
Land off Common Road, Wressle Statement of Case

Prepared on behalf of Mr C Morley

May 2020

**Land off Common Road, Wressle
Statement of Case**

Prepared on behalf of Mr C Morley

Status:	Draft	Final
Issue/Rev:	01	02
Date:	April 2020	May 2020
Prepared by:	CA	CA
Checked by:	SN	SN
Authorised by:	SN	SN

Barton Willmore LLP
14 King Street
Leeds
LS1 2HL

Tel: 0113 2044 777

Ref: 29283/A5/HS/CA

Email: chris.atkinson@bartonwillmore.co.uk

Date: May 2020

COPYRIGHT

The contents of this document must not be copied or reproduced in whole or in part without the written consent of Barton Willmore LLP.

All Barton Willmore stationery is produced using recycled or FSC paper and vegetable oil-based inks.

Contents	Page
1.0 Introduction	1
2.0 Grounds of Appeal	4
3.0 Summary and Conclusions	11

Appendices

- Appendix A – Barton Willmore Planning Statement and Planning Statement Addendum
- Appendix B – Copy of Appeal Decision ref: APP/G2713/W/17/3191919
- Appendix C – Copy of High Court Decision
- Appendix D – Copy of formal Pre-application Response

1.0 INTRODUCTION

1.1 Barton Willmore is instructed by Mr C Morley (hereafter referred to as the 'Appellant') to appeal against North Lincolnshire Council's (hereafter referred to as the 'Council') decision to refuse planning permission for the following development at land off Common Road, Wressle (hereafter referred to as the 'Site'):

Outline planning permission to erect four single-storey dwellings with all matters reserved for subsequent consideration

Structure of Hearing Statement

1.2 As part of the original application submission, a Planning Statement was prepared by Barton Willmore which outlined the planning history of the Site, the proposed development, an overview of the relevant planning policy context and an assessment of the development and how it was considered to be policy compliant. During the course of the application, an Addendum to the Planning Statement was submitted to the Council.

1.3 In order to avoid repetition within the Statement of Case, a copy of the Planning Statement and Addendum is enclosed at Appendix A and the Inspectorate is encouraged to consider the contents of the document.

1.4 This Statement sets out the background to the application, together with the reasons for refusal and the Appellant's Grounds of Appeal.

Planning Application

1.5 A planning application for the development described above was submitted to the Council on 12th December 2019. As part of the planning application a suite of technical reports and plans were provided. The documents below formed the original planning submission:

- 1823-EX01 – Location Plan (Evans McDowell);
- 1823-PP01 – Proposed Site Location Plan (Evans McDowell);
- 1823-PP02 – Proposed Site Layout Plan (Evans McDowell);
- 3325-0001 – Topographical Survey (Mapmatic);
- Design and Access Statement (Evans McDowell);
- Planning Statement (Barton Willmore);
- Planning Statement Addendum (Barton Willmore);

- Heritage Assessment (PCAS Archaeology);
- Ecological Survey (Inspired Ecology Ltd);
- Phase 1 Site Investigation (Humberside Materials Laboratory Ltd)

Consultation

1.6 As part of the planning application process, the Council consulted the following consultees, with only Broughton Parish Council raising objections to the proposals:

- North Lincolnshire Council Highways – no objections subject to conditions;
- North Lincolnshire Historic Environment Officer – no objections subject to conditions;
- North Lincolnshire Environmental Protection Team – no objection subject to a contamination condition;
- Lead Local Flood Authority – no objections subject to conditions;
- North Lincolnshire Natural Environment Policy Specialist – no objections subject to conditions;
- Broughton Parish Council – object to the application as the site is outside development limits and along a narrow road.

1.7 The above demonstrates that the application raised no objections for technical consultees subject to the provision of appropriate conditions.

1.8 In terms of comments from local residents, 16 letters of objections were received by the local planning authority.

Decision Process

1.9 The planning application was determined by the Council on 12th March 2020, having been refused by members of the planning committee, for the following reason:

“In relation to sustainable development, it is considered that the adverse social and environmental impacts outweigh the benefits of the proposal and therefore the presumption in favour of sustainable development set out in paragraphs 8 and 11 of the National Planning Policy Framework has not been met. The proposed development is therefore contrary to policies RD2 of the North Lincolnshire Local Plan, CS2, CS3 and CS8 of the North Lincolnshire Core Strategy, and paragraph 78 of the National Planning Policy Framework in that the site lies outside of a defined settlement boundary, within the open countryside, is located in an unsustainable

location, remote from local services and would adversely affect the character and appearance of the open countryside. In addition, no evidence has been provided to justify a special need for new dwellings in this location”.

Determination Procedure

- 1.10 The Application was determined at planning committee and Barton Willmore spoke on behalf of the Appellant at the meeting, as well as observing other applications that were on the agenda. We believe that it is worth noting some of the other applications and decisions that were made by planning committee that day, as well as setting out some of the feedback provided by members in respect of this application.
- 1.11 Unlike the majority of planning committees around the country, officers at North Lincolnshire Council do not present an overview of the proposals to members, outlining the proposed development, proposed plans, consultee responses etc. Each item goes straight to public speakers and then into members debate, before a vote is then taken to either approve, refuse or defer an application.
- 1.12 With regards to this application, members major issue appeared to be the fact the proposal was submitted in outline and they were under the impression that no plans had been submitted, which was clearly not the case. However, as no presentation is given to members by officers, and members of the public are not able to provide clarity outside of their designated allocation to speak, members could not be corrected. They felt they could not make an informed decision without plans, and it seems this in part, impacted the decision of members to some degree.
- 1.13 On the same committee agenda the two application were approved in the rural settlement of Goxhill for 8 (PA/2019/842) and 9 (PA/2019/841) dwellings respectively, despite the fact the footways from the site to the centre of the village are narrow and that walking distance from the sites to the services in the village, such as the school were longer than the walking distance from the current appeal site in Wressle to the respect services in Broughton.

2.0 GROUNDS OF APPEAL

2.1 Following the refusal of the planning application, the Appellant's grounds for appeal are set out below, addressing the Council's reason for refusal. Although there is only a single reason for refusal, it covers a number of different issues, all of which we will address. These issues are considered to be as follows:

- Compliance with Presumption in Favour of Sustainable Development/Location of Site;
- Impact of Character and Appearance of the Open Countryside; and
- Special Need for Dwelling.

Compliance with Presumption in Favour of Sustainable Development/Location of Site

2.2 In refusing the application, the Council determined that the proposal was contrary to policies RD2 of the North Lincolnshire Local Plan (adopted in 2003) and CS2, CS3 and CS8 of the Core Strategy. It is contended that the Council have failed to correctly apply the presumption in favour of sustainable development.

2.3 It is important to note that the Council acknowledge that they are unable to demonstrate a deliverable 5 years housing land supply, and as such, the presumption of sustainable development takes precedence, as set out in paragraph 11. The guidance in part d) is very clear, in that "*where there are no relevant development plan policies, or policies which are most important for determining the application are out-of-date, granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against policies as in this Framework taken as a whole*" (our emphasis).

2.4 Footnote 7 provides clarification as to when policies are deemed to be out-of-date, and states "*this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites*". As such, any policies relevant to the provision of housing within the development plan are deemed as out-of-date, including those which set development limits, such as Policy CS3 of the Core Strategy, and can only be given limited weight in the determination of the application. Unfortunately, the Council appear to give the policy full weight and reference it in the reason for refusal. The fact that the proposed development is located outside of a settlement boundary is irrelevant to the determination of this application and should not factor against the application.

- 2.5 As per part d) ii. of the presumption in favour of sustainable development, the key test is whether the proposal would lead *"significant and demonstrable harm that outweighs the benefits"*. As set out within the application submissions and demonstrated in this Statement of Case, there are no technical matters that would lead to harm should this development come forward.
- 2.6 Furthermore, the proposed development would deliver a number of benefits, including the provision of much needed new housing in a settlement, which the Council themselves described in the Core Strategy as a 'sustainable community'. The Council have for a number of years been unable to demonstrate a 5 year housing land supply and to add to this, they have performed very poorly in the housing delivery test in 2018 (73%) and 2019 (75%), and this demonstrates there is an acute requirement for new homes in the District, and the Council have to start applying national planning policy correctly, by considered developments such as this favourably.
- 2.7 The Council also assessed the application against the guidance set out in paragraph 8 of the Framework, which sets out the three overarching objectives of achieving sustainable development, which comprises an economic objective; a social objective and an environmental objective. The Council believe that the proposal fails to meet the social and environmental objectives, however, we entirely disagree with their assessment.
- 2.8 Whilst not clearly set out on officers report to planning committee it is understood that the Council believe that the development fails the social objective due to the lack of facilities in Wressle; the perceived reliance on the use of private motor vehicles; and the narrow footpath linking Wressle and Broughton. The environmental objective is not deemed to be met because the development will impact upon the character and appearance of the area. The impact upon the character and appearance of the area is discussed in detail under a separate heading below.
- 2.9 The Council rely on policies within their Core Strategy which was adopted in June 2011, nearly 12 months prior to the Government publishing the first version of the Framework. The plan was therefore prepared and adopted in the context of a different planning policy position, and policies in the Core Strategy cannot automatically be given full weight. Indeed, paragraph 213 of the Framework is clear that policies should be given due weight according to their degree of consistency with the Framework.
- 2.10 The Council rely of Policy CS2 of the Core Strategy regarding the assertion that residents of the proposed development would be reliant on the use of a private motor vehicle. The policy states *"proposals should comply with the overall spatial strategy together with the following sustainable development principles – be located to minimise the need to travel and to*

encourage any journeys that remain necessary to be possible by walking, cycling and public transport”.

