



Appeal Decision

Hearing held on 18 June 2025

Site visit made on 19 June 2025

by Ann Veevers BA(Hons) Dip(BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2025

Appeal Ref: APP/N2535/W/24/3355400

Dawkins Barn, Pelham Crescent, Keelby DN41 8EW

- 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 Mr Robin Evans of TR Property Ltd against the decision of West Lindsey District Council.
 - The application Ref is 147537
 - The development proposed is residential development comprising 36no. dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the address of the appeal site from the Council's decision notice, which I note is also used by the appellant in the appeal form, the Statement of Common Ground and was used for the purposes of notification of the application. As such, although different to the address provided in the planning application form, I am satisfied it accurately reflects the location of all of the appeal site and that no party will be prejudiced by my use of it.
3. The application reference in the banner heading above is that given in the appellant's original decision notice. The Council have clarified that, due to the use of a different operating system since the decision, the application reference is now WL/2024/00050. I am satisfied that references to either in the appeal submissions are one-and-the-same.
4. Additional documents were submitted at the hearing, as set out at the end of this decision. All parties agreed to the submission of the documentation. I am satisfied that in all cases the material was directly relevant to, and necessary for my decision and that no prejudice would be caused by taking the documents into account.
5. The National Planning Policy Framework (the Framework) was revised, and the 2023 Housing Delivery Test (HDT) results were published in December 2024, after the appeal was submitted. As these could affect the issues and matters in this case, the Council and the appellant were invited to make further comments. My decision reflects the latest version of these documents, and the responses received on them.
6. A signed and executed planning obligation in the form of a unilateral undertaking (UU) was submitted prior to the hearing that included provisions relating to

affordable housing and allotments but was missing plans. Having agreed with the parties that the missing plans could be provided after the hearing closed and that the Council should be afforded an opportunity to provide a written response to the UU which they were unable to address during the hearing, a final completed version of the UU was received on 25 June 2025 in accordance with an agreed timetable. I have had regard to the completed UU in my decision.

7. The proposed development was refused for three reasons. Following information submitted with the appeal by the appellant, the Council confirmed in its Statement of Case and the Statement of Common Ground (SoCG) that it no longer intended to offer evidence in relation to the second and third reasons for refusal. These relate to (2) the effects of the proposal on archaeological remains and the setting of nearby listed buildings, and (3) the effect of the proposal on great crested newts. In doing so, the Council confirmed at the hearing that, subject to the imposition of suitably worded conditions, the appeal could no longer be defended/resisted for these reasons.
8. Nevertheless, section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), places a statutory duty on me to consider the desirability of preserving a listed building or its setting for myself.
9. As the proposal has potential to affect great crested newts, a European Protected Species, I must also have special regard to section 40(1) of the Natural Environment and Rural Communities Act 2006 (as amended) the provisions of the Wildlife and Habitats Act 1981 and Regulations 9(1) and 9(3) of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitat Regulations) which seek to ensure that protected species and their habitats are safeguarded.

Main Issues

10. Taking account of the above, I consider the main issues are:
 - Whether the site is a suitable location for housing, with particular regard to the local development plan spatial strategy;
 - The effect of the proposed development on the character and appearance of the area, with particular regard to local policies relating to Important Open Space and landscape;
 - Whether the proposed development would preserve the settings of nearby listed buildings or any features of special architectural or historic interest which they may possess;
 - The effect of the proposed development on great crested newts (GCN); and,
 - Whether any harm identified, including conflict with the development plan, would be outweighed by other material planning considerations

Reasons

Location

11. Keelby is defined as a 'Large Village' in the settlement hierarchy set out within Policy S1 of the Central Lincolnshire Local Plan, adopted April 2023 (the CLLP) where an appropriate level of growth via sites allocated in the CLLP will be

focused. The appeal site is not an allocated housing site. Policy S1 goes on to state that beyond site allocations, residential development will be limited to that which accords with Policy S4.

12. Policy S4 includes several elements which are, to some extent, intertwined with character and appearance. Part 1 of Policy S4 sets out that in order to support their role and function, large villages will experience limited growth through allocated sites, or on unallocated sites in 'appropriate locations' within the 'developed footprint' of the village that are typically up to 10 dwellings. The policy also states that proposals on unallocated sites not meeting these criteria will not generally be supported unless there are clear material planning considerations that indicate otherwise.
13. The appellant argues that the word 'typically' would not preclude development above 10 dwellings and I agree, even if such development would not generally be supported. However, 36 dwellings would, in my opinion, be far in excess of what would reasonably be construed to be 'typically' up to 10 dwellings. Therefore, the proposal would not meet this criterion of Part 1 of Policy S4.
14. Neither would the proposal gain support from Policy 2b of the Keelby Neighbourhood Plan 2023-2024, made May 2023 (KNP) in relation to its scale. This states that residential development will be supported if it fills a gap within the existing developed footprint of Keelby (as defined by the CLLP) and, amongst other things, is for 10 homes or less.
15. There is disagreement between the parties in relation to other criteria for unallocated sites set out in Part 1 of Policy S4 of the CLLP, namely whether the site is an appropriate location within the developed footprint of the village.
16. 'Developed footprint' is defined in the glossary to the CLLP as the continuous built form of the settlement and, amongst other things, it states that it excludes individual buildings or groups of dispersed buildings which are clearly detached from the continuous built up area; gardens, paddocks and other undeveloped land within the curtilage of buildings on the edge of the settlement where land relates more to the surrounding countryside than to the built up area of the settlement, and agricultural buildings and associated land on the edge of the settlement.
17. There is no defined settlement boundary to Keelby in the CLLP or NP. As such, an assessment of whether or not the appeal site is considered to be within the developed footprint of the village, is a matter of planning judgement.
18. From the evidence, both main parties agree the part of the appeal site that includes Dawkins Barn and its associated hardstanding would be within the developed footprint of the village. From observations at my site visit, I also agree since this part of the site is bound on two sides by existing housing, by housing on the opposite side of Pelham Road and does not extend into open land any further than existing rear garden boundaries off West View Close/Churchill Avenue.
19. However, the remainder of the appeal site comprises a parcel of allotment land accessed off Brocklesby Road and a large rectangular parcel of land described as grazing land/paddock accessed past Dawkins Barn. I heard that this land was originally used for agricultural purposes but subsequently had been used for the grazing of horses. At the time of my site visit there were no animals grazing on the

