
Appeal Decision

Site visit made on 4 May 2016

by M Seaton BSc (Hons) DipTP MRTPI

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

Decision date: 20 January 2017

Appeal Ref: APP/N2535/W/16/3142445

Land off Sturton Road, Saxilby, Lincoln, Lincolnshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline & full planning permission.
 - The appeal is made by Mr S Myers on behalf of Leverton Farms Ltd. against the decision of West Lindsey District Council.
 - The application Ref 132286, dated 19 December 2014, was refused by notice dated 23 November 2015.
 - The development proposed is a hybrid planning application to include an outline planning application for the erection of up to 133 dwellings with all matters reserved and the change of use of agricultural land to a cemetery.
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Procedural Matters

1. The proposals have been submitted as a hybrid planning application. Full planning permission is sought for the change of use of land to a cemetery, whilst the proposed 133 dwellings have been submitted in outline with all matters reserved. I have dealt with the appeal on this basis and treated the submitted layout plan as indicative in respect of the reserved matters related to the proposed residential element of the proposals.
 2. Prior to determination of the planning application, the appellant amended the proposals to respond to comments from statutory consultees including Lincolnshire County Highways Authority and the Parish Council, as well as from interested parties.
 3. Since the submission of the planning appeal, the Council has submitted a series of further documents and updates in connection with progress on the emerging Development Plan. These documents and publications have included extracts of policies contained within the *Central Lincolnshire Local Plan – Proposed Submission, April 2016*; *Submission Version of Saxilby with Ingleby Neighbourhood Development Plan 2016-2036, November 2016 (to supersede a draft version from May 2016)*; *Central Lincolnshire Five Year Land Supply Report 1 April 2017 – 31 March 2022 & Errata Report, September 2016* (these publications superseded previously submitted reports covering the period 1 April 2016 – 31 March 2021, submitted in April & May 2016); and details of the *Programme of Hearing Sessions for the Examination of the Central Lincolnshire Local Plan, September 2016*. The Council has also submitted an addendum to its statement of case in April 2016 reflecting a summary of the position of the earlier submitted documents and their relevance to the appeal proposals.
 4. In response to these submissions, the appellant has provided a supplementary statement dated October 2016, which has been accompanied by a number of
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further documents. These include *North Kesteven District Annual Monitoring Report 1 April 2014 – 31 March 2015*; *West Lindsey District Annual Monitoring Report 1 April 2014 – 31 March 2015*; *City of Lincoln District Annual Monitoring Report 1 April 2014 – 31 March 2015*; *Details of Inspectors' Matters, Issues and Questions for Examination of the Central Lincolnshire Plan, September 2016*; and a copy of the appellant's representations to the Draft Saxilby with Ingleby Neighbourhood Plan 2016.

5. I have carefully considered the appellant's contention made during the course of the appeal, that the additional submissions which have been made by the Council should be disregarded as a consequence of the lateness of their submission within the overall timetable for the planning appeal. Whilst I appreciate that the Council's submissions have been made outside of the procedural timetable for submissions, I am satisfied that they represent changes of circumstance to material considerations of relevance to the pertinent issues addressed by the appeal proposals. In this respect, and being mindful of the publication dates of the various documents, I do not consider that the submissions could be reasonably regarded as *late submissions* for the purposes of determining the appeal. As a consequence, I conclude that it would in fact be unreasonable to disregard the submissions as they clearly represent the most current and up-to-date iterations of the material considerations.
6. Further to the above, a Unilateral Undertaking (UU) dated 19 February 2016 addressing matters related to affordable housing and phasing, along with the provision of contributions towards healthcare provision; primary and secondary education; highways; the provision of a multi-use games area (MUGA); as well as towards the future provision and/or improvement of open space land and cemetery land, was submitted by the appellant during the course of the appeal.
7. My decision has taken these additional documents and plans into account, and I will return to these where pertinent later on within this Decision.