- 2.11 The Council fail to acknowledge that the Policy isn't compliant with the Framework, which at paragraph 103 states *"opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making"*. As such, Policy CS2 is not entirely consistent with the Framework and should only be offered limited weight in the determination of the application. Barton Willmore were involved with an appeal in Hambleton District Council (ref: APP/G2713/W/17/3191919), and the Inspector advised on a very similar issue, the LPA had a policy which requires development to be located so as to minimise the need for travel and encourage walking, cycling and the use of public transport. The Inspector concluded at paragraph 5 of the appeal decision that that approach is not consistent with the Framework. A copy of the appeal decision is included at Appendix B.
- 2.12 Notwithstanding the above, the Council themselves acknowledge that this is not a Site which is devoid of options for sustainable modes of transport. There is a regular bus service to Broughton, Brigg and Scunthorpe and there is a footpath all the way from the application Site to Broughton, which is only circa 0.5 miles away, where there are a number of facilities available. As such, to imply that this Site is not sustainable is unreasonable.
- 2.13 In deeming the Site unsustainable, the Council appear to contradict their own adopted planning policies, namely, Policy CS1. The settlement of Wressle is defined as a rural settlement in the settlement hierarchy and Policy CS1 states *"rural settlements will be supported as thriving sustainable communities"*, as well as noting that limited development can take place within such settlements. The proposal would deliver 4 new dwellings in a settlement of 40 dwellings, so would only represent a circa 10% expansion of the village overall. Given that it has been established above that policy CS3, which defines settlement boundaries is out-of-date and not relevant to the determination of the appeal, the sites location adjacent to the built up area of Wressle is entirely suitable, and can in no way be defined as not sustainable, when development within the settlement (such as infill) would. As such, the Council's assertion that the development is not sustainable because Wressle lacks facilities, makes little sense given the Council themselves define rural settlements as sustainable communities.
- 2.14 In the Council's assessment they fail to acknowledge the content of paragraph 9 of the Framework, which provides further guidance on sustainable development, which states *"they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and*

opportunities of each area". As the Council have had no regard to the flexibility with which this offers, it is considered that the Council have failed to properly assess the proposals.

- 2.15 As noted in the Planning Statement and the Planning Statement Addendum, paragraph 78 is clearly of relevance to this application. This states as follows *"to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby"*.
- 2.16 In dismissing this argument, the Council focus on the fact that Wressle has only 1 of 7 key facilities, a bus service, as per their Sustainable Settlement Survey 2016 and state *"in this case the proposed new dwellings cannot support local services as there are no local services apart from a one hourly bus service in Wressle"*. Again, the Council have failed to correctly interpret the guidance within the Framework. Paragraph 78 is not limited to requiring developments to enhance services within the settlement where they will be delivered, it is clear that development in one village can maintain services in a neighbouring village. This has been clarified through the High Court, through the Braintree District Council v SSLCG, Greyread Limited and Granville Developments Limited judgement that was handed down in November 2017. A copy of the judgement is included in Appendix C.
- 2.17 The Council's assertion that Wressle is not part of a group of settlements is difficult to comprehend, given it is only 0.5 miles away from Broughton, however it appears to be based on the fact that it is not a reasonable walking distance to the adjacent settlement. There is no requirement in paragraph 78 for adjacent settlements to be within walking distance, the guidance merely requires settlements to be "nearby".
- 2.18 Paragraph 78 is designed to bring forward development sites such as this, and to dismiss a this Site, which is only 0.5 miles away from a settlement with a number of local services, which is connected by a footway and a regular bus service, goes against the intention of the policy. In the context of paragraph 103 of the Framework, which acknowledges that opportunities to maximise sustainable transport modes vary between urban and rural areas, it is considered that residents of this development would have genuine alternative options to the private motor vehicle.

Impact of Character and Appearance of the Open Countryside

- 2.19 The reason for refusal includes reference to the proposed development "adversely affecting the character an appearance of the open countryside". There are two separate references to this in the officer's report to planning committee, which we consider below.

- 2.20 The first reference states *"the proposed development, including the provision of a vehicular access, whilst in outline form, would alter the character and appearance of the countryside and the open and greened appearance of the site. Given the fact that the site is relatively open and lies outside the settlement boundary, it is considered that the landscape impact would be significant in this instance."*
- 2.21 The assertion that the development would have a 'significant' impact on the character and appearance of the area is very unreasonable and is an entirely unfair assessment. The fact that the site is located outside of the settlement boundary doesn't automatically mean that developing it would lead to significant harm, if that was the case, no development would ever take place outside of development limits. We know that simply isn't the case.
- 2.22 No regard appears to have been given to the fact that the Site is located adjacent to existing residential development, so it would not be introducing an alien feature into the landscape. Furthermore, the development plot represents a very small part of the wider open landscape, and the overarching character would not be adversely impacted, and to imply it would be significantly impacted is a gross exaggeration.
- 2.23 The Council appear to justify their stance on the basis that two development proposals in Wressle been dismissed by the Planning Inspector and both make reference to the impact on the character and appearance of the area. It is a well established principle in planning that each development should be considered on its own merits and to rely on two entirely different sites, with different development proposals is unacceptable and rather than strengthening the Council's argument, simply undermines it.
- 2.24 Reference is made to planning application PA/2017/613 (appeal ref: APP/Y2003/W/17/3187274), which was dismissed in March 2018. Firstly, the site is located to the south east of the settlement as opposed to the north west, so no direct comparison can be made in this respect. Secondly, the development proposed a single dwelling, that was 175m away from the settlement boundary and not immediately adjacent to existing residential development and the Inspector only concludes that it would impact on the character *"having had regard to the position of the proposed dwelling in relation to the settlement of Wressle and other surrounding properties"*
- 2.25 The proposed development would continue the existing form of built development that already exists in this part of Wressle, so at the very least it would respect the local and immediately vernacular.
- 2.26 The officers report to committee also makes reference to the fact the application was not accompanied by a landscape survey/assessment. From our experience the provision for a landscape assessment for a development of four dwellings adjacent to the existing built up

area of a settlement is not common and is not commensurate to the development being proposed, particularly as the Site is not located in a sensitive landscape area such as an Area of Outstanding Natural Beauty (AONB). However, if at any point during the application the Council had notified the agent that such an assessment was required, they would have provided one.

- 2.27 Prior to the submission of the planning application, the Appellant undertook pre-application discussions with the Council, and a copy of the formal response is provided at Appendix D. The pre-application submission was based on a proposal for 5 units and the Council stated that the character in the area was "frontage development, on spacious plots, together with the required access for each plot". As a result, the development proposals were reduced to four units and clearly replicates the local character. It is noted that the pre-app response makes no reference to the requirement for a landscape assessment.
- 2.28 Furthermore, we are aware from other applications we have dealt with in North Lincolnshire that the Council's Natural Environment Policy Specialist has a dual role which covers both ecology and landscape. The officer's consultee response covered ecology matters but raised no issues or concerns regarding impacts of the development upon the character of the area.
- 2.29 The officers report also states *"whilst the site is afforded some limited screening along southern and western boundaries, it is considered that, because the principle of residential development on this site is considered contrary to planning policy, the subsequent development of any scale of housing on this open countryside site would be detrimental to its character and appearance."*
- 2.30 This is not how developments should be assessed in terms of their impact upon the character of an area. An assessment should be made in terms of what is proposed and what is in-situ in the locality, the fact that a site is on the other side of a line drawn in a local plan is not relevant to the assessment. Furthermore, the Council fail to acknowledge that Policy CS3, which defines development boundaries is out-of-date.

Special Need for Dwelling

- 2.31 The Council state that as the dwelling is located in the open countryside, there is a requirement to demonstrate that there is a special need for the dwellings proposed. We do not believe this is the case and is a further example of the Council misinterpreting national planning policy.
- 2.32 As the Council do not have a 5 year housing land supply, the presumption in favour of sustainable development applies and takes precedence in the determination of the application. Indeed, the development should only be refused if any harm arises which "significantly and demonstrably" outweighs the benefits. In addition, paragraph 78 of the Framework is not

reflected in any of the North Lincolnshire Core Strategy policies, and this development is fully compliant with the Framework in this regard.

2.33 Furthermore, the Council's policy which defines development boundaries is out-of-date, which means the development proposals can not be penalised for being in this location.

2.34 As such, there is no requirement to demonstrate that there is a special need for the proposed dwellings as per Policy RD2 of the Local Plan (2003).

3.0 SUMMARY AND CONCLUSIONS

3.1 This appeal is lodged following North Lincolnshire Council's decision to refuse outline planning permission for the construction of 4 dwellings on land off Common Road, Wressle.

3.2 The Council refused the application for a single reason, albeit there are a number of issues which it covered, namely – the compliance with Presumption in Favour of Sustainable Development and the location of the site; the impact of character and appearance of the open countryside and that a special need for the dwelling hasn't been demonstrated.