land and it appeared to have had a cut of grass. Regardless, the land is undeveloped.

20. There is a continuous ribbon of development along the south side of Mill Lane facing towards the appeal site and residential development immediately to the east of the site. However, in views towards the west, when at the corner of Pelham Crescent and Mill Lane and beyond the junction of Yarborough Road and Brocklesby Road, the appeal site, together with the strip of open land between the appeal site and the A18, Barton Street, are not seen as part of the continuous built form of the settlement.
21. The appeal site forms part of a clearly visible buffer of open land between the built edge of Keelby and Barton Street, regardless of the presence of The Old Coaching House at the corner of Barton Street and Mill Lane. Although the busy Barton Street provides a strong visual barrier on the edge of Keelby between open countryside to the west and the settlement, it does not define the boundary of the settlement. Although I consider this road is a contributing factor to the appeal site appearing to relate more to the built up area of the settlement, rather than to the surrounding countryside, on the evidence before me and my own observations, the appeal site is an area of open land which does not sit within the developed footprint of the settlement.
22. In terms of an 'appropriate location', a definition is also provided in the CLLP. It includes that, the site, if developed, should retain the core shape and form of the settlement and not significantly harm the character and appearance of the settlement or its rural setting, or the character and appearance of the surrounding countryside.
23. The argument is made by the appellant, and as I heard at the hearing, that the appeal site appears more connected to the built-up character of the village and would maintain its nucleated form. The appellant's Landscape and Visual Impact Assessment (LVIA)¹ sets out that whilst the appeal site is physically open in a landscape spatial sense, it lies between land uses that are part of the settlement, is divorced from the surrounding agricultural landscape and makes no notable contribution to the defined landscape character of the area. As such, it does not read as part of the swathe of open countryside that lies beyond Keelby but relates more closely to the settlement itself. Whilst I agree with this assessment, it does not mean the site is within the developed footprint of the settlement.
24. When viewed from longer public vantage points to the north, west and south, the visual impact of the proposed development would be moderated by the fact that the site lies at a lower level in the landscape and/or due to intervening vegetation, and because views would be taken against the existing built development of Keelby as a whole. The proposed development would be clearly visible when viewed from the junction of Brocklesby Road and Barton Street where there is a public bench facing towards the site. However, it would be seen against the backdrop of existing development and would be somewhat screened by proposed landscaping. Importantly, a sloping strip of open land would remain between the site and Barton Street.
25. There would be a very noticeable change to the character and appearance of the area when viewed within properties and gardens abutting the site to the east and

¹ Landscape and Visual Impact Assessment, David Jarvis Associates, 8 November 2024

for users of the allotments. But, whilst sensitive from the point of view of the occupiers of those properties and the allotments, these are not public views from which the overall landscape impact would be observed. Furthermore, the alignment of the proposed hedgerow along the west boundary of the site to match the boundary of the existing allotments would retain the core shape and form of the settlement. Thus, in this context and the limited intervisibility between the site and the surrounding countryside, the impact of the proposal on public views would be diminished.

26. Nevertheless, while these factors may weigh in favour of my determination as to whether the proposed development would be in an appropriate location, the definition of 'appropriate location' in the CLLP also carries the caveat that the location of the proposal should not conflict, when taken as a whole, with national policy or policies in the CLLP. A planning balance is therefore required in this assessment, to which I return to later in my decision.
27. Although the appeal site is not within the settlement's developed footprint, it is immediately adjacent to the developed footprint and is not allocated for residential development. As such, the support for residential development on such sites set out in Part 3 of Policy S4 does not apply in this case as the proposed development is not a first homes exception site or exclusively for a rural affordable housing exception site.
28. To conclude on this main issue, while the proposed development would meet some criteria set out in the CLLP definition of an appropriate location, this does not alter the fact that it would not be within the developed footprint of the settlement and would be significantly more than 10 dwellings. Consequently, the proposal would conflict with Part 1 of Policy S4 of the CLLP, unless there are clear material planning considerations that indicate otherwise. For the same reasons, it would conflict with Part 1 (a) of Policy 2b of the KNP. The proposal would also conflict with Policy S1 of the CLLP which seeks that an appropriate level of growth in large villages is accommodated via site allocations and development that accords with Policy S4. I consider the weight to be given to this conflict under the Planning Balance below, as well as the balancing exercise referred to above in relation to the definition of an appropriate location.

