



Appeal Decision

Hearing held on 20 August 2024

Site visits made on 19 and 20 August 2024

by **L N Hughes BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9 September 2024

Appeal Ref: APP/Y2003/W/24/3345288

Land off Oak Avenue, Scawby DN20 9BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by The Trustees of Lt Col R Sutton Nelthorpe's Will Trust 1 May 2002 against the decision of North Lincolnshire Council.
 - The application Ref is PA/2020/1482.
 - The development proposed is outline planning permission for up to 60 dwellings with appearance, landscaping, layout and scale reserved for subsequent consideration.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is in outline with all matters reserved except for access. The submitted plans are therefore illustrative only.
3. The parties have had the chance to comment on the Secretary of State's July 2024 Written Ministerial Statement 'Building the homes we need', and the Government's consultation on proposed planning system changes, including reforms to the National Planning Policy Framework ('the Framework').

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the village, including with regard to the preservation or enhancement of the Scawby Conservation Area (CA).

Reasons

5. The site comprises 2 fields partly bounded by hedgerows. The smaller is meadow grassland, bounded to the north and south by dwellings, and to the west by a Co-op store. It incorporates a strip of land running alongside the Co-op to West Street. The larger eastern field is arable farmed, bounded by dwellings to the east, south, and partly to the west. Its northern boundary runs alongside a small balancing pond, and a copse of trees forming part of Nutshell Paddock, predominantly a large open grassed field with scattered trees. Nutshell Paddock is also under the appellants' ownership.
6. The proposal is for up to 60 dwellings, with the main vehicular access from Mill Croft. For highway reasons the Oak Avenue access would be restricted to 9 dwellings.

Spatial Strategy

7. The site lies within the Scawby settlement boundary. Scawby is defined as a 'larger rural settlement' in the 2019 Settlement Survey, which are settlements unsuitable for substantial growth, but capable of accommodating an allocation either within or adjoining them. The Council considers that the proposed dwellings would be a generally suitable location for housing having regard to the spatial strategy for the area. This includes the relative sustainability of Scawby in terms of its facilities and services, and access to those elsewhere. The spatial strategy is a sequential approach to the location of new development, set by the North Lincolnshire Core Strategy (CS) Policy CS2.
8. The reason for refusal references to the conflict with Policies CS2 and CS7 are therefore only in relation to those parts of the policies which refer to character and appearance, rather than the principle of development. I note that although the new North Lincolnshire Local Plan ('the new LP') was submitted for examination in November 2022, with public hearings expected in 2025, the Council has not relied on its policies for the purposes of this appeal.
9. I see no reason to come to a different conclusion with regard to the site being a generally suitable location for housing in regard to the spatial strategy.

Scawby Conservation Area

10. The appeal site's northern boundary runs alongside the Scawby Conservation Area (CA) boundary. Paragraph 205 of the Framework requires that great weight should be given to the conservation of such designated heritage assets. The CS Policy CS6 also seeks to protect, conserve, and enhance North Lincolnshire's historic environment, as well as the character and setting of areas of acknowledged importance including CAs.
11. The significance of the CA lies in Scawby Hall and the associated historic village core, formed out of the post-enclosure development of the Nelthorpe family estate. It is centred on the village green and almshouses in Church Street, and along West Street and Vicarage Lane. Buildings are of limestone and old red brick, with boundary walls of limestone rubble or red brick with curved brick copings. The remainder of the CA is composed of a combination of late 18th and 19th century vernacular stone two storey cottages, with later infill development of the second half of the 20th century. The CA has a spacious rural character formed by its small fields and public open spaces, buildings set within generous gardens, and many mature trees and areas of woodland.
12. Nutshell Paddock forms one of these fields, and therefore is of high significance to the CA. The appeal proposal would bring change within its setting. However, the impact would be relatively minimal, because of the green infrastructure separation created by the existing and proposed sustainable drainage system (SuDS) areas, trees, and boundary hedging. Importantly, the paddock itself functions as the original open green space that is the setting for the historic buildings on Church Street and Chapel Lane, a role which would be retained. The new dwellings would be limited in views from Chapel Lane, a viewpoint already framed and terminated by existing dwellings.
13. There are also several listed buildings and non-designated heritage assets within the CA. I have considered their relationships with the appeal site, and

am comfortable that there would be no harm to their settings due to the separation distances, and intervening built form and vegetation.