3.3 We have outlined in section 2 of this statement why the Council's reason for refusal are flawed, however these are summarised below:

- North Lincolnshire Council cannot demonstrate a 5 year housing land supply, therefore the presumption in favour of sustainable development applies. Paragraph 11 confirms that all policies relevant to the delivery of housing are out of date, which includes CS2, CS3 and CS8 of the Core Strategy and RD2 of the Local Plan (2013);
- To further emphasis the dire need for new housing in North Lincolnshire, the Council have performed poorly in the housing delivery test in both 2018 (73%) and 2019 (75%). If by November 2020, the level of delivery does not increase above 75%, the Council will be required to add a 20% buffer to their supply;
- The proposal is fully compliant with the social, economic and environmental objectives of sustainable development, and any harm which may arise from this development would not be significant, and as such, the proposal should be considered favourably;
- The Council have failed to have due regard to paragraphs 9, 78 and 103 of the Framework, instead placing too much weight on out-of-date policies within their Core Strategy and Local Plan, which was adopted 17 years ago, which are not fully compliant with the Framework;
- The Council have continued to assess the proposal on the basis that it is outside of development limits which is a flawed approach in the context of the presumption in favour of sustainable development;
- The Council have failed to acknowledge that their own Core Strategy defines rural settlements such as Wressle as 'sustainable communities' and that small levels of development are suitable in such locations;
- In terms of assessing the impact of the development on the character of the area, the Council have failed to have regard to the proposals and its immediate context i.e. existing residential development, instead justifying their assertion it impacts upon

character on the basis it is outside development limits and contrary to planning policy and because an Inspector dismissed an entirely different site, with different development proposals and context in Wressle, partly on the basis it would impact upon the character of the area. To imply that the development would lead to significant harm is a gross exaggeration and very unreasonable;

- 3.4 The Council's decision to refuse this application is not justified as the proposals are fully compliant with national planning policy, namely paragraphs 8, 9, 11, 78 and 103. The Council have failed to weight their local plan policies correctly in light of the presumption in favour of sustainable development. If the correct weighting had been applied, it is our opinion that the application would have been approved.
- 3.5 It has been demonstrated through the application that the proposed development is not constrained from a technical point, as demonstrated by the fact no consultees raised objections to the proposal. This emphasises that the development would not lead to harm.
- 3.6 The Council's reasons for refusal are not considered to be justified for the reasons set out above and the Appellant reserves the right to expand upon these matters at the Hearing or if an alternative appeal procedure is chosen.

APPENDIX A

Barton Willmore Planning Statement and Planning Statement Addendum

Land adjacent to Common Road, Wressle Planning Statement

Mr C Morley

November 2019

Land adjacent to Common Road, Wressle

Prepared on Behalf of Mr C Morley

Status:	Draft	Final
Issue/Rev:	01	02A
Date:	14/11/19	22/11/19
Prepared by:	CB	CB
Checked by:	CA	CA
Authorised by:	SN	SN

Barton Willmore LLP
1st Floor
14 King Street
Leeds
LS1 2HL

Tel: 0113 204 4777

Ref: 29283/A5/PS/CB

Email: chris.binns@bartonwillmore.co.uk

Date: November 2019

COPYRIGHT

The contents of this document must not be copied or reproduced in whole or in part without the written consent of Barton Willmore LLP.

All Barton Willmore stationery is produced using recycled or FSC paper and vegetable oil-based inks.

Contents	Page
1.0 Introduction	1
2.0 The Application Site and Surroundings	2
3.0 The Proposed Development	4
4.0 Planning Policy Context	5
5.0 Planning Assessment	11
6.0 Summary and Conclusions	18

Figures

- 2.1 Satellite Image highlighting the Site in red.
- 4.1 The Settlement Boundary for Wressle as defined by the Housing & Employment Land Allocations DPD (2016).
- 5.1 The proposed Layout Plan.

1.0 INTRODUCTION

1.1 This Planning Statement has been prepared on behalf of Mr C Morley (hereafter referred to as 'the Applicant') to support an outline planning application submitted to North Lincolnshire Council (hereafter referred to as 'the Council') for the proposed construction of 4 detached dwelling houses at Land adjacent to Common Road, Wressle (hereafter referred to as the 'Site').

Application Documents

1.2 The application comprises the following documents:

- Application Forms;
- Site and Scheme Drawings prepared by Evans McDowall Architects;
- Design and Access Statement prepared by Evans McDowall Architects;
- Heritage Assessment - PCAS Archaeology Ltd; and,
- Planning Statement prepared by Barton Willmore.

Structure of Statement

1.3 This report is structured as follows:

- Section 2.0 provides details of the Application Site and surroundings;
- Section 3.0 outlines the Proposed Development;
- Section 4.0 summarises the relevant planning policy context;
- Section 5.0 provides an assessment of the proposed development against relevant planning considerations; and
- Section 6.0 contains a summary and conclusions arising from the above including the scheme's compliance with the NPPF and Core Strategy.

2.0 THE APPLICATION SITE AND SURROUNDINGS

- 2.1 The application Site is approximately 0.32ha in area, located to the south of Common Road, Wressle. It lies outside but adjacent to Wressle's development boundary but is not categorised as high-quality agricultural land.
- 2.2 The south eastern and south western boundaries are open and used as pasture, for the grazing of horses. The north western boundary fronts Common Road and the north western boundary adjoins existing residential development.
- 2.3 The settlement of Wressle is situated 500m to the neighbouring village of Broughton which provides a number of local services including a pre-school, primary school, shops, pharmacy, post office, two churches, two pubs, a working men's club, a community and sports centre and allotments. The Site sits on the south east edge of Wressle, closest to Broughton and within recognised walking distance, and can be accessed via street lit public footpaths.
- 2.4 The local secondary school is situated in Brigg - approximately 3.5 miles south east of Wressle.
- 2.5 In terms of public transport, Wressle benefits from a local bus service. The bus service operates between Brigg and Scunthorpe and provides connections to neighbouring towns and villages. The bus service operates Monday to Saturday and provides connectivity for residents to commute to work or to various colleges, employment facilities as well as health, retail and recreation facilities.
- 2.6 The location of the Site in relation to the Wressle is shown on the satellite image below, edged in red.

Figure 2.1: Satellite Image highlighting the Site in red.



3.0 THE PROPOSED DEVELOPMENT

3.1 The Applicant seeks outline planning permission for the construction of 4 detached dwellings on the Site. The proposed dwellings are single storey in height in keeping with the adjacent dwellings and it is envisaged that they will be finished in materials to match the local vernacular, with spacious front and rear gardens. It is proposed that access will be gained via Common Road.

Planning history

3.2 A Pre-Application enquiry was submitted in June 2018 proposing residential development for up to 5 dwellings (Ref; PRE/2018/103). At the time of submission, the Council conceded that they had a 3.9 year supply of housing and that the council couldn't demonstrate a 5YHLS. For the reasons outlined within the Statement we still believe this to be the case.

4.0 PLANNING POLICY CONTEXT

- 4.1 The Council are in the process of preparing a new Local Plan, that will replace the Core Strategy and the Housing & Employment Land Allocations DPD. The Preferred Options North Lincolnshire Local Plan will be out for public consultation in January 2020, with adoption likely in 2021.
- 4.2 It is considered that the following policies within the North Lincolnshire Core Strategy (2011) and the Housing & Employment Land Allocations DPD (2016), together with the National Planning Policy Framework ('NPPF'), are of relevance.

National Planning Policy Framework ('the Framework')

- 4.3 Paragraph 11 outlines the presumption in favour of sustainable development, which states that development that accords with the development plan should be approved without delay. Where a development plan is out of date, proposals should be approved unless harm significantly and demonstrably outweighs the public benefits.
- 4.4 The Council claim that they can demonstrate a 5YHLS however Council's position is marginal (+6 units) and relies on completions of all permissions and allocated sites to date. Such completion rates are unrealistic and as such we believe that the development policies are effectively out-of-date.
- 4.5 Key to this application is indent (d) of paragraph 11, which explains that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date development should be granted unless:
- i. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 4.6 Footnote 7 of the NPPF elaborates on this point stating that this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 4.7 The Core Strategy (2011) policies which relate to the supply of housing are therefore considered to have limited weight in decision making. As a result, emphasis is put on Paragraph 78 of the NPPF. It states as follows:

“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.”

- 4.8 The proposed development on the Site is not considered to be isolated due to its proximity to the settlement boundary and would appear to meet the above criteria – supported, in part by its close proximity to the nearby settlement of Broughton less than 0.5 km away. The small scheme proposed would sensitively support new housing in a sustainable location, serving to enhance the vitality of Wressle and surrounding villages.

Assessment of Five-Year Housing Land Supply

- 4.9 The previously published data relating to the period between April 2016–March 2021 the Council acknowledged that they could only demonstrate a housing land supply of 3.9 years.
- 4.10 In 2018 the Council’s 5-year housing land supply (‘5YHLS’) position was debated by the Planning Inspectorate through an appeal (APP/Y2003/W/17/3185658), where it was concluded that they could not demonstrate a 5YHLS.
- 4.11 More recently however, the Council’s assessment of 5YHLS covering the period 1 April 2019 to 31 March 2024 summarises that North Lincolnshire currently has a 5YHLS of deliverable sites with a total of 2424 dwellings. The only reason this situation has changed is because the council can now calculate their housing requirement based on the Standard Methodology figure which is much lower than the adopted Core Strategy requirement.
- 4.12 The margin of oversupply is miniscule in comparison at just +6 units. In calculating the deliverable supply of dwellings, the Council have included all sites with planning permission and/or all sites allocated on 19th July 2019. This list includes:
- Sites with full planning permission;
 - Sites with outline planning permission;
 - Sites under construction; and
 - Sites allocated for housing through the Housing and Employment Land Allocations Development Plan Document.
- 4.13 The chances of all sites with planning permission, outline permission, sites allocated for housing and sites under construction are completed is extremely unlikely, and individually some consents and/or allocations will never be developed. Historically there has never been a 100% completion rate in North Lincs.