Character and appearance

29. The appeal site includes a large parcel of open grassland designated as Important Open Space (IOS) in the CLLP. This area contains a large centrally located pond with willow trees along one edge and a dense group of trees and scrub close to Dawkins Barn. Several individual trees are located along the east boundary of the IOS, the majority of which are within the gardens of adjoining residential properties.
30. Policy S65 of the CLLP states that IOS is safeguarded from development unless it can be demonstrated certain criteria are met. The appeal site is not publicly accessible, thus only criterion (a) is relevant. This requires that there are no significant detrimental impacts on the character and appearance of the surrounding area, ecology and any heritage assets.
31. Policy 1 of the KNP seeks to protect the rural character and distinctiveness of the Parish and states that development should take account of, amongst other things, Important Green Spaces and the wider context of the area. Important Green

Spaces are shown on a map in Appendix 3 of the KNP as including IOS, Local Green Spaces and Village Green. The majority of the appeal site is identified as IOS. The allotments are identified as Local Green Space.

32. Policy 5 of the KNP seeks, along with other things, that development maintains the rural character of Keelby, and insofar as it relates to this case, enhances existing environmental assets such as locally valued landscapes and paths. That part of the appeal site identified as IOS is also shown in Appendix 7 of the KNP as a locally valued landscape (8-Barton Street-Paddock and Pond). The proposal would retain the allotment land but would result in the loss of land designated as IOS.
33. There is disagreement between the parties about the functional and aesthetic value of the appeal site as IOS. The Council argue that the appropriate forum to have challenged the IOS designation was during preparation of the CLLP and I note from the evidence, that the Council took a decision to reject a residential allocation on part of the appeal site and instead to designate the wider parcel of land as IOS. The reasons for this are set out in the Residential Allocations Evidence Report 2021 and relate to heritage constraints and highway issues rather than the value of the site as open space. However, I recognise that an IOS evidence report² and IOS methodology and review³ provide the justification for the designation of part of the appeal site as IOS. The appellant confirmed at the hearing that they made no representations to the Council during consultation stages of the CLLP in this regard.
34. Despite its IOS designation, Policy S65 of the CLLP does not preclude development on the land. The undeveloped, natural attributes of the appeal site form an important function in the visual transition between the settlement and the open countryside beyond and in reinforcing the rural nature and location of the settlement and allows views through to the surrounding countryside. However, the appellant's LVIA demonstrates to me that the appeal site does not incorporate many qualities or characteristics identified in the National, Regional or Local Character Areas⁴ within which the site sits or the criteria for which the designation of IOS was assessed.
35. In terms of landscape character, my site visit encompassed a number of viewpoints set out in the LVIA and suggested by the Council and local residents where it had been identified that the site would be visible. Based on the evidence before me and what I saw, the appeal site is not representative of the host landscape types. With regards the IOS designation criteria, the site is not publicly accessible and does not provide a recreational value, neither does it provide an open area within an otherwise built-up setting.
36. Nevertheless, that part of the appeal site designated as IOS is a parcel of land devoid of development containing a pond, trees and hedgerows, and in this respect, contributes to the localised pattern of vegetated gaps in and around the village. I also recognise that the local community consider the site has value in, amongst other things, its visual openness. Indeed, there are many representations from members of the public explaining the value that they place on the site in

² Central Lincolnshire Policy 65 Important Open Space Evidence Report, March 2022

³ Central Lincolnshire Local Plan Review Important Open Spaces Methodology and Review, March 2022

⁴ National Character Area No 42: Lincolnshire Coast and Marshes, 2015; East Midlands Regional Character Assessment (204): Chalk Wolds (Group 7); West Lindsey Landscape Character Assessment (1999)

visual and well-being terms. In this context, the site makes a positive contribution to the overall character and appearance of the area.

37. The development of 36 dwellings and infrastructure on land that is currently free from development and provides an, albeit not publicly accessible, verdant and open area, would intrinsically alter the use and appearance of the site. It would result in the erosion of a parcel of semi-rural land that makes a valuable contribution to the IOS designation.
38. However, for the reasons outlined in my consideration of the other main issue above, the visual effect of the proposal would be tempered by the site's location at a lower land level than Barton Street, the backdrop of existing dwellings, intervening hedges and the strip of land that would remain between the site and Barton Street which would ensure a visual buffer of open land to the settlement edge would be maintained. Proposed landscaping, although limited in depth along the north and west boundaries, would also, in time, screen views to varying degrees depending on the time of year.
39. I acknowledge the proposal would result in the loss of IOS and there would be some adverse visual incursion upon a locally valued landscape, but only to the extent of many other undeveloped edge of built settlement sites. From the information before me and my own observations, whilst the proposal would not have an overly discernible visual impact on the wider landscape setting of the settlement, there would be harm to the immediate character and appearance of the area, but this harm would be somewhat moderated by the mitigating factors I have set out above.
40. With regard to the other aspects of Policy 65 (a), I deal with the effect on ecology and heritage later on in this decision, but it is noteworthy that there is common ground between the main parties that there would be no significant detrimental impacts on ecology and heritage assets.
41. To conclude on this main issue, the proposed development would result in the loss of IOS and there would be visual harm to a locally valued landscape. However, for the reasons given above, in this particular case, I consider the harm would not constitute the significant harm Policy S65 seeks to avoid. Accordingly, I am satisfied there would be no significant detrimental impacts on the character and appearance of the area, ecology and heritage assets. Consequently, the proposed development would accord with Policy S65 of the CLLP, and Policies 1 and 5 of the KNP. Collectively, these policies, amongst the factors, seek to protect important landscapes in the wider context, maintain the rural character of Keelby, the open countryside and the overall character and appearance of the area.