Decision

8. The appeal is allowed and outline/full planning permission is granted for a hybrid planning application to include an outline planning application for the erection of up to 133 dwellings with all matters reserved and the change of use of agricultural land to a cemetery on Land off Sturton Road, Saxilby, Lincoln, Lincolnshire, in accordance with the terms of the application Ref 132286, dated 19 December 2014, and subject to the conditions as set out within the annex.

Application for costs

9. An application for costs has been made during the appeal by the appellant against the Council. This application will be the subject of a separate Decision.

Main Issue

10. The main issues are;
 - the effect of the proposed development on the rural character and appearance of the landscape; and,
 - the effect of the proposed development on the setting of the nearby Grade I listed Church of St. Botolph.

Reasons

Character and appearance

11. The appeal site occupies approximately 5.75 hectares of agricultural land to the north of Saxilby, and to the west of Sturton Road. The land is bounded to the south by an access track and footpath adjacent to existing residential properties and the churchyard to St. Botolph. To the west of the site is existing residential development, with agricultural land to the north.
12. Whilst I would acknowledge the proximity of the appeal site to the existing boundary defined by the extent of the built form of the village, and the references made to historic usage as a cricket pitch and pavilion, the site now clearly occupies a position within the open countryside, albeit abutting the settlement. In longer views of Saxilby when approaching from the north, the appeal site is read as part of the foreground to the existing village, and although the tower of St. Botolph's is partially screened by mature trees, it remains a prominent feature on the skyline, aided by the clear vista provided by the churchyard which is absent of existing development. Nevertheless, whilst the wider environment is undoubtedly rural in character, the church is set within the context of existing surrounding residential development, with the roofs and in certain places dwellings themselves clearly visible and a constituent part of the character and appearance of the settlement as viewed from the countryside to the north.
13. I would not dispute that the proposed development would result in a permanent and adverse change to the character and appearance of the appeal site itself, particularly for users of the footpath and development bordering the appeal site. This conclusion would be even allowing for the incorporation of a proportion of open space within the wider layout of the development and the managed extension to the cemetery. In this respect, I recognise that the development of the land would, to some extent, run counter to the National Planning Policy Framework's (the Framework) core planning principle (paragraph 17) of recognising the intrinsic character and beauty of the countryside. However, although the land is pleasant there are no overall specific characteristics of the appeal site which would warrant its full protection over and above any other area of countryside.
14. Whilst not enclosed by existing development in the manner referred to in the context of the relatively recently consented residential development at Church Lane in Saxilby, I am nevertheless satisfied that the site would clearly and effectively relate to the existing settlement. I have had careful regard to the references to the sensitivity of entrances to villages within the Till Vale and Trent Valley landscape character areas, as defined within the West Lindsey Landscape Assessment. However, whilst acknowledging the topography of the site and the outline nature of the proposals at this stage, I consider that a proportionate development of the appeal site would, with appropriate detailing of planting and visual mitigation, be acceptable in the context of the wider overall character of the landscape. I accept that the development would amount to a change to the existing disposition of land use to the north of Saxilby, but not that the resultant effect would be the loss of the rural character of the northern approach.

15. The indicative plans demonstrate how a varied layout of development could be accommodated with a lower density set around the northern and eastern boundaries in particular, and how a 'wedge' of open land would break up the development and border part of the northern boundary. I also note that the plans demonstrate that the proposals would provide the opportunity for the retention of existing field boundaries and hedgerows, as well as the incorporation of a reasonable level of additional planting and landscaping. I find that the provision of a lower density of development and open space towards the northern part of the appeal site would provide for an improved transition between the remainder of the development and surrounding agricultural land. As a consequence, I consider that the development, with the benefit of the open space provision and appropriate mitigative planting and landscaping, would in time be able to replicate the rural character presented by the existing northern fringe to the village.
16. The proposed development would undoubtedly result in an adverse impact on the character and appearance of the appeal site itself, albeit that I am satisfied that it would be possible to incorporate a layout and design of development which would not result in an overall unacceptable impact on the wider landscape character of the rural area, or the character and appearance of the settlement. As a consequence, I have not found there to be any conflict with saved Policy NBE20 of the Local Plan Review, as I am satisfied that the resultant effect of the proposals would not detract from the overall rural character of the settlement edge and countryside beyond.