- 4.14 Paragraph 75 of the NPPF introduces the Housing Delivery Test which effectively looks back at past housing delivery/completion over 3 years and assumes minimum completion rates of 85%, which in due course will rise to 95%. The completion rate in North Lincs over the past three years is 73% which is measured against a requirement of 1,418 units. This is a significant reduction on the actual housing requirement set out in the Adopted Core Strategy, which would have been 2,262 over 3 years and the delivery rate would have only been 46%, which in our view would represent a true indication of delivery.
- 4.15 The Council's completion rates and land supply is extremely likely to be lower when accurate lead-in times are attributed to the larger sites which have been identified by the Council as being within the 5YHLS calculation. As such, as set out above, we believe the Council's land supply position is significantly worse than stated.
- 4.16 Following the publication of the revised NPPF, Local Planning Authorities now have to provide specific evidence to demonstrate that sites included within their 5YHLS are genuinely deliverable. No information is included with the Council's 5YHLS note which indicates that the Council have sought confirmation from landowners that sites are deliverable, and there are question marks regarding the robustness of the supply.
- 4.17 What is very clear is the Council cannot rely solely on the sites within 5YHLS coming forward in full, on time, in order to main the supply, giving it can only be achieved with a surplus of 6 units. As such they need to continue approving planning applications to ensure that if sites within the 5YHLS don't come forward, there are excess units which can be relied upon.

Core Strategy (2011)

- 4.18 In line with the saved Policy RD2 of the North Lincolnshire Adopted Local Plan (NLLP) (2003), Policy CS2 outlines that:

"Any development that takes place outside the defined development limits of settlements or in rural settlements in the countryside will be restricted. Only development which is essential to the functioning of the countryside will be allowed to take place. This might include uses such as that related to agriculture, forestry or other uses which require a countryside location, or which will contribute to the sustainable development of the tourist industry."

- 4.19 The Core Strategy therefore restricts new residential development beyond the defined limits of Wressle's settlement boundary. The settlement boundary for Wressle is shown below in Figure 4.1, highlighting how the Site falls beyond it. However, in light of the Council's failure to provide a robust and consistent 5YHLS, this policy is deemed to be out of date due to the restrictions it places on housing supply.

- 4.20 Policy CS3 supports CS2 further, outlining how Wressle is subjected to development limits due to its categorisation as a Rural Settlement under the adopted Core Strategy.
- 4.21 Policy CS8 outlines how *"New housing within the rural settlements will create opportunities for small scale infill development that maintains the viability of the settlement and meets identified local needs without increasing the need to travel."*
- 4.22 The proposed development is certainly small scale and the overall proposal for just 4 new houses will only have a minimal impact minimal on the landscape in a residential location. Whilst the proposal therefore is contrary to policy CS3, the restrictive nature of the policy is contrary to national guidance when it is considered that the Council cannot provide a robust 5YHLS. The Council's 5YHLS position is marginal, only 6 dwellings over the threshold, and relies on an unrealistic completion rate that has never been achieved. Restrictive policies such as this are therefore out of date and are afforded no weight.

4.23 Policy CS8 also states:

"Development on greenfield sites will only be allowed where it can be demonstrated that this will bring additional community benefits, contributing to building sustainable communities and is acceptable in terms of its impact on the high-quality environment of the urban space and adjoining countryside."

- 4.24 This application reflects the aspirations of Policy CS8, proposing a development which will contribute to the support of local services and the sustainability of Wressle and the villages beyond. The quality of the design proposals will match up to that of the high-quality environment which the Council is keen to protect.
- 4.25 Policy CS9 of the Core Strategy requires that in new residential housing developments of 3 or more dwellings in rural settlements, provision must be made for an element of affordable housing. This policy seeks to achieve a target of 10% in Rural Settlements.
- 4.26 However, Planning Practice Guidance ('PPG') published in May 2016 outlines that contributions should not be sought from developments of 10-units or less. Policy CS9 is therefore not in line with national policy and so is classed as out of date and afforded no weight.

Housing & Employment Land Allocations DPD (2016)

- 4.27 The map below indicates the settlement boundaries for Wressle as defined by the Housing & Employment Land Allocations DPD (2016), with the proposed application site edged in red. It is clear that the settlement boundary has been drawn around the existing residential

dwellings and that such a restrictive approach will only result in the settlement starting to stagnate.

Figure 4.1: The Settlement Boundary for Wressle as defined by the Housing & Employment Land Allocations DPD (2016).



Policy Conclusions

- 4.28 As the Council cannot demonstrate a robust 5YHLS, Policies CS2 and CS3 of the Core Strategy are considered out of date. As such, paragraphs 14 and 49 of the Framework take precedence, giving greater weight to decision making in favour of sustainable development. The restriction of new housing beyond Wressle’s settlement boundary is therefore weakened.
- 4.29 Further to this, the small-scale and sensitive nature of the development, in keeping with the dwellings immediately opposite, goes a long way to support the overarching aspirations of the adopted local plan, seeking to complement the existing settlement of Wressle through layout and design. The net increase by 4 new dwellings will have an insignificant effect on the appearance and character of the surrounding area and would provide needed homes which in turn can contribute to the sustainability of the settlement and its facilities.
- 4.30 At paragraph 78 the Framework supports sustainable development in rural areas where it will enhance or maintain the vitality of rural communities. The Framework urges planning policies identify opportunities for villages to grow and thrive, especially where this will

support local services. Where there are groups of smaller settlements, development in one village - such as Wressle - may support services in a village nearby - such as nearby Broughton.

5.0 PLANNING ASSESSMENT

5.1 This section of the statement identifies the main planning issues and provides an analysis of how the development proposals accord with planning policy at all levels. The analysis is ordered according to the following themes:

1. The Principle of Development;
2. Design Considerations;
3. Highways Safety;
4. The Natural Environment;
5. The Historic Environment;
6. Site Specific Infrastructure; and
7. The Benefits of the Proposed Development.

1. The Principle of Development

5.2 In accordance with S38 (6) of the Planning and Compulsory Purchase Act 2004, development should be carried out in accordance with the development plan, unless material considerations indicate otherwise. It is considered that, although the development plan comprises the saved policies of the North Lincolnshire Local Plan, the Core Strategy, and the Housing and Employment Land Allocations Plan, the Framework is a material consideration that should be given significant weight in the determination of the Application.

Presumption in Favour of Sustainable Development

5.3 At the heart of the Framework is a presumption in favour of sustainable development which is considered to be embedded in both the plan-making and decision-taking process of the planning system.

5.4 The Framework states at paragraph 11 that in terms of plan-making, local planning authorities should 'positively seek opportunities to meet the development needs of their area, and be sufficiently flexible to adapt to rapid change' and that 'strategic policies should, as a minimum, provide for objectively assessed needs for housing'. In terms of determining planning applications local planning authorities must approve planning applications for sustainable development without delay that are in accordance with an up to date Local Plan.

5.5 The presumption in favour of sustainable development is promoted through both policy making and decision taking in the provisions of paragraph 11 of the Framework. It is clear within the Framework that where a development plan is absent, silent or out of date,

planning permission should be granted without delay unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits of doing so.

- 5.6 The North Lincolnshire Local Plan was adopted in 2003 and as per paragraph 215 of the Framework, the Plan is out of date and the amount of weight that can be attributed to the policies within the Plan is dependent upon their compliance with the Framework. It is demonstrated within this section of the statement that the relevant policies within the Local Plan and subsequent Core Strategy do not accord with the Framework and no weight can be attributed to them.
- 5.7 This outline application seeks to deliver 4 dwellings and as per paragraph 49 of the Framework, the presumption in favour of sustainable development should be applied, providing it can be demonstrated that the site is sustainable. In addition, as the Council cannot demonstrate a robust 5YHLS, all policies relevant to the supply of housing are considered out of date.
- 5.8 Sustainable development is defined within the Framework as having three dimensions – an economic role, a social role and an environmental role. Following the publication of the Framework, greater importance has been placed upon the economic benefits that development can bring, whilst empowering the planning system to deliver both current and future economic needs. The Framework places a firm emphasis upon the need for planning to be positive and to encourage and deliver much needed growth and development, including the supply of housing.
- 5.9 As set out below, the development proposed is highly sustainable and as such the application should be approved to avoid stagnation in Wressle and in the interests of more general growth, housing delivery and supporting rural economies.

Sustainability

- 5.10 The settlement of Wressle is defined within the NLLP as a “*Smaller Rural Settlement*”. There is an acceptance that a small amount of residential development is suitable in the settlement, but that it must adhere to several policy restrictions. Wressle has localised services and facilities that can be accessed within the adjacent village settlement of Broughton. As Wressle is relatively well served by public transport this approach complies with the NPPF in that development would support services and facilities in nearby villages (and vice versa); it is therefore sustainable. Whilst residents of the site would in certain instances travel via by private car to access services, this is acknowledged in the Framework as being part of rural life.

- 5.11 In addition, paragraph 78 of the Framework states that development in one settlement, can support services in a village nearby. The settlements of Broughton, Scawby and Brigg are all within a short distance of Wressle – as is Scunthorpe only 4 miles away - and as such it is considered that the requirements of paragraph 78 would be achieved with this development. It is explicit in the opening sentence of paragraph 78 that such forms of development are sustainable.

Five Year Housing Land Supply

- 5.12 In the Council's most recent assessment North Lincs claim to have a 5YHLS of deliverable sites by a margin of just +6 units.
- 5.13 As discussed in paragraphs 4.14 of this report the Housing Delivery Test looks back at past housing delivery/completion over 3 years and assumes a minimum completion rate of 85%, rising to 95%. The completion rate in North Lincs over the past 3 years is 73% so it is clear that the marginal oversupply of 6 units will not be achieved. As such we believe the Council's land supply position is significantly worse than stated.
- 5.14 The Framework states that local policies relating to housing land supply are out of date and can be given no weight in the determination of the application.
- 5.15 The presumption in favour of sustainable development, as set out in paragraph 11, therefore applies and the application should only be refused where any adverse impacts would significantly and demonstrably outweigh the benefits. The remainder of this section of the statement demonstrates that there are no adverse impacts that outweigh the significant benefits.

