the National Planning Policy Framework (the Framework) which advocates that in dealing with an application, the LPA should work with the applicant in a positive and proactive

manner based on seeking solutions to problems arising in relation to dealing with a planning application.

13. In this instance the information required was minor in nature to clarify a position. I consider there was sufficient time to seek clarification on these technical matters to determine the application in a timely manner.
14. The LPA issued putative reasons for refusal on grounds that were capable of being dealt with by planning condition. The lack of communication in this respect has had a significant bearing on the outcome of the application, such that an appeal could have been avoided.
15. In the planning judgement, it appears to me that having regard to the provisions of the development plan, national planning policy and other relevant considerations, the proposed development should reasonably have been permitted. The refusal of planning permission therefore constitutes unreasonable behaviour contrary to the guidance in the Framework and the PPG and the appellant has been faced with the unnecessary expense of lodging the appeal.

Conclusion

16. For the reasons given above I therefore find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the PPG, has been demonstrated and that a full award of costs is justified.

Costs Order

17. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Huntingdonshire District Council shall pay to Blenheim Land and Homes, the costs of the appeal proceedings described in the heading of this decision such costs to be assessed in the Senior Courts Costs Office if not agreed.
18. The applicant is now invited to submit to Huntingdonshire District Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

R Gee

INSPECTOR