Setting of the listed building

17. In determining this appeal, I also have a statutory duty, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to consider the effect of the proposal on the special architectural and historic interest of the setting of the listed building, which in this instance is the Grade I listed medieval Church of St. Botolph, and its relationship with the medieval heritage assets in Ingleby to the north. The statutory duty conveys the need to have special regard to the desirability of preserving the setting. I am mindful that paragraph 132 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 134 of the Framework confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimal viable use.
18. As set out above, the church is set within the context of the wider growth and surrounding development of Saxilby. Nevertheless, a key element of its significance and setting is the continued availability of wider views of the church tower across rural land from outside of the settlement to the north. The existing absence of development from within the foreground of these views is a constituent part of the value of the setting. I have also had regard to the spatial relationship between the church and the medieval heritage assets in Ingleby to the north, including the scheduled deserted village of North Ingleby and the unscheduled moated site/village to the south of Ingleby.
19. I would not disagree that the proposed development would have an adverse effect on the setting of the listed church by virtue of the introduction of

development on the land within the foreground of existing views. Nevertheless, I note that in response to concerns expressed by Historic England to the impact on the setting, the appellant has incorporated the aforementioned open space within the layout in such a manner as to preserve a clear vista from north of Saxilby towards the tower of the church, and maintain a degree of spatial relationship with the medieval heritage assets to the north. Whilst in this regard I have noted the Council's contention that the gap in the proposed development to facilitate the visibility of the church from the north would essentially be an artificial arrangement in contrast to the existing wide-open vista available from open countryside, the existing view valued as part of the setting would not be wholly eroded or lost. Indeed, whilst I accept that there would still be a residual impact on the setting of the listed building, I am satisfied that the proposed mitigation would preserve much of the value of the heritage asset derived from its visibility from the north of Saxilby, thus rendering the harm to be limited.

20. I have identified that the proposed development would cause some limited harm to the setting of the listed building, and although this would be less than substantial harm, I must attach considerable importance and weight to that harm. I have therefore found some limited conflict with saved Policy NBE10(iv), which requires development to not have a detrimental effect on skylines or important views. Furthermore, and in accordance with paragraph 134 of the Framework, the proposal would lead to less than substantial harm to the significance of a designated heritage asset, albeit to which I must attach considerable importance and weight.

Other Possible Harm

21. Interested parties have raised a significant number of other concerns with regards the proposed development, in the course of both the assessment of the planning application and the appeal.
22. The volume of recent development and consents which have been granted to other housing schemes within Saxilby, in the form of both infill and large-scale development, has been cited as a concern in respect of the impact on the village and its infrastructure. I have had regard to the references to the cumulative impact with other residential development within Saxilby. However, I am mindful that in this instance, the appellant has sought to address the impact on schools and healthcare in particular which would arise from the future occupation of the proposed dwellings, as well as provide contributions towards open space provision on the site, and a MUGA within the village to address the increased demand on existing facilities. The provision of the identified contributions where the new development would result in an increased demand for such infrastructure which cannot be met by the existing provision, would address the directly related impacts of the development on infrastructure which have been identified, and would include the phasing of the delivery of the open space. In respect of drainage and water infrastructure, I have not been provided with a compelling reason why any issues or matters could not be appropriately addressed with the relevant statutory undertaker, and note that the appellant has sought to address the delivery of matters related to drainage as part of the planning obligation.
23. I have had regard to the concerns regarding the accessibility of the appeal site to services and facilities. However, I am satisfied that the existing footpath

network allows good access to the village, with the various services and facilities all within reasonable walking distance, albeit that I acknowledge that some of the distances could be considered to be at the higher end of the acceptable spectrum. I note that public transport options are available in the form of both bus and rail services to surrounding larger settlements, whereby access is available to jobs and secondary education. These conclusions are consistent with the classification of Saxilby as a Primary Rural Settlement with good access to services and facilities.