2. Design Considerations

Design

- 5.16 Paragraphs 124 to 132 (inclusive) of the Framework deal exclusively with the requirement for good design. They confirm the importance of achieving high quality design in residential developments and are reflected in Policy CS5 of the North Lincolnshire Core Strategy. It outlines that:

"All new development in North Lincolnshire should be well designed and appropriate for their context. It should contribute to creating a sense of place. The council will encourage contemporary design, provided that it is appropriate for its location and is informed by its surrounding context. Design which is inappropriate to the local area or fails to maximise opportunities for improving the character and quality of the area will not be acceptable."

- 5.17 In accordance with national and local planning policy, the design of the proposed development will have regard to the existing built environment surrounding the Site, the nature of the Site and surrounding townscape.

Built Environment

- 5.18 The Site sits immediately adjacent to established residential development with open fields and countryside bound the Site to the south and south west.

Housing Mix

- 5.19 The 4 detached single storey dwellings will be of sufficient size, quality, desirability and energy efficiency that can support and provide good quality new housing in line with the Framework.
- 5.20 Policy CS9 of the Core Strategy requires that in new residential housing developments of 3 or more dwellings in rural settlements, provision must be made for an element of affordable housing which is accessible to those unable to complete in the general housing market. This policy seeks to achieve a target of 10% in Rural Settlements. A target of 70% of the affordable homes will be provided for rent, with the remaining provided as an intermediate tenure, to be agreed on a site by site basis. Wherever possible, affordable housing should be provided on-site, but an off-site contribution may be acceptable where: a) Management of the affordable housing on-site cannot be secured effectively; or b) Affordable housing provision elsewhere in more suitable settlements is more likely to contribute towards the creation of mixed communities.
- 5.21 However, Planning Practice Guidance ('PPG') published in May 2016 outlines that contributions should not be sought from developments of 10-units or less. Policy CS9 is therefore not in line with national policy and is out of date and afforded no weight.

Open Space

- 5.22 Policy CS16 outlines that development proposals are required to improve the quality and quantity of accessible landscape, greenspace and waterscape where appropriate and to address local deficiencies. There is also the requirement to protect trees, hedgerows and historic landscape to be specified where appropriate.
- 5.23 All properties within the development will be afforded generous private gardens to provide private amenity space, with the layout plans included in Figure 5.1 below.

Figure 5.1: The proposed Layout Plan.



3. Highways Safety

Proposed Vehicular Access

- 5.24 New driveways are proposed in a linear layout to reflect the plots of the neighbouring detached dwellings. The proposed dwellings will be set back from the road to reflect nearby development and to create sufficient space for off road parking facilities.
- 5.25 Each property will be provided with sufficient parking facilities as per highways authority requirements. The details of the parking arrangements would be agreed through future reserved matters applications.
- 5.26 It is not considered that the net increase in dwellings will lead to significant increases in vehicular movements that will lead to conditions prejudicial to highways safety. Indeed, the

Framework is clear that a planning application should only be refused on highways grounds where the impacts would be severe. This would clearly not be the case in this instance.

4. Natural Environment

Landscaping

- 5.27 The proposals will include the planting of a new trees, thus enhancing the visual amenity of the site.

Ecology

- 5.28 No major ecological constraints are believed to be associated with plans to develop this land.

5. Historic Environment

- 5.29 A search using the Historic England website in November 2019 revealed that there are no Listed Buildings or Heritage assets within the immediate vicinity or within the wider settlement. As such it is not considered that the proposal will adversely impact upon the setting of the listed building.

- 5.30 Wressle does not have a Conservation Area and as such it is considered unlikely that the proposal will adversely impact upon heritage assets.

- 5.31 PCAS Archaeology Ltd. was commissioned to compile a Heritage Assessment for a proposed residential development on land adjacent to Common Road in Wressle, North Lincolnshire.

- 5.32 The discovery of a Bronze Age barrow on the edge of the East Wood indicates that there is likely to have been a settlement in the wider study area but not specifically within the application site.

- 5.33 The report concludes that there is no evidence of prehistoric and Roman activity within the site itself and that there is no evidence of any settled activity on or near the site.

6. Site Specific Infrastructure

Flood Risk

- 5.34 The Site falls within Flood Zone 1 and is therefore considered to represent a low flood risk.

7. The Benefits of the Proposed Development

5.35 The Framework makes clear that there are three elements to sustainability – economic, social and environmental. It is therefore appropriate to consider the economic, social and environmental benefits which will be provided by the proposed development.

5.36 The economic benefits which will be delivered by the proposed development can be summarised as follows:

- Employment and job creation during the construction of the development;
- Inward investment to the local economy; and
- Provision of New Homes Bonus.

5.37 The social benefits which will be delivered by the proposed development can be summarised as follows:

- The delivery of much needed housing within North Lincolnshire; and
- Assistance in sustaining local business and rural communities.

5.38 The environmental benefits which will be delivered by the proposed development can be summarised as follows:

- The provision of a landscaping scheme that will help to further enhance the visual amenity of the area whilst also enhancing biodiversity.

5.39 The proposed development will therefore lead to a number of public benefits that should be given significant weight in the determination of the application. It is considered that these benefits significantly and demonstrably outweigh any harm that may arise from the development.

6.0 SUMMARY AND CONCLUSIONS

- 6.1 This Planning Statement has been prepared on behalf of Mr C Morley to support an outline planning application for the proposed construction of 4 residential dwellings at Land off Common Road, Wressle.
- 6.2 In the most recent assessment, the Council claim to have a 5YHLS of deliverable sites by a margin of just +6 units. This Planning Statement highlights that the Council cannot demonstrate a robust 5YHLS based on the fact that the completion rate in North Lincs over the past 3 years is 73% against a Standard Methodology assumption of 85% (rising to 95%). It is clear that the marginal oversupply of 6 units will not be achieved.
- 6.3 In such circumstances the Framework states that local policies relating to housing land supply are out of date and can be given no weight in the determination of the application and paragraph 49 of the Framework is of relevance.
- 6.4 Paragraph 49 confirms that the Council's planning policies that are relevant to the supply of housing, are out-of-date and should be given limited weight in the determination of the Application. This includes policies which define settlement boundaries and those which prevent residential development outside of such boundaries in rural settlements.
- 6.5 In addition, the Council's lack of a 5YHLS triggers paragraph 11 of the Framework (footnote 7) which means that where a development plan is out-of-date, planning permission should be granted unless *"any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."*
- 6.6 Notwithstanding our position with regards to the Council's inability to demonstrate a robust 5YHLS, should they maintain their position, the development is still considered to be acceptable, given its compliance with paragraph 78, which would confirm the proposal is sustainable, the fact that it would not lead to harm, and it would provide public benefits as outlined within this statement.
- 6.7 The fact that the Council claim to have a 5YHLS is not a reason to stop approving planning applications for residential development, a fact which has been confirmed by the Planning Inspectorate at appeal. Furthermore, the Council's 5YHLS is so precarious, that they need to ensure a supply of new planning permissions come through the system, and this proposal of 4 units would assist the Council in maintaining their supply.

- 6.8 This Planning Statement has demonstrated that the proposal will lead to public benefits, namely the provision of much needed housing in an area where there is an identified need, and that the development would not lead to harm.
- 6.9 As a result, the planning application should be approved without delay, as per paragraph 11 of the Framework.

OUTLINE PLANNING PERMISSION TO ERECT FOUR SINGLE STOREY DWELLINGS WITH ALL MATTERS RESERVED FOR SUBSEQUENT CONSIDERATION PA/2019/2035

PLANNING STATEMENT ADDENDUM

Introduction

In December 2019 an outline planning application for the construction of four dwellings off Brigg Road, Wressle was submitted to North Lincolnshire Council and is due to be determined by 6th February 2020.

In July 2019 the Council published a 5 Year Housing Land Supply Statement which implied they could demonstrate a robust and deliverable 5 year housing land supply (5YHLS). However, the 5YHLS was achieved with a surplus of just 6 units and clearly was not robust as it relied on every single site coming forward and delivering units. Put simply, if any unimplemented site lapsed, this meant the Council's 5YHLS would not be achievable. The Planning Statement that was submitted with the application outlined the above points and we concluded that despite the Council published note of July 2019, they did not have a 5YHLS.

Since the publication of the revised National Planning Policy Framework (NPPF) in February 2019, there is no greater emphasis on local planning authorities to gather and maintain robust evidence that sites within their 5YHLS are genuinely deliverable. Following a Freedom of Information (FOI) request submitted by Barton Willmore, in which we requested the Council's evidence which confirmed the sites within their 5YHLS were deliverable, the Council have now withdrawn their July 2019 Five Year Housing Land Supply Statement.

In the Council's response to the FOI request, the Council stated *"the Council have made the decision to withdraw the Five Year Housing Land Supply Statement due to some of the planning permissions lapsing since the statement was published in July 2019"*.

As such, the planning policy position in relation to the application has now changed significantly since the submission of the application, as outlined below.

Planning Policy Context

As noted in our Planning Statement, the North Lincolnshire Core Strategy was adopted in 2011 and Housing and Employment Land DPD in 2016. As such, the Council's development plan pre-dates the publication of the revised NPPF, and the guidance at paragraph 213 of the Framework is of relevance, which states:

"existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)"

Furthermore, the contents of paragraph 212 are also relevant, which make clear that *"the policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of publication"*.