Setting of Listed Buildings

42. The Old Coaching House and adjacent stable block and coach house are Grade II Listed Buildings. They are located close to the southern corner of the appeal site and front Barton Street. The Old Coach House is currently a dwelling but the evidence, including the list description (Ref. 1262683) and what I heard at the hearing suggests its original use, when constructed in the late 18th century, was as a public house and resting place for travellers and their coach and horses using the adjacent highway. It is a two-storey, 3-bay detached building with a central panelled door flanked by sash windows. It is constructed of red brick but the front elevation has been rendered.

43. Also built in the late 18th century, the neighbouring stable block and coach house is a one and half storey red brick, hipped pantile roof former coach house and stable building now in domestic use associated with The Old Coaching House. It is separated from The Old Coaching House by a drive with a timber gate and fence connecting the two buildings. The list description (Ref. 1063374) describes the building as having a 3 bay front with off-centre planked doors flanked by single blocked doorways with small fixed lights to segmental heads and two sliding glazing bar sash windows up to the eaves.
44. From the information before me and what I saw, I find the significance of The Old Coaching House is largely derived from its built fabric and its historic purpose and position along a former travelling/trading route which holds evidential, historic and aesthetic values. There is a historic functional link between the stable block and coach house and The Old Coaching House as it fulfilled a specific role in accommodating the horse-driven coaches and horses of those using the public house which is fundamental to the significance of the place. Collectively the buildings have historic group value. Indeed, I note the list description for the stable block and coach house states that this building is included as a designated heritage asset for its group value only.
45. The setting of a heritage asset is defined in Annex 2 of the Framework as the surroundings in which the heritage asset is experienced. The importance of setting lies in what it contributes to the significance of the heritage asset or to the ability to appreciate that significance, whether that is by reference to views or other functional or causal factors. In this regard, due to the topography of the area, the appeal site is located to the north-west of the listed buildings at a lower ground level and separated from them by the vegetated and enclosed garden of The Old Coaching House and a narrow strip of sloping open land.
46. There was some debate about the contribution the appeal site makes to the significance of the listed buildings at the hearing. Historical mapping from 1886 shows a track leading from The Old Coaching House to Claypit Road (now Pelham Crescent) which crosses the appeal site but is not shown on the 1944 map nor currently visible on the ground. From the information available to me, the purpose or significance of the track is unclear. Similarly, I cannot be certain, from the evidence, whether the listed buildings were simply used as a resting place along a travelling route, without an associated grazing field for horses, or whether there was a functional link between the appeal site and the listed buildings in this regard.
47. Regardless, given the limited intervisibility between the appeal site and the listed buildings, and that the significance of the listed buildings essentially lies in their functional location fronting Barton Street as a staging post rather than an association with land to the rear, I consider the appeal site makes little contribution to the setting of the listed buildings and only to the extent that it enables an uncluttered appreciation of their rural surroundings.
48. The proposal would alter the character and appearance of the appeal site, eroding its open attributes. However, given the distance, topography, intervening vegetation and that the primary significance of the listed buildings arises from the highway route upon which they are located, I find, as agreed by both main parties in the SoCG, that less than substantial harm would result from the proposal to the contribution that the appeal site's qualities make to the significance of the listed buildings or their settings.

49. At the hearing, both parties agreed that whilst there would be less than substantial harm to each heritage asset, each harm would be of a low scale and I agree. The Council conceded that there are no heritage grounds for withholding planning permission for this reason alone. Nevertheless, paragraph 212 of the Framework advises that, irrespective of the level of harm, great weight should be given to the asset's conservation. Under such circumstances, paragraph 215 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
50. Even though the Council are able to demonstrate a five year housing supply, the proposal would provide housing, including affordable housing, a key objective of the Framework. There would be construction jobs to the area and financial spend from new residents benefiting businesses and the local economy. The site would be publicly accessible, which it currently is not, and the allotment land would be offered free from encumbrances to the local community. I consider that the cumulative public benefits would be sufficient to outweigh the less than substantial harm.
51. Accordingly, for the reasons given above, I find no conflict with the Act or Policy S57 of the CLLP concerning heritage assets which states, amongst other things, that where a development proposal would result in less than substantial harm to a designated heritage asset, permission will only be granted where the public benefits, including, where appropriate, securing its optimum viable use, outweigh the harm. There would also be no conflict with Policy 1 of the KNP in this regard or the heritage protection aims of the Framework.

Great Crested Newts (GNC)

52. The planning application submission included a Preliminary Ecological Appraisal (PEA)⁵ which included details of surveys undertaken at the site in 2023 and DNA analysis of water samples⁶. The appeal submission also includes a further ecological information written statement (EIWS)⁷. As a result of this information, which was not available at the time the decision on the application was made, the Council confirmed in the SoCG and at the hearing the reason for refusal in relation to potential harm to GCN is no longer being pursued.
53. However, Regulation 9(3) of the Habitats Regulations requires me, as a competent authority to have regard to the requirements of the associated Directive so far as it may be affected by the exercise of its functions. This includes any proposal that might lead to the deterioration or destruction of the breeding sites and resting places of EPS under Article 12(1)⁸. This includes GCN and their breeding place, irrespective of whether or not they are present at the time the development is carried out.
54. The DNA analysis of water samples taken from the large pond on the site found that, despite a significant amount of the surface being covered by New Zealand pygmy weed, it supports a population of GCN with some connectivity to other habitats in the area. However, due to the dense cover of weed on the pond, which I saw at my site visit, the EIWS advises it is not possible to assess the population

⁵ Preliminary Ecological Appraisal, Wold Ecology Ltd, July 2023

⁶ SureScreen Scientifics Technical Report, July 2023

⁷ Written Statement of Robert John Frith BSc(Hons) MRSB on behalf of TR Property Ltd, November 2024

⁸ Council Directive 92/43/EEC of 21 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora (the Directive)

size in detail but suggests it could be at the upper end of a small population with peak counts predicted to be in the range of 10-30 GCN.