24. Whilst access to the site is a reserved matter at this stage, many concerns have focussed on highway safety and the potential for severe congestion as a result of the traffic generated by the development, particularly in accumulation with other developments. Whilst I accept that the likely final quantum of development would have an impact on the use of the local highway network, I have not been provided with any compelling evidence which demonstrates that it would not be possible to provide access to the appeal site without an adverse impact on highway safety. Furthermore, I am mindful that the Council and Highway Authority's conclusions related to the appellant's Transport Assessment (TA) based upon the indicative proposals are that the existing road network would be able to safely accommodate the traffic generated by the proposals, even allowing for the development of the recently approved Church Lane scheme. Whilst I accept that there may be some adverse impact on the capacity of the Mill Lane/A57 junction, I would agree with the conclusions of the TA and the Highway Authority that the increased pressure would overall be limited, and that it would not represent a residual cumulative impact of development which would be severe, as set out at paragraph 32 of the Framework.
25. Turning to the appeal site itself, whilst the land is currently used for agricultural purposes, the site is not assessed as being best and most versatile agricultural land, being identified as Grade 3 land within the Agricultural Land Classification criteria. I have also had regard to the concerns over the drainage of the site with the potential for flooding highlighted, although I am mindful that the indicative plan shows the incorporation of swales within the layout and a detention basin within the landscaping towards the north-east corner, which would form part of a Sustainable Urban Drainage System (SUDS). I have also had regard to the approval in principle which has been provided by the lead drainage authority, Anglian Water, and the Environment Agency. In respect of the impact on biodiversity, I would agree with the Council's assessment that the features of interest are confined to the boundary hedgerows and trees, and see no reason why a landscaping scheme could not retain and strengthen these habitats, which in particular would benefit any bats using the area.
26. In respect of the impact on living conditions, whilst acknowledging that the application is in outline only, there is no reason to believe that the site could not be developed for residential use without causing loss of privacy or other harm to the amenity of neighbouring residents, or unacceptable disturbance during construction. I have had regard to the concerns over loss of a view across the existing appeal site, but whilst I accept that the outlook would alter for neighbouring residents, this would not be unacceptable in planning terms.
27. I have had regard to an assertion that there is no need for an additional cemetery and that this will only cater for new development within Saxilby. However, I note that the provision of the cemetery is reported as being further

to discussions regarding need generated by both existing and future development at a pre-application stage with the Parish Council, and note that the future operation and maintenance of the cemetery has been addressed through a planning obligation. Furthermore, whilst I have taken into account the accusation that insufficient public consultation has taken place with the local community in this instance, the submitted evidence would appear to indicate the contrary, with the Council reporting that the appellant has in fact undertaken a number of consultation exercises, including letter drops and presentations.

Planning Benefits

28. The Council has highlighted in the Central Lincolnshire Five Year Land Supply Report 1 April 2017 – 31 March 2022 (incl. Errata Report) dated September 2016, that it is possible to identify a 5.26 year supply across West Lindsey, Lincoln City and North Kesteven. However, as the appellant has highlighted in their most recent submission, this assessment is based on an Objectively Assessed Need (OAN) of 1,540 dwellings per year, which is set towards the lower end of the range of 1,432 and 1,780 dwellings per year indicated within the Submission Version of the Central Lincolnshire Local Plan, despite the growth agenda being promoted for Central Lincolnshire. Furthermore, the supply calculation places a significant reliance upon sites which are proposed to be allocated in the emerging Local Plan, and for which there would appear to have been substantial objections, and the position has not yet been resolved as part of the Local Plan process.
29. The appellant has not proposed an alternative calculation of the housing land supply position, although I would agree with the contention that the current reported position could not be considered to be robust. However, despite the Council maintaining that it is able to demonstrate a 5 year housing land supply through incorporation of allocations in the emerging plan, it has conceded that as a consequence of its inability to currently demonstrate sufficient allocations within the spatial strategy of the current Local Plan to meet supply, its housing supply policies should be considered to be out of date. The proposals should therefore be assessed against the presumption in favour of sustainable development set out at paragraph 14 of the Framework, which states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of development.
30. In this respect, the proposed development would result in the contribution of up to 133 dwellings towards the delivery of housing in the Central Lincolnshire area and towards the long-term housing requirement, and considerable weight in support must be afforded to this provision. This would accord with the underlying objective of Chapter 6 of the Framework, which is to seek and significantly boost the supply of housing, and ensure choice and competition in the market for land for housing. I am also mindful that the proposed development would secure provision towards an identified need for affordable housing within West Lindsey, which is particularly recognised in Saxilby within the Submission Version of the Neighbourhood Plan. However, I recognise that as a consequence of viability considerations, the agreed provision of 10.5% (or 14 affordable units) would be less than the 25% level sought within the Development Plan. Nevertheless, this provision would attract moderate weight in support of the proposals.