As the Council are no longer in a position to demonstrate a 5YHLS, the presumption in favour of sustainable development, as set out in paragraph 11 of the Framework is triggered. In respect of the development management process the implications of this are made very clear, as it states:

*"where there are no relevant development plan policies, or the policies which are most important for determining the application out-of-date, granting permission unless: i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) any adverse impacts of doing so would **significantly** and **demonstrably** outweigh the benefits, when assessed against the policies in this Framework taken as a whole (our emphasis)"*

Footnote 7 of the Framework provides clarification with regards to out-of-date policies and it states *"this includes, for applications involving the provision of housing, situation where the local planning authority cannot demonstrate a five year housing land supply of deliverable housing sites"*.

As such, all policies within the North Lincs Core Strategy and the Housing and Employment Land DPD relevant to the delivery of housing are out-of-date and can only be given limited weight in the determination of this application. Planning case law has confirmed that this includes policies which define settlement boundaries.

As established in paragraph 212 of the Framework, the policies within the NPPF are material considerations in the determination of planning applications. As such, the contents of paragraph 78 is a material consideration and can not simply be ignored by North Lincolnshire Council. It states:

"to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality or rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this is support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby".

Revised Assessment of Development Proposals

As noted above, the Council's inability to demonstrate a 5YHLS means the planning policy context has changes since the application was submitted, which impacts upon the way in which the application should be assessed and determined.

Not only can the Council not demonstrate a 5YHLS, they also perform poorly in respect of the housing delivery test, having only delivered 73% of their requirement over the previous 3 years (based on data published in November 2018) and therefore being required to prepare an action plan. This, combined with the Council's inability to demonstrate a 5YHLS, demonstrates a dire situation in terms of the delivery of new housing in North Lincolnshire. There is a clear steer through national guidance for underperforming local planning authorities such as North Lincolnshire, to view planning applications for new housing favourable.

As the presumption in favour of sustainable development is triggered, the local planning authority can only recommend refusal of the application where it can be demonstrated that the development would lead to 'significant' harm when weighed against the benefits. The reference to 'significant' is a high bar and should not be misinterpreted, for example some harm is not the same as 'significant'.

To date, no technical consultees have objected to the proposed application, subject to the provision of conditions. It is noted that the provision of a phase 1 contamination survey has been requested and this will be submitted to the LPA shortly.

As such, there are no constraints to the development coming forward that would lead to harm and this is important particularly in the context of the presumption in favour of sustainable development.

We are aware of the consultee response from the Council's Spatial Planning team, which is dated 12th December 2019. This was issued prior to the Council withdrawing their 5YHLS and as such does not reflect the current planning policy context. The response makes reference to policies CS2 (Delivering More Sustainable Development), CS3 (Development Limits), CS5 (Delivering Quality Design in North Lincolnshire) and CS8 (Spatial Distribution of Housing Sites) of the Core Strategy, as well as Policy RD2 (Development in the Open Countryside) of the North Lincolnshire Local Plan (2003).

Policies CS2, CS3 and CS8 are all relevant to the delivery of housing and are therefore out-of-date as the Council cannot demonstrate a 5YHLS. Policy CS5, which provides guidance on design, remains valid and can be given full weight.

The Council's continued reliance on Policy RD2 is questionable given it is 17 years old and that alone means the policy is out of date and not fit for purpose.

What is striking about the Spatial Policy response is the lack of reference to or acknowledgement of paragraph 78 of the NPPF, particularly given the nature of the proposed development. Furthermore, paragraph 212 of the Framework is very clear that the contents of the NPPF is a material consideration in the determination of planning applications, it can not simply be ignored as appears to be the case in this instance.

The intention of paragraph 78 is to enable housing to come forward in small rural settlements even if there are no services in the village itself, providing there is a settlement in close proximity which does provide such services. As such, the policy is tailor made for the application before the Council i.e. Wressle's close relationship with Broughton. The opening sentence of paragraph 78 is also of importance as this makes clear that such development is intrinsically sustainable and is not open for debate.

The fact that the site falls outside of the settlement boundary is irrelevant as the Council cannot demonstrate a 5YHLS.

Summary and Conclusions

The Council have an acute requirement for new housing which is evidenced by the poor housing delivery test performance, and the inability to demonstrate a 5YHLS. This means there is a shortfall in delivery and also a lack of deliverable sites in the pipeline. As such, the presumption in favour of sustainable development, as set out in paragraph 11 of the NPPF applies.

This means that the Council's policies relevant to the supply of housing, including those which set development limits, are out of date and can be given limited weight in the determination of the application.

The presumption in favour of sustainable development is very clear that in instances such as this, development should only be refused where the development would **significantly** and **demonstrably** outweigh the benefits of the proposal.

Firstly, the contents of paragraph 78 of the NPPF, which is a material consideration in the determination of the application, confirms that the development before the Council is sustainable.

As noted above there have been no objections from consultees to date, subject to the provision of conditions. A phase 1 contamination report will be provided as requested by the LPA. It can therefore be concluded that the development will not lead to harm, certainly not to an extent that could be described as significant. As set out in the Planning Statement, the proposal would lead to some social, economical and environmental benefits.

The tilted balance therefore applies, and the Council should approve the application without delay as per the requirements of paragraph 11 of the NPPF.

APPENDIX B

Copy of Appeal Decision ref: APP/G2713/W/17/3191919



Appeal Decision

Site visit made on 13 March 2018

by **C L Humphrey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28th March 2018

Appeal Ref: APP/G2713/W/17/3191919

The Granary, Stearsby YO61 4SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Louise Higham against the decision of Hambleton District Council.
 - The application Ref 17/00732/FUL, dated 29 March 2017, was refused by notice dated 29 August 2017.
 - The development proposed is change of use of granary barn converted previously to ancillary living accommodation into a self contained separate two bedroomed dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of granary barn converted previously to ancillary living accommodation into a self-contained separate two bedroomed dwelling at The Granary, Stearsby YO61 4SA in accordance with the terms of the application, Ref 17/00732/FUL, dated 29 March 2017, subject to the conditions set out in the Schedule to this Decision.

Main Issue

2. The main issue is whether the appeal proposal would provide a suitable location for housing having particular regard to local and national planning policies relating to development in the countryside.

Reasons

3. The appeal property is a barn which has previously been converted into ancillary living accommodation comprising 2 bedrooms, a living room, kitchen and bathroom and an integral garage. It is located in the grounds of a house known as The Granary at the eastern end of Stearsby.
4. The proposal would re-use the existing building without any physical alteration. Given its location within the settlement and in close proximity to other houses, the dwelling would not be isolated. Whilst there are no services within Stearsby the Planning Practice Guidance notes that all settlements can play a role in delivering sustainable development in rural areas. Future occupants of the dwelling would utilise local services in the surrounding area, thus helping to support the rural economy. Consequently, the proposal would accord with Policy CP4(iv) of the Hambleton District Council Local Development Framework Core Strategy (CS) and with paragraph 55 of the National Planning Policy Framework (Framework).

5. Due to the lack of services in the settlement future occupiers would be reliant on private vehicles, contrary to CS Policy CP2 which requires that development should be located so as to minimise the need to travel and encourage walking, cycling and the use of public transport. However, this policy is not entirely consistent with the Framework, which recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas and seeks to focus significant development in locations which are or can be made sustainable and ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. In this case, the change of use from ancillary living accommodation to 1 dwelling would not be significant development and nor would it generate significant additional movement.
6. The appeal site is located in the Howardian Hills Area of Outstanding Natural Beauty (AONB). No external changes are proposed, and the change of use would not result in any adverse effect upon the character or appearance of the area, thereby conserving the natural beauty of the AONB.
7. For the reasons set out above I conclude that the appeal proposal would provide a suitable location for housing, having particular regard to CS Policies CP1 and CP4 and the Framework, which seek to support rural communities and conserve and enhance the natural and built environment. Whilst there would be conflict with the sustainable transport aims of CS Policy CP2, having regard to the limited harm which would arise, the adverse impacts would not significantly and demonstrably outweigh the benefits.
8. The Council's reason for refusal refers to the Hambleton District Council Interim Policy Guidance Note (IPG), however the appeal site is not located in a settlement forming part of a 'cluster village' as defined by the IPG so the proposal falls to be considered against the criteria in CS Policy CP4. Thus, I have not had regard to the IPG on this occasion.

Other Matters

9. Interested parties have raised wider matters including drainage and sewerage provision, traffic and access along the driveway and a restrictive covenant relating to the use of The Granary and its outbuildings as a single dwelling. There is no evidence that the appeal property could not be provided with adequate drainage or sewerage connections. Additional traffic is likely to be limited given the small scale of the proposal, and a condition could be imposed to ensure the garage was retained for parking. Rights of access along the driveway and any restrictive covenant would be a private matter between the parties involved. Accordingly, I have given these other matters little weight.

Conditions

10. I have imposed a condition specifying the relevant drawings as this provides certainty. A condition restricting permitted development rights in relation to extensions and alterations, buildings and structures within the curtilage and boundary treatment is reasonable and necessary in the interests of the character and appearance of the area. In the interests of highway safety and the living conditions of the occupiers of neighbouring properties, I have also imposed a condition requiring the garage to be kept available for parking.

Conclusion

11. For the reasons given above and having had regard to all other matters raised I conclude that the appeal should be allowed.

C L Humphrey

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: H334/1 and H334/2.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no enlargement, improvement or other alteration shall be carried out to the dwelling hereby permitted and no building or structure shall be carried out or provided within or on the boundary of the curtilage of the dwelling hereby permitted.
- 4) The garage shall be kept available at all times for the parking of vehicles.