55. The PEA concludes that GCN are very likely to be encountered during the development works and in the absence of mitigation, direct and indirect impacts to local GNC populations is likely to occur and an EPS licence would be required for the development to proceed as proposed. The EIWS states that it would be possible, using existing data, the DNA results and the habitat assessment, to reliably predict the impacts of the development in any EPS mitigation licence.
56. Decisions about whether a licence can be granted are the responsibility of Natural England and are under a separate process. In the absence of a District Level Licence Scheme in the area, the appellant's ecologist suggests an individual EPS Mitigation Licence would be sought under Policy 4 of Natural England's EPS licensing scheme.
57. As part of the licence application, the EIWS sets out mitigation details based upon a medium-sized population of GCN being present on the site. Mitigation measures include, but are not limited to, installation of amphibian exclusion fencing, trapping of GCN and other amphibians, placement of pitfall traps and artificial refugia along fence lines and release of captured GCN into a specified receptor site which will include the existing large pond and adjacent protected habitat.
58. In addition to mitigation, habitat enhancement and compensation measures are also proposed, including restoration of the large pond and another small pond on the site that is often dry and 100% shaded by dense vegetation, therefore unlikely to current support GCN. Specifically, this would include the removal and on-going control of invasive New Zealand pygmy weed. New hibernacula are also proposed close to the restored ponds, the enhancement of grassland habitat and scrub, planting of hedgerows, porous road surface with no manholes, open drains or steep kerbs and a 30 year habitat management plan.
59. The Courts⁹ have established that planning permission should ordinarily be granted save only in cases where a proposed development would either be likely to offend Article 12(1) or unlikely to be licensed pursuant to the derogation powers. The duty to have regard to the requirements of the Directive, as set out in Regulation 9(1), remains but the judgement establishes that there is no need to carry out a detailed assessment as to whether there would be a breach of Article 12(1) or whether derogation from that article would be permitted and a licence granted.
60. Nevertheless, I am still required to ensure that any potential harm to an EPS would be adequately mitigated and whether or not the proposed development is unlikely to be licensed. Bearing in mind the suggested mitigation measures I find that the proposal would not offend Article 12(1). I am satisfied that the mitigation hierarchy has been followed and that, subject to the securing of mitigation and compensation measures identified should the appeal be allowed, there would be no significant harm to the long-term conservation status of the GCN that are present.
61. Consequently, the proposal would not conflict with Policy S60 of the CLLP which, along with other things, seeks to protect, manage, enhance and extend the ecological network of habitats and species.

⁹ Morge v Hampshire County Council [2011] UKSC 2

Other Considerations

Housing land supply and affordable housing

62. The Council's most up to date published housing supply data for West Lindsey, taking into account the revised Framework changes to the Standard Method for assessing housing need, is as of February 2025, when the Council stated it had a 7.45 year supply. The latest HDT published in December 2024 identifies that Central Lincolnshire achieved 178% and therefore, in accordance with paragraph 78 (c) of the Framework, a 20% buffer may be required after 1 July 2026 when the Council confirmed the housing land supply position will be reassessed.
63. While the appellant agreed with this position at the hearing, it was claimed that the Council would urgently need to plan for this increase and questioned the delivery of the sites currently allocated for housing in Keelby and that very few dwellings that have been delivered in the settlement since the start of the CLLP period in 2018. The appellant's reference to the fact that the two neighbouring Councils of North Lincolnshire and North-East Lincolnshire are not delivering the required five year housing supply is not relevant, particularly since neither of these Council's form part of the Central Lincolnshire combined strategic area.
64. Appendix 1 of the CLLP lists the neighbourhood plan area of Keelby as delivering 2 dwellings between 2018 and 2021. However, two sites are allocated primarily for residential development in Keelby through Policy S80 of the CLLP, at Stallingborough Road and Church Road¹⁰. Evidence indicates the site at Stallingborough Road has planning permission for 80 dwellings¹¹ and it was confirmed by the Council at the hearing that the details relating to pre-commencement conditions on this permission had been approved. I also heard that the planning permission expires at the end of 2025, but the Council had been informed by the developer, Cyden Homes, development on the site would commence in July/August 2025. There is no compelling reason before me to doubt that this site would not be delivered within five years.
65. In terms of the Church Road allocation, this is for 100 dwellings and the Central Lincolnshire Five Year Housing Land Supply Report, published October 2024 (HLSR) indicates this site will only provide a contribution after five years (from 2029/30). I recognise that this site would only be likely to come forward at all once access through the Stallingborough Road site has been secured.
66. Even if that is the case, and that there have been very few dwelling completions in Keelby prior to 2023/2024, the HLSR indicates that past delivery of dwellings in West Lindsey has consistently exceeded the housing requirement since the start of the plan period in 2018. I note the HLSR records 3 dwellings under construction at end of March 2024¹² and others predicted to complete within five years. I was also told at the hearing by both parties that planning permission had recently been resolved to be granted for ten affordable dwellings on designated IOS off Riby Road, although I do not have any further details about this scheme or the timescales for delivery.
67. In any event, I am mindful that the appellant, in their appeal statement, agrees 'there is no conclusive evidence to disprove that Keelby's market housing

¹⁰ Ref: WL/KEE/001 and Ref: WL/KEE/003 respectively

¹¹ LPA Outline Ref: 140099 and Reserved Matters Ref: 147126

¹² LPA Refs: 133585, 143842 and 136726

requirement will not be delivered through the current development plan strategy' and I agree.