31. Further to the additions to the local housing market, the proposed development would also provide some limited economic benefit as a result of the opportunities for the creation of employment from the construction of the dwellings, as well as the potential for resultant training opportunities in the local area. I am also satisfied that the development would provide some support to existing local services. The provision of a cemetery extension to meet the existing and proposed needs of Saxilby would provide some limited weight in support of the proposals, as would the addition of public footpaths, shown indicatively running through the site and along the northern boundary.

Obligations and conditions

32. As set out at the beginning of this Decision, the appellant has submitted a Unilateral Undertaking in support of the proposed development. I have already addressed the various constituent elements of the obligation within the Decision. Whilst I have had regard to an indication from the Council during the course of the appeal of a number of detailed matters regarding the obligation which they intended to discuss with the appellant, no further submissions were made on this matter. Nevertheless, I am satisfied that the undertaking is in order and meets all the requirements set by the Council. Furthermore, the Council has clearly set out the need for the provision of, or contribution towards the various obligations, as well as specifically identifying the direct relationship to the development, the necessity and acceptability in planning terms, and that the obligations are fairly and reasonably related in scale. In this respect, I am satisfied that the obligations would accord with the provisions of Regulation 122 of the Community Infrastructure Levy regulations 2010 and the tests for planning obligations set out in the Framework.
33. Turning to the suggested conditions, I have considered these in the light of paragraph 206 of the Framework. Conditions relating to timeliness regarding both the residential element and the cemetery extension, the submission of reserved matters, the overall quantum of development, and the identification of plans are necessary in the interest of proper planning and certainty. The submission and agreement of details relating to the drainage of the site would be in the interests of preventing the increased risk of flooding, whilst a scheme for the disposal of foul waters would be necessary in the interest of the proper drainage of the proposed development.
34. Whilst acknowledging the outline nature of the proposals and that all matters are reserved, I consider that the implementation of improvement works to the public highway as detailed in the Supplementary TA, details of speed reduction on Lincoln Road, and the requirement for full engineering, drainage, street lighting and construction details of the street layout, would be fundamental issues in the interests of highway safety and to ensure the visual amenity of the area. The securing of a Travel Plan would be in the interests of encouraging the use of sustainable means of travel. Conditions safeguarding the use of the public space and cemetery solely for that use, as well as providing protection for existing trees and hedgerows including the timing of any works, would be in the interests of the character and appearance of the development, the maintenance of the setting of the listed church, and the biodiversity interests of the site.