END OF SCHEDULE OF CONDITIONS

APPENDIX C

Copy of High Court Decision

Case No: CO/1207/2017

Neutral Citation Number: [2017] EWHC 2743 (Admin)
IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 15 November 2017

Before :

MRS JUSTICE LANG DBE

Between :

BRAINTREE DISTRICT COUNCIL

Claimant

- and -

**(1) SECRETARY OF STATE FOR
COMMUNITIES AND LOCAL GOVERNMENT**

(2) GREYREAD LIMITED

(3) GRANVILLE DEVELOPMENTS LIMITED

Defendants

Ashley Bowes (instructed by **Sharpe Pritchard**) for the **Claimant**
Gwion Lewis (instructed by the **Government Legal Department**) for the **First Defendant**
John Dagg (instructed under the **Direct Access Scheme**) for the **Second and Third Defendants**

Hearing date: 24 October 2017

Judgment

Mrs Justice Lang :

1. The Claimant (“the Council”) applied under section 288 of the Town and Country Planning Act 1990 (“TCPA 1990”) to quash the decision of the First Defendant, made by an Inspector on his behalf, on 3 February 2017, in which he allowed an appeal by the Third Defendant against the Council’s refusal of planning permission.
2. The Third Defendant applied for planning permission to erect two detached single-storey dwellings on land east of Lower Green Road, Blackmore End, Wethersfield, Essex (hereinafter “the appeal site”). Previously there had been two agricultural buildings on the appeal site, which had been demolished.
3. On 4 March 2016, the Council refused planning permission. Its reasons for refusal were that the appeal site lay within an area of countryside beyond any defined settlement boundaries, and the development failed to accord with policies in the Council’s Core Strategy and Local Plan Review and planning principles in the National Planning Policy Framework (“NPPF”) at 49, 55 and 111. Policy RLP2 of the Braintree District Local Plan Review stated that new development was to be confined to areas within town development boundaries and village envelopes. Outside of those areas, countryside policies applied. Policy CS5 of the Council’s Core Strategy stated that development outside town development boundaries and village envelopes was to be strictly controlled to uses appropriate to the countryside, in order to protect and enhance landscape character and biodiversity, geodiversity and amenity of the countryside. Policy CS7 of the Core Strategy stated that future development was to be in accessible locations to reduce the need to travel.
4. The Inspector (Mr K. Williams BA MA MRTPI) held a site visit and determined the appeal by way of written representations. He found that, on the most favourable analysis, deliverable housing sites fell well below the 5 year supply required by NPPF 47, and so the provisions of NPPF 49 were engaged. Policies CS5 and RLP2 were to be treated as out-of-date when applying NPPF 14. He concluded that permission should be granted in accordance with the Framework’s presumption in favour of sustainable development. His key finding, for the purposes of this application, was in paragraph 9 of the Appeal Decision (“AD”):

“9. I conclude that subject to appropriate conditions the development would not result in material harm to the character and appearance of the surrounding area. The site is not within a settlement boundary and the development would therefore conflict with policies CS5 and RLP2. It would not accord with the development plan’s approach of concentrating development in towns and in village envelopes. On the other hand there are a number of dwellings nearby and the development would not result in the new isolated homes in the countryside to which Framework paragraph 55 refers.”
5. Collins J. granted permission on the papers on 15 May 2017.

Ground of challenge

6. The sole ground of challenge was that the Inspector misunderstood and therefore misapplied NPPF 55 by not appreciating that, when considering the policy against granting planning permission for “new isolated homes in the countryside unless there are special circumstances”, the meaning which should be given to the term “isolated homes” was “homes which were remote from services and facilities”.
7. The Defendants submitted that, when applying NPPF 55, the word “isolated” should be given its ordinary objective meaning of “far away from other places, buildings or people; remote”. They submitted that the Inspector correctly understood and applied the term “isolated homes” in his decision.

Legal and policy framework

(i) Applications under section 288 TCPA 1990

8. Under section 288 TCPA 1990, a person aggrieved may apply to quash a decision on the grounds that (a) it is not within the powers of the Act; or (b) any of the relevant requirements have not been complied with, and in consequence, the interests of the applicant have been substantially prejudiced.
9. The general principles of judicial review are applicable to a challenge under section 288 TCPA 1990. Thus, the Claimant must establish that the Secretary of State misdirected himself in law or acted irrationally or failed to have regard to relevant considerations or that there was some procedural impropriety.
10. The exercise of planning judgment and the weighing of the various issues are matters for the decision-maker and not for the Court: *Seddon Properties Ltd v Secretary of State for the Environment* (1981) 42 P & CR 26. As Sullivan J. said in *Newsmith v Secretary of State for the Environment, Transport and the Regions* [2001] EWHC Admin 74, at [6]:

“An application under section 288 is not an opportunity for a review of the planning merits.....”
11. The Court should respect the expertise of Inspectors, and at least start from the presumption that they will have understood the policy framework correctly. Their position is in some ways analogous to that of expert tribunals, in respect of which the courts have cautioned against undue intervention by the courts in policy judgments within their areas of specialist competence: *Suffolk Coastal DC v Hopkins Homes Ltd* [2017] UKSC 37, per Lord Carnwath at [25].
12. A decision letter must be read (1) fairly and in good faith, and as a whole; (2) in a straightforward down-to-earth manner, without excessive legalism or criticism; (3) as if by a well-informed reader who understands the principal controversial issues in the case: see Lord Bridge in *South Lakeland v Secretary of State for the Environment* [1992] 2 AC 141, at 148G-H; Sir Thomas Bingham MR in *Clarke Homes v Secretary of State for the Environment* (1993) 66 P & CR 263, at 271; *Seddon Properties Ltd v*

Secretary of State for the Environment (1981) 42 P & CR 26, at 28; and *South Somerset District Council v Secretary of State for the Environment* (1993) 66 P & CR 83.

(ii) Decision-making

13. The determination of an application for planning permission is to be made in accordance with the development plan, unless material considerations indicate otherwise. Section 70(2) TCPA 1990 provides that the decision-maker shall have regard to the provisions of the development plan, so far as material to the application. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (“PCPA 2004”) provides:

“If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

14. The NPPF is a material consideration for these purposes, but it is policy not statute, and does not displace the statutory presumption in favour of the development plan: see NPPF 11 to 13. It must be exercised consistently with the statutory scheme giving primacy to the development plan, and not displace or distort it: *Suffolk Coastal DC v Hopkins Homes Ltd* [2017] UKSC 37, per Lord Carnwath at [21].
15. In *Tesco Stores Limited v Dundee City Council* [2012] UKSC 13, Lord Reed (with whose judgment Lord Brown, Lord Hope, Lord Kerr and Lord Dyson agreed), rejected the proposition that each planning authority was entitled to determine the meaning of development plans from time to time as it pleased, within the limits of rationality. He said:

“18. ... The development plan is a carefully drafted and considered statement of policy, published in order to inform the public of the approach which will be followed by planning authorities in decision-making unless there is good reason to depart from it. It is intended to guide the behaviour of developers and planning authorities. As in other areas of administrative law, the policies which it sets out are designed to secure consistency and direction in the exercise of discretionary powers, while allowing a measure of flexibility to be retained. Those considerations point away from the view that the meaning of the plan is in principle a matter which each planning authority is entitled to determine from time to time as it pleases, within the limits of rationality. On the contrary, these considerations suggest that, in principle, in this area of public administration as in others (as discussed, for example, in *R (Raissi) v Secretary of State for the Home Department* [2008] QB 836), policy statements should be interpreted objectively in accordance with the language used, read as always in its proper context. They are intended to guide the decisions of planning authorities, who should only depart from them for good reason.

19. That is not to say that such statements should be construed as if they were statutory or contractual provisions. Although a development plan has a legal status and legal effects, it is not analogous in its nature or purpose to a statute or a contract. As has often been observed, development plans are full of broad statements of policy, many of which may be mutually irreconcilable, so that in a particular case one must give way to another. In addition, many of the provisions of development plans are framed in language whose application to a given set of facts requires the exercise of judgment. Such matters fall within the jurisdiction of planning authorities, and their exercise of their judgment can only be challenged on the ground that it is irrational or perverse (*Tesco Stores Ltd v. Secretary of State for the Environment* [1995] 1 WLR 659, 780 per Lord Hoffmann). Nevertheless, planning authorities do not live in the world of Humpty Dumpty: they cannot make the development plan mean whatever they would like it to mean.”

16. In *Suffolk Coastal DC v Hopkins Homes Ltd* [2017] UKSC 37, the Supreme Court accepted that these principles also applied to the interpretation and application of national policy in the NPPF (per Lord Carnwath at [23]; per Lord Gill at [72] – [74]).

(iii) National Policy

17. NPPF 6 explains that the purpose of the planning system is to contribute to the achievement of sustainable development. NPPF 7 summarises the three dimensions to sustainable development: economic, social and environmental.

18. NPPF 17 sets out the core land-use planning principles which should underpin decision-taking. They include the principle that planning should:

“take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it;”

19. NPPF 28 sets out the policies to support economic growth in rural areas, including promoting the retention and development of local services and community facilities in villages.

20. NPPF 55 provides:

“55. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as:

- the essential need for a rural worker to live permanently at or near their place of work in the countryside; or
- where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or
- where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or
- the exceptional quality or innovative nature of the design of the dwelling. Such a design should:
 - be truly outstanding or innovative, helping to raise standards of design more generally in rural areas;
 - reflect the highest standards in architecture;
 - significantly enhance its immediate setting; and
 - be sensitive to the defining characteristics of the local area.”

21. The Planning Practice Guidance (“PPG”) states:

“How should local authorities support sustainable rural communities?

.....