68. In terms of affordable housing, and in the absence of specific housing need data at parish level, the appellant submitted a Housing Needs Assessment¹³ as a desktop study based on housing register and supply data published nationally and locally. This identified an unmet need for 85 affordable homes in Keelby over a five-year period. Furthermore, even if the allocated sites delivered the policy compliant numbers of affordable housing units and the recent 10 dwelling scheme on Riby Road was implemented, the total amount would be well below the 129 units set out in the Keelby housing register information¹⁴. Any affordable units on the Church Road site would also not be delivered for a considerable time. This figure has not been disputed by the Council.
69. The proposal seeks to provide 20% affordable housing (7 affordable dwellings on-site and a financial contribution in lieu of the remaining 0.2 unit shortfall) in the form of 3no., 3-bedroom, semi-detached First Homes and 4no., 2-bedroom, terraced affordable rented homes. This would meet the provision required by Policy S22 (d) of the CLLP. The UU would secure the phased provision and tenure of the units, and the financial contribution. The Council acknowledge that the proposal could deliver much needed affordable housing, albeit no more than the policy requirement of 20%.
70. When asked about the delivery of the appeal proposal, the appellant confirmed this would be likely to be in the next two to three years. While the delivery of the affordable housing may be less certain as no details of a willing registered provider has been provided to me, there has clearly been a great deal of preparatory work in getting to this stage and it is reasonably likely that 36 dwellings could be delivered within five years. In view of the above, 7 affordable units would have the potential to make a positive contribution to addressing the shortfall in Keelby.
71. I note Policy S22 (a) of the CLLP seeks affordable housing only on sites of 10 or more dwellings or 0.5 hectares or more. However, Policy S4 of the CLLP limits housing development in large villages to, amongst other things, up to 10 dwellings, which is below the threshold required by Policy S22. Although this may limit some delivery of affordable units on small sites subject to Policy S4, it would not necessarily be the case that only by permitting proposals delivering more than 10 dwellings on such sites would there be any contribution towards affordable housing as suggested by the appellant. Indeed, the recent resolution to grant permission for 10 affordable dwellings off Riby Road, as referred to at the hearing, demonstrates there would be opportunities for unallocated sites to deliver affordable housing as an exception site.
72. Nevertheless, the proposed affordable housing provision in this appeal is a positive benefit of the scheme which would carry considerable weight in favour of the proposal.

Biodiversity Net Gain

73. Both parties agree that as the application was submitted before 12 February 2024, it is not subject to the statutory requirement for biodiversity net gain (BNG) and the

¹³ Housing Needs Assessment, Stage 1 Report, CNB Housing Insights, October 2023

¹⁴ Paragraph 6.35, Fig 2, appellant's appeal statement

general biodiversity gain condition would not be deemed to apply were permission to be granted. The Framework does, however, require proposals to minimise impacts on and provide net gains for biodiversity as set out in paragraph 187 (d) and the delivery of 10% measurable BNG is also a requirement of Policy S61 of the CLLP.

74. The appellant's Wold Ecology Ltd BNG Report, dated 11 January 2024, indicates the proposal would result in a 5.37 shortfall in biodiversity units. The Council's ecology adviser, Lincolnshire Wildlife Trust (LWT) advised the Council that a condition should be imposed on any planning permission to require compensation through off-site measures to mitigate for this biodiversity shortfall.
75. Following discussion at the hearing, it was apparent that the appellant submitted an updated BNG metric to the Council, dated 8 March 2024, using the Natural England 4.0 Biodiversity Metric. The Council read out an email at the hearing confirming that LWT received the updated BNG metric. However, no further response was provided by LWT. A copy of the updated BNG Metric and a timeline of correspondence was provided to me at my request after the hearing and confirmed as correct by the Council.
76. The updated BNG Metric shows an 11.22% net gain in Habitat Units and a 178.91% gain in Hedgerow Units and is not disputed by the Council. Thus, an overall net gain in biodiversity that, subject to appropriately worded conditions concerning implementation and long-term management in the event I allowed the appeal, would exceed the measurable gain required by Policy S61 of the CLLP. This would be a modest positive benefit to the scheme.

Other economic, social and environmental matters

77. The submitted UU sets out that part of the appeal site currently in use as allotment land would be offered to be transferred to the Parish Council or an appropriate local public body should they wish. This land would be offered without encumbrances, and in any event, would be retained as allotment land. The land is currently designated as Local Green Space in the CLLP which Policy S64 seeks to safeguard from development in accordance with paragraph 106 of the Framework.
78. Although offered protection from development by local policy and national guidance, the proposal would have the potential to secure the long-term protection of the currently privately-owned land as a community-owned allotment which the KNP identifies as much valued by allotment holders as a Registered Community Asset. In my view, any subsequent land transfer would meet the requirement within the relevant threshold for the provision of off-site open space set out in Appendix 3 of the CLLP and would be a considerable benefit of the proposal.
79. It is common ground that the appeal scheme would provide publicly accessible green infrastructure, including open space and restored and improved ponds. The provision of landscaping and public open space within the scheme is necessary to make the scheme acceptable in planning terms, but the open space would also plausibly be used by the wider population. I therefore give this benefit modest weight.
80. While the proposed dwellings would each be fitted with an EVC point as a requirement of The Building Regulations 2010, the proposal would also include four publicly accessible electric vehicle charging (EVC) bays at the entrance to the

site. This would facilitate the transition to net-zero carbon lifestyles envisaged by the Framework which would be of some positive benefit. However, the weight to be attached to the benefit would be limited given it is unclear from the information before me whether the facility would be regularly frequented. It would not be located close to services and facilities in the centre of the village. Rather, it would be close to existing properties in the area that largely include driveways where occupants could accommodate their own cars and charging points.