Planning Balance and Conclusion

35. I have concluded that the appeal site is situated within an accessible and sustainable location for new development, and would make a significant social contribution to the local housing market through the provision of additional housing and affordable housing units, to which I attach considerable weight. The proposed development would also make some limited social provision for Saxilby in the form of the extension to the cemetery and additional footpath links, as well as the economic benefits related to the construction and future occupation. However, whilst I am satisfied that the proposals would not detract from the overall rural character of the settlement edge and countryside beyond despite the adverse impact on the character of the appeal site itself, I have concluded that the proposals would result in there being less than substantial harm to the setting of the listed church and the contribution that setting makes to its significance, and to this I have attached considerable importance and weight. However, I consider that the public benefit in respect of the provision of additional housing including affordable units, the extension to the cemetery, and the economic benefits attached to the proposals, would outweigh the harm to the setting of the listed building.
36. In respect of other possible harm identified by interested parties in relation to the proposed development, I conclude that none would be likely to result from the scheme.
37. I am satisfied that the benefits of the proposed development would clearly outweigh the identified harm, and that having regard to all other matters raised and the economic, social and environmental dimensions of sustainable development set out in paragraph 7 of the Framework, the scheme does represent sustainable development. For the reasons given above, and subject to the conditions attached, the appeal should be allowed.

M Seaton

INSPECTOR

Annex

Conditions

- 1) Details of the appearance, landscaping, layout, access and scale of the residential development, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 18 months from the date of this permission.
- 2) The residential development hereby permitted shall be begun either before the expiration of two years from the date of this permission, or before the expiration of one year from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 3) The cemetery hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 4) No development shall take place until a surface water drainage scheme for the site, based on sustainable urban drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should include:
 - Details to demonstrate how run-off will be safely conveyed and attenuated during storms up to and including the 100 year critical storm event, with an allowance for climate, from all hard surfaced areas within the development into existing local drainage infrastructure and watercourse system without exceeding the run off rate for an un developed site, following the principles within the submitted Drainage Statement – Version 3 dated 9th March 2015.
 - Attenuation details and discharge rates to demonstrate that rates would not exceed 6.88 litres per second; and
 - Details of the timetable for, and any phasing of, implementation of the drainage scheme, including in respect of the highway and highway serving individual dwellings, and the public open space;
 - Details of how the scheme shall be maintained and managed after completion for the lifetime of the development including any arrangements for adoption by any public body or statutory undertaker and any arrangements required to secure the operation of the drainage system throughout its lifetime;
 - Confirmation that the receiving downstream surface water system has been cleared and maintained to its original design standard.

The development shall be carried out in accordance with the approved drainage scheme and no dwelling occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full in accordance with the approved details.
- 5) No development shall take place, before the works to improve the public highway as identified within Appendix 5 of the Supplementary Transport Assessment dated June 2015 have been certified as being complete by the local planning authority.

- 6) No development shall take place until, a scheme for the disposal of foul waters has been submitted to and approved in writing by the Local Planning Authority. No dwellings shall be occupied until the works have been carried out in accordance with the scheme approved under this condition.
- 7) No development shall be commenced until full engineering, drainage, street lighting and constructional details of the street layout proposed has been submitted to and agreed in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details.
- 8) Notwithstanding the outline nature of this permission the areas of open space hatched on drawing no. L-LEV-009-SLPP rev G shall be maintained as public open space and cemetery, and shall not be used for any other purpose.
- 9) No trees or hedges on the site shall be felled or removed without the prior written agreement of the Local Planning Authority.
- 10) No works shall take place involving the loss of any hedgerow, tree or shrub other than outside the bird nesting season (1st March to 31st August), unless it has been thoroughly checked for any nests and nesting birds by a suitably qualified person approved by the local planning authority, who has confirmed there are no active nests present.
- 11) The residential development hereby approved shall not exceed 133 dwellings.
- 12) No dwelling on the site shall be occupied until a scheme to reduce the speed limit on Lincoln Road has been submitted to and agreed in writing by the Local Planning Authority and the works to reduce the limit have been completed in accordance with the agreed details.
- 13) Notwithstanding the details submitted with the application, none of the dwellings shall be first occupied until a Travel Plan has been submitted to and approved in writing by the local planning authority. The approved Travel Plan shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.
- 14) The development hereby approved shall be carried out in accordance with the following drawings: NGH-P238-01, L-LEV-009-LP rev 1 , L-LEV-009-CO, L-LEV-009-SLPX rev1, L-LEV-009-SLPP rev G.