14. The Scawby CA Supplementary Planning Guidance (SPG) requires new development to respect existing vistas and landmarks, and to protect existing views, most notably to the Church tower, almshouses, and across the open fields in the centre of the village. Although the reference to 'fields' may be taken to include the appeal site fields, they lie outside of the CA, and for the reasons outlined above, I do not find any conflict with this SPG principle. The Council makes the same conclusion.
15. I therefore find that the significance of the CA would be preserved overall, with no policy conflict in this regard.

Design

16. Although the submitted plan is only illustrative, I explored at the Hearing whether any design parameters are relatively fixed. This was in order to gain more certainty over the proposal's impact, and also whether a condition would be needed to ensure any such certainty, were I to allow the appeal.
17. The SuDS area is required to be located as shown, being the lowest part of the site. The vehicle access points are fixed for the first 10m, with the Oak Avenue access to not serve more than 9 dwellings. The general location for the pedestrian access to West Street and to Nutshell Paddock are fixed. The public amenity space shown is the minimum required size, and while it could be in a different location, its placing allows a linkage with the greenspace to the north. Reference was also made to the design need for wide tree-lined verges, and hedgerow retention.
18. It is therefore difficult to envisage a vastly different road layout which could suitably accommodate 60 dwellings, and thus my determination is made on this basis. However, I have taken the dwelling heights to be illustrative only. This is because although the indicated bungalows are a design response to adjacent dwellings and to views from West Street, this would be part of the overall housing mix to be considered under the reserved matters.

Character and Appearance

19. The 2003 North Lincolnshire Local Plan (LP) Policy LC11 allocates the site as an Area of Amenity Importance (AAI). The first part of LC11 permits development in AAIs only where it would not adversely affect their open character, visual amenity, wildlife value, or compromise the gap between conflicting land uses. Its justification text explains that AAIs help to improve the image of North Lincolnshire, contribute to local distinctiveness, and assist greatly in promoting communities' health and welfare.
20. The new LP proposes to retain the site's AAI allocation under a new terminology of 'Important Open Space', supported by evidence in the Important Open Space Assessment (2022). However, as the new LP has not yet progressed to public hearings stage and the outcome is uncertain, I give this proposed allocation very limited weight, particularly as the appellants have formally objected.
21. The appellants consider that the high quality of the scheme design would comply with Policy LC11. This is because the policy also identifies that where development is permitted, measures shall be taken to minimise its impact, or

- where necessary, to make a positive contribution to the AAI. These measures include the on-site greenspace and wide verge planting strips acting as green linkages, the low bungalow heights, and allowing for an open and pleasant view. I address the benefits of the proposal under other matters.
22. These design aspects would indeed help to somewhat minimise the proposal's overall impact on the open character of the site. However, Policy LC11 would appear to have little purpose, if AAIs can be developed in a very similar manner as for any other non-allocated land. The required mitigation referred to in LC11 therefore only follows, if the principle of development is acceptable.
23. There have been a few changes which have directly affected the Scawby AAI since its allocation. A small part of Nutshell Paddock was fenced off to form a garden for the former chapel, although openness and views across the paddock are retained. The Co-Op was developed off West Street, blocking a large portion of the 'important view' across the appeal site, identified on the CA SPG Townscape Analysis Map. The recent development of Francis Gardens directly outside of but adjacent to the AAI, has also blocked some views across the appeal site from Chapel Lane and the village hall, with its dwellings prominent in many viewpoints.
24. The appellants consider this changed context has reduced the importance and visibility of the AAI since its allocation, and thus lends support to the appeal proposal. However, I find on the contrary that the remaining AAI has gained increased importance. This is particularly the case for the now constrained important view from West Street, whereby the openness of the fields can still be perceived to either side of the Co-op.
25. The site has no recreational or public function, and limited ecological value. Notwithstanding this, openness is its defining spatial quality, which contributes to the character of this part of the village and provides relief from its built form. The Council has referred repeatedly to matters of character being relatively intangible and experiential, but nonetheless appreciated daily by residents and visitors.
26. The appeal site is large within the context of the village layout. The Council identifies it as being circa 46% of the remaining undeveloped AAI. I find this to be a high proportion of a site specifically identified as having particular local importance for character and visual amenity, notwithstanding the parts which would remain as undeveloped greenspace. It would effectively join up the adjacent estates to create a contiguous development mass.
27. The Scawby Village Design Statement (VDS) identifies that it was generally thought by the village residents that any major building development, especially on the inner green areas, will totally destroy the rural character of the village. The numerous local resident objections to the appeal proposal confirms that this is still a strongly held view, and the importance of the ability to access these views of open space and sky. The AAI attracts people to live in Scawby, and differentiates it from other nearby villages, being a key element of the village feeling and a tangible link to its agricultural setting.
28. I identified above that the new dwellings would be limited in views across Nutshell Paddock. However, from the other public viewpoints off West Street, Oak Avenue, and Mill Croft, the open character and sense of place would be significantly reduced. The built form across the site would be very and