81. The proposed dwellings would help boost the Council's supply of homes through a mix of units in an accessible location immediately adjacent to the built up area of Keelby, which offers facilities and services, including a primary school, health centre, church, a few shops and other services as well as bus stops providing connections to larger centres. Siting development in sustainable locations is the fundamental thrust of national and local policy, but there is a tension between protecting the environment and delivering against local housing needs to ensure growth is appropriately managed. In these terms, I give limited positive weight to the site's sustainable location and the contribution the proposal would make to supporting the role and function of this large village.
82. There would be economic and social benefits associated with the proposal, including direct and induced employment and spend during construction as well as spending and support for local services by future occupiers. However, these have not been quantified in the evidence before me and would be likely to be modest on account of the overall scale of the development. Employment opportunities would further be largely temporary during construction, albeit not exclusively, and similar opportunities and benefits could be delivered elsewhere on sites that accord with the Council's spatial strategy. Overall, I give limited positive weight to these benefits.
83. The proposed development would be energy efficient and exceed Building Regulations minima standards in some areas of construction. Heating and hot water for all dwellings would be from air source heat pumps and there would be solar photovoltaic panels on three dwellings to minimise environmental impact and satisfy the requirement for renewable energy to meet the energy demand for the proposal required by Policies S6 and S7 of the CLLP. Although meeting the expectations of local policies in this regard, some measures go beyond the minimum requirement, to which I attribute limited weight in support of the scheme.

Other Matters

84. The appeal submission was accompanied by a scheme of archaeological evaluation consisting of a geophysical survey and targeted trenching. This followed recommendations in the written scheme of investigation for archaeological works submitted at the planning application stage. The written scheme identified that the site lay within the bounds of a medieval, post-medieval and early modern settlement. The investigations identified one probably quarry pit, sherds of pottery, ceramic building material, animal bone and a cobbled surface and concluded that while archaeological features are present on the site, the paucity of finds indicate it most likely lay in the agricultural land surrounding the settlement. In the event that the appeal was allowed, appropriately worded conditions could secure a further written scheme of investigation for archaeological work for additional site investigation and any necessary recording.

85. I have given careful consideration to written and oral representations about the proposal that have not been referred to in the Council's reason for refusal, some of which were discussed at the hearing, including in relation to flood risk, drainage and highway capacity and parking. The site lies within Flood Zone 1, at a low risk of flooding. However, the updated Flood Risk Assessment and Drainage Strategy¹⁵ (FRA) and the KNP identify the northern part of the site is at low to medium risk of pluvial flooding where water ponds on the low areas of the site, to a depth of up to 300mm where existing ground levels are approximately 18.10m above ordnance datum (AOD). The site is also located on a productive aquifer. It is proposed to construct dwellings on the site with minimum floor levels of 18.40m AOD and install other flood resistance measures to ensure that the proposal does not increase the risk of flooding within the site or elsewhere.
86. Following initial concerns from the Lead Local Flood Authority and Anglian Water (AW), infiltration tests were carried out at the site and the updated FRA reveals that soakaway would not be a suitable means of dealing with surface water drainage from the proposed development and there are no open watercourses or surface water sewers adjacent to the site. It is therefore proposed to attenuate surface water on site through use of permeable paving, water butts, the existing ponds on the site, and underground storage tanks. Verbal agreement has been obtained from AW to allow surface water to discharge to the foul sewer, provided it is at a maximum 1 litre per second discharge rate. Foul water from the development would also be discharged to the public sewer.
87. Neither the Council nor the Lead Local Flood Authority have objected to the proposed development on this basis. Given I have found the proposal to be unacceptable with regards to the main issue identified, there is no need for me to consider the implications of this matter further.
88. Policy 3 of the KNP has been referred to in the Council's first reason for refusal. As well as development proposals for house extensions, this policy concerns parking standards in new residential development. While mention is made in the Council's officer report and appeal statement to parking, and local residents have expressed concern about the impact of insufficient parking provision on the local highway network, there is no mention of parking in the decision notice. Decision notices should clearly articulate the reasons for refusal in order that unacceptable matters can be clearly understood.
89. I note the proposed 2-bedroom terraced dwellings would have one off-street parking space rather than the two required by Policy 3. However, every other proposed dwelling on the site would be provided with a detached garage and at least two drive spaces, there would be space for some on-street parking along the internal access road and occupants of the dwellings would be within walking distance of local services and facilities. In light of this and in the absence of any objection from the Highway Authority, I find sufficient parking would be provided for future occupants of the development and their visitors.
90. The proposal would result in the removal of Dawkins Barn, a building the appellant claims is unused and visually unappealing. However, this building and its associated hardstanding, whilst not in use at the time of my site visit, has a semi

¹⁵ Flood Risk Assessment and Outline Sustainable Drainage Strategy, Roy Lobley Consulting, updated February 2024

agricultural the appearance which is not at odds with or unacceptably harms the overall character of the area and its removal would not justify the proposal.

91. The appellant also draws my attention to the recent planning application on Riby Road referred to above with regards to the fact the site is also located on land designated as IOS. Oral evidence confirmed that the proposed residential development for ten dwellings on this site was resolved to be approved, subject to planning obligation, on the basis of a rural affordable housing exception site. In any event, I have determined the appeal before me exercising my planning judgement having regard to the specific merits of the proposal that is before me.

Planning Obligation

92. Paragraph 57 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) confirm that planning obligations must only be sought and be considered as a reason for granting planning permission where they are necessary to make the development acceptable in planning terms, directly related to development, and are fairly and reasonably related in scale and kind to the development. I have considered the submitted UU on this basis.
93. The UU contains obligations to provide 20% affordable housing as a mix of four affordable rented units, one shared ownership unit and two First Homes. This amount of affordable housing as part of the development is a requirement of Policy S22 of the CLLP. The UU also makes provision for a financial contribution in lieu of the 0.2 shortfall in the provision of an on-site affordable unit. The Council accepts that the UU would secure a mix of units that would address an identified need. There is no reason for me to disagree with the Council in these regards and I am satisfied the UU meets the necessary tests in relation to affordable housing.
94. The UU also contains an obligation for the ownership of the existing allotment land to be transferred to the Parish Council and/or a local public body without encumbrances. This reflects the requirement of Policy S51 of the CLLP for a development of the proposed scale to provide a contribution towards off-site allotment and outdoor public sports provision in accordance with the thresholds set out in the CLLP and the Central Developer Contributions Supplementary Planning Document, October 2023. I am therefore satisfied the obligation in this regard meets the necessary tests.

Planning Balance

95. Section 38(6) of the Planning and Compulsory Purchase Act (2004) states that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
96. The proposal would provide 36 new dwellings in a location with good access to services which would contribute to the overall supply and mix of housing in the District. It would also lead to a small and time-limited economic benefit during the construction phase, as well as some social and economic benefits resulting from future occupiers. The contribution of 7 affordable dwellings in Keelby is a benefit along with the potential transfer of private land used as community allotments to the Parish Council. These contributions and securing them through the UU provide considerable additional support to the appeal. These matters, when taken collectively, would attract significant weight.

97. The net gain in BNG and publicly accessible greenspace that would be created as a result of the proposal would also be of modest positive benefit as well as the benefit, albeit limited, through the provision of public EVC points and other energy efficient measures.
98. I have found the less than substantial harm to the setting of the listed buildings would be outweighed by the public benefits and that, whilst there would be some harm to the character and appearance of the area, it would not be significant in the context of 'appropriate development' or IOS. Subject to mitigation measures, there would be no harm to the long term conservation status of GCN.
99. Against this, I have found that the site would not be a suitable location for the proposed development with particular regard to the strategic policies of the development plan to manage and plan for the growth of new residential development. The Council's spatial strategy seeks a focussed approach to the provision of appropriate levels of growth in large villages. This attracts significant weight against the proposal.
100. I am aware of the Government's objective of significantly boosting the supply of homes and growing the economy, which are reflected in the recent changes to the Framework. However, the spatial strategy of the development plan is largely consistent with the provisions of the Framework which sets out the need to plan positively and set out a clear overall strategy for the pattern and scale of places for the provision of new homes. I am mindful there is nothing before me which demonstrates that the Council's housing land supply position cannot be met or that Paragraph 11(d) of the Framework is engaged.
101. Whilst there are considerations that weigh in favour of the proposed development, in my judgement, they are not sufficient to outweigh the harm I have found. The proposed development would therefore conflict with the development plan when taken as a whole, and material considerations do not indicate that the decision should be taken otherwise than in accordance with the development plan.

Conclusion

102. For the reasons given, I conclude that the appeal should be dismissed.

A Veevers

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Shemuel Sheikh	Barrister, Kings Chambers
Neil Boughey BA (Hons) Dip TP LLB Laws MRTPI	
Mike Joffe BSc DipLA CMLI	Executive Director, Acorn Planning Ltd
Rob Frith BSc (Hons) MRSB	Senior Landscape Architect, David Jarvis Assoc
Simon Coyne	Principal Ecologist, RDF Ecology
Steve Windass BSc (Hons) MSc (Eng) CEng FIHE MCIHT	CDC Architecture Ltd
Mark Strawbridge	Technical Director, Local Projects Ltd
Robin Evans	Heritage advisor
	Director, TR Property Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Russell Clarkson BA (Hons) DipTP MRTPI	Development Management Team Manager, West Lindsey DC
George Backovic BA (Hons) BTP MRTPI	Development Management Team Leader, West Lindsey DC
Chris Bradley	Conservation Officer, West Lindsey DC
Gregor Robertson Morris	Historic Environment Officer, Lincolnshire County Council

INTERESTED PARTIES:

Councillor Owen Bierley	Local Ward Councillor
Tony Bentham	Local resident and Parish Councillor
Susan Knight	Local resident
Patrick Wilks	Local resident
Sonia Lloyd	Local resident
Mr Knight	Local resident
Mr Wright	Local resident

Documents Submitted at the Hearing

1. Plan titled 'Keelby Assessment of Housing Land and Appropriate Location'
2. Extract of historic maps of part of the site (1944-1974) and (1887)

Documents Submitted after the Hearing

1. Email correspondence between the main party's legal teams in relation to the Unilateral Undertaking (UU)
2. Comments on the UU submitted prior to the hearing from the Council.
3. A completed and signed UU from the appellant.
4. Copy of the appellant's March 2024 Biodiversity Metric, a BNG timeline and email correspondence between the appellant and Lincolnshire Wildlife Trust.
5. Email from Council confirming appellant's BNG information accords with their records and is agreed.