- immediately apparent, even against the existing housing backdrops and with the proposed tree-lined avenues to soften its impact.
29. The planning system does not protect individual views. The indicative relationships between the existing and proposed dwellings also suggest the development would not be overbearing to the extent of causing harm to any individual private outlook.
30. However, existing residents would experience a significant and obvious loss of a sense of openness and a sense of place from within their properties. Although the appellants highlighted that many dwellings only have gable ends facing the site, it was apparent on my site visit that several of these have incorporated side windows or conservatories which specifically benefit from the open views. Almost all of the surrounding houses therefore have windows which would overlook the new dwellings at close range either directly or obliquely, and thus lose the experiential openness of field and sky views. This would also be experienced from many of their gardens.
31. I find the scale of this change to be such that there would be a cumulative and communal harmful impact. When considered alongside the impact from the public viewpoints, there would be a significant adverse effect on the site's open character, visual amenity, and contribution to local distinctiveness.
32. Overall, the proposal would therefore cause significant harm to the character and appearance of the village, to which I give substantial weight. It would thus conflict with Policy LP11 in this regard. It would also conflict with the LP Policies DS1, H5, and H8, and the CS Policies CS2, CS5, CS6, and CS7. Together and amongst other matters, these require that development does not result in the loss of open space, retains features and views which make an important contribution to the character of the site and the surrounding area, is in keeping with the scale and distinctive character of the settlement, and should contribute to creating a sense of place.
33. The proposal would also conflict with the Framework paragraph 135, requiring development to be sympathetic to local character and history, including the surrounding built environment and landscape setting, and to maintain a strong sense of place.

Other Matters

34. The Framework seeks to significantly boost the supply of homes, and paragraph 70 supports the development of windfall sites. The housing mix would be determined at reserved matters stage, but I accept it to very likely include bungalows and a range of house types and sizes, which anecdotally is needed in the village.
35. The proposal would comply with the overarching spatial strategy for new housing, being within the development limits in a relatively sustainable location. The Council's published housing land supply statement for the period 2023 to 2028 demonstrates a supply of 6 years and 10 months. The Council only needs to demonstrate a 4 year supply, for which a surplus of 1,070 dwellings is suggested.

36. The Government's consultation on changes to the Framework includes a spreadsheet¹ indicating a large increase to the North Lincolnshire housing requirement. However, while this consultation indicates a broad direction of travel to increase housing nationally, its early stage does not provide any specific support in favour of the proposal. Indeed, the spreadsheet specifically identifies that all figures presented should not be considered as definitive for local planning decision or plan making.
37. The proposal would provide 6 affordable dwellings. This amount is relatively small-scale, and any particular local need has not been specified beyond that raised within general discussions with village residents. Overall, I give moderate weight to the housing benefits from up to 60 new dwellings in this location, and moderate weight to the benefit of affordable housing.
38. There would also be social and economic benefits from local construction, and from the local expenditure and demand for local services by the additional residents. Very little evidence has been put before me that any existing services are struggling for custom, but I accept that additional patronage would be a general improvement to the local economy. These benefits would be of moderate scale, to which I give moderate weight.
39. Pedestrian and cycle access to the village's main services and facilities would be improved by the new West Street link, and through Nutshell Paddock to Chapel Lane. The appellants consider this would reduce vehicular trips, particularly to the school. However, the village's small size does not require excessive current walking routes, nor has it been suggested that these are hazardous or unpleasant. The current walking distance would only significantly reduce from few of the roads to the site's east and south. I am therefore unconvinced that the new links would noticeably reduce vehicle trips, such that I give this minor weight.
40. Nutshell Paddock would become additional publicly accessible land, and although inappropriate to prescribe specific details at this point, could include aspects such as benches and new planting. I give this benefit moderate weight. The appellants also suggest the benefit of this providing a permanent open backdrop to the CA and its historic buildings. However the land already serves this function, which is protected by its position within the CA, and so this is a neutral matter.
41. Biodiversity net gain would be an environmental benefit, although as existing biodiversity is minimal, a 10% increase would only result in low biodiversity overall. A much higher figure has not been suggested with any certainty at this outline stage, and I therefore give biodiversity improvements minor weight in favour.
42. The appellants consider that housing would make an effective use of the land, as supported by the Framework. This is because it is difficult to viably farm it, including due to poor access for large machinery, and in order to minimise conflict with residents. There have also been resident complaints about dust and mud. I find this to be a minor public benefit, to which I give minor weight.
43. Surface water run-off would be discharged to individual soakaways and into the SuDs area. The proposal would result in a likely minor betterment to drainage

¹ Outcome of the proposed revised method.

issues and potential flooding arising from Nutshell Paddock, to which I give minor weight.

44. There is an existing local foul sewage capacity issue at the Hibaldstow Water Recycling Centre, resulting in the Environment Agency's objection. However, Anglian Water confirmed its legal duties for the removal of waste flow would be fulfilled, with improvement works anticipated for completion in mid-2026. A Grampian condition could ensure for no dwellings to be occupied until this had been undertaken, or for an alternative on-site solution to be used. I therefore find no harm would arise from water management from the site.
45. Contributions towards health, education, recreation, and open space, are included in a signed S106 agreement, based on calculations relating to the number of dwellings proposed. I am satisfied that these are necessary, directly related to the proposed development, and reasonable, and so form an integral part of the proposal. However, although they would create a perceptible benefit for existing residents, particularly the recreation and open space improvements, they are all policy requirements required in order to mitigate the proposal's impact on such infrastructure. As such they are in effect a neutral matter in the planning balance.

Conclusion and Planning Balance

46. The proposal would comply in principle with the overall spatial strategy, and the significance of the CA would be preserved. There would be benefits of moderate weight from the construction and occupation of 60 new dwellings in a relatively sustainable location, incorporating affordable housing. Cumulatively there would also be smaller-scale benefits of minor weight.
47. However, a development of up to 60 dwellings would harm the open and distinctive character and appearance of Scawby to a significant extent, and this would be experienced across the village. The proposal would conflict with several development plan policies. I ultimately find that the significant weight of this harm would not be outweighed by the benefits.
48. In conclusion therefore, the development would conflict with the development plan as a whole. With no other material considerations outweighing this conflict, for the reasons given above I conclude that the appeal is dismissed.

L N Hughes

Inspector

APPEARANCES

FOR THE APPELLANTS:

Mr Robin Battle	Appellant
Mr Tom Sutton Nelthorpe	Appellant
Mrs Janet Hodson	JVH Town Planning Consultants Ltd
Mr Mark Jones	Jas. Martin & Co

FOR THE LOCAL PLANNING AUTHORITY:

Mr Paul Skelton	Senior Planning Officer
Miss Millie Arden	S106 Officer

INTERESTED PERSONS:

Steve Hanson	Resident
Tom Hanson	Resident
Mike Campion	Resident
Mike Russell	Resident
Trevor Barker	Resident

DOCUMENTS SUBMITTED AT/FOLLOWING THE HEARING

1.	Appellants	Outcome of the Proposed Revised Method - National Planning Policy Framework consultation
2.	Appellants	Extract from the North Lincolnshire Settlement Survey 2018 (2019 Revision)
3.	Appellants	Suggested list of conditions