A thriving rural community in a living, working countryside depends, in part, on retaining local services and community facilities such as schools, local shops, cultural venues, public houses and places of worship. Rural housing is essential to ensure viable use of these local facilities.

Assessing housing need and allocating sites should be considered at a strategic level and through the Local Plan and/or neighbourhood plan process. However, all settlements can play a role in delivering sustainable development in rural areas and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided unless their use can be supported by robust evidence.....

The [NPPF] also recognises that different sustainable transport policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions

will vary from urban to rural areas [NPPF Part 4 Promoting Sustainable Transport para 34]”

Conclusions

22. The Claimant submitted that NPPF 55 had to be interpreted in the context of national policy on rural development which enjoined decision takers to support the rural economy by supporting local services and facilities within it: see NPPF 28 and 55, and the PPG. According to the PPG, housing had an “essential” role to play in ensuring the vitality of those facilities and services. Housing should therefore be located where it would “enhance or maintain” them. Housing which did not enhance or maintain those facilities or services by reason of being “isolated” from them should be avoided unless there are “special circumstances”. Thus, in applying NPPF 55, and considering whether proposed development amounted to “new isolated homes in the countryside”, it was irrelevant that the development was located proximate to other residential dwellings. The key question was whether it was proximate to services and facilities so as to maintain or enhance the vitality of the rural community.
23. In my judgment, the Claimant’s submission was incorrect. The sentence in NPPF 55 guiding local authorities to avoid granting planning permission for “new isolated homes in the countryside unless there are special circumstances” should be “interpreted objectively in accordance with the language used, read ... in its proper context” (per Lord Reed in *Tesco Homes* at [18]).
24. The word “isolated” is not defined in the NPPF. I agree with the Defendants’ submission that “isolated” should be given its ordinary objective meaning of “far away from other places, buildings or people; remote” (Oxford Concise English Dictionary).
25. The immediate context is the distinction in NPPF 55 between “rural communities”, “settlements” and “villages” on the one hand, and “the countryside” on the other. This suggests that “isolated homes in the countryside” are not in communities and settlements and so the distinction between the two is primarily spatial/physical.
26. As to the broader context, in my judgment, NPPF 55 seeks to promote the economic, social and environmental dimensions of sustainable development, and to strike a balance between the core planning principles of “recognising the intrinsic character and beauty of the countryside” and “supporting thriving rural communities within it” (NPPF 17). The Claimant’s analysis of the policy context is far too narrow in scope.
27. The policy in favour of locating housing where it will “enhance or maintain the vitality of rural communities” is not limited to economic benefits. The word “vitality” is broad in scope and includes the social role of sustainable development, described in NPPF 7 as “supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations”. The Claimant’s restriction of an “isolated home” to one that is isolated from services and facilities would deny policy support to a rural home that could contribute to social sustainability because of its proximity to other homes.

28. NPPF 55 cannot be read as a policy against development in settlements without facilities and services since it expressly recognises that development in a small village may enhance and maintain services in a neighbouring village, as people travel to use them. The PPG advises that “all settlements can play a role in delivering sustainable development in rural areas”, cross-referencing to NPPF 55, “and so blanket policies restricting housing development in some settlements and preventing other settlements from expanding should be avoided...”. Moreover, in rural areas, where public transport is limited, people may have to travel by car to a village or town to access services. NPPF 17 penultimate bullet point identifies as a core planning principle to “actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable”. But as the PPG states, NPPF 29 and 34 recognise that the general policy in favour of locating development where travel is minimised, and use of public transport is maximised, has to be sufficiently flexible to take account of the differences between urban and rural areas. The scale of the proposed development may also be a relevant factor when considering transport and accessibility. As Mr Dagg rightly pointed out, the policy in NPPF 17 in favour of focusing development in locations which are or can be made sustainable applies in particular to “significant development”.
29. For these reasons, I agree with the Defendants that the Claimant was seeking to add an impermissible gloss to NPPF 55 in order to give it a meaning not found in its wording and not justified by its context.
30. The First Defendant drew my attention to *Dartford Borough Council v Secretary of State for Communities and Local Government* [2017] EWCA Civ 141 in which Lewison LJ said, at [15], in relation to para. 55 of the NPPF:

“... the definition of previously developed land, in the context of the present case, takes as its starting point that the proposed development is within the curtilage of an existing permanent structure. It follows that a new dwelling within that curtilage will not be an ‘isolated’ home.”
31. Although the context in that case was quite different, my conclusion is consistent with Lewison LJ’s observations.
32. In AD 8 & 9, the Inspector correctly applied NPPF 55 by concluding that, since the proposed new homes would be located on a road in a village where there were a number of dwellings nearby, it would not result in “new isolated homes in the countryside”.
33. The undisputed evidence before the Inspector was that Blackmore End was a village, which had linear development extending along several roads. There was a dispersed pattern of development along Lower Green Road (the location of the appeal site). Lower Green Road was a road leading out of the village, heading north. There were dwellings immediately to the south and north of the appeal site. There was also a dwelling to the west, on the other side of the road.
34. It was common ground that the appeal site was to be treated as outside any village envelope, and therefore within the countryside. Until 2014, no settlement boundary

existed for Blackmore End, in common with some other villages in this rural district. A settlement boundary was introduced in 2014 in the Site Allocations and Development Management Policies document, which was an interim measure whilst the new Local Plan was prepared, but it was never formally adopted as part of the development plan. In June 2016, a draft Local Plan was published for consultation, which included the same or very similar settlement boundary, but it only had the status of an emerging plan. In both documents, the settlement boundary (referred to as a “village envelope”) was drawn around the two main clusters of housing in the centre of the village, excluding development, such as Lower Green Road, located on the edge of the village. This was a material consideration for planning purposes.

35. It was agreed that the village of Blackmore End had very limited facilities and amenities, comprising a village hall, public house and playing field. Blackmore End was within the parish of Wethersfield. Wethersfield village was about 2 miles away, and it had a post office, village store, public house, a nursery and pre-school. The village of Sible Hedingham, identified as one of five “Key Service Villages” in the draft Local Plan was about 4 miles away. In assessing accessibility, the Inspector concluded, at AD 14:

“It is likely that those occupying the dwellings would rely heavily on the private car to access everyday services, community facilities and employment. While this weighs against the development, it is consistent with the Framework that sustainable transport opportunities are likely to be more limited in rural areas.”

36. Under the sub-heading “The Overall Balance and Sustainable Development”, the Inspector said:

“16. Accessibility to services, facilities and employment from the site other than by car would be poor. On the other hand, the development would make a modest contribution to meeting housing need. In addition, subject to appropriate conditions, there would not be material harm to the character and appearance of the surrounding area or to the setting of listed buildings. A minor economic benefit would arise from developing the site and the economic activity of those occupying the buildings. There would be conflict with policies CS5 and RLP2 but those policies are out-of-date and are worthy of limited weight. Applying the tests set out in Framework paragraph 14, I find that there are not adverse impacts of granting permission which would significantly and demonstrably outweigh the benefits, when assessed against Framework policies as a whole. Nor are there specific policies in the Framework which indicate that the development should be restricted. The proposal would amount to sustainable development. Permission should be granted in accordance with the Framework’s presumption in favour of sustainable development.”

37. When the Inspector referred to “the minor economic benefit ... from developing the site and the economic activity of those occupying the dwellings”, he was referring, first, to the economic benefit of providing local builders etc. with work at the appeal site, and, second, to the economic benefit of two new households who would be likely to use businesses in the surrounding area (e.g. for services to their homes and shopping etc.). This was a point expressly raised in the Appellant’s case, which the Inspector was entitled to accept. In my view, it was obvious that households would be likely to use services in the surrounding area to some extent. I cannot agree with the Claimant’s submission that the Inspector made no finding on this point or that there was insufficient evidence of such use to enable him to do so.
38. In conclusion, I consider that the Inspector correctly interpreted NPPF 55, and applied it properly to the facts and matters which arose in this appeal. Therefore the Claimant’s application is dismissed.

APPENDIX D

Copy of formal Pre-application Response

PRE-APPLICATION ADVICE

Application no: PRE/2018/103

Proposal: Residential development for up to 5 dwellings

Location: Land adjacent 17 Common Road, Wressle

Applicant: Mr Chris Morley

Officer: Emma Carrington

POLICY

National Planning Policy Framework: Paras 7, 8, 9, 10, 11, 77, 78 are particularly relevant to this proposal

Core Strategy: Policies CS3, CS5, CS7, CS8

North Lincolnshire Local Plan: Policies DS1, H8, RD2

PLANNING HISTORY No relevant planning history

CONSULTATIONS

Highways Subject to adequate access parking and turning being provided no particular objections in principle. However, again I think five dwellings might be a bit tight to get everything in

Drainage See attached memo

Spatial Planning See attached memo

S106 Requirements See attached memo

Archaeology See attached memo

Environmental Health See attached memo

Ecology See attached memo

OFFICER'S COMMENTARY The site referred to is outside the settlement boundary for Wressle, as defined in the adopted Housing & Employment Land Allocations DPD. As such,

the development of this land for residential purposes is contrary to the policies contained in the north Lincolnshire local plan and core strategy. However, as the council does not have a 5 year housing land supply, housing applications will need to be considered in the context of sustainable development.

The recently revised National Planning Policy Framework sets out the criteria in paragraph 11 against which the sustainability of a development proposal is to be judged. As Wressle is defined as a smaller rural settlement, it has very limited services available, therefore, it could prove difficult to demonstrate that the proposal for up to 5 dwellings in this rural area, is sustainable in relation to the three overarching objectives of the NPPF. Furthermore, paragraph 78 of the NPPF seeks to ensure that housing in rural areas is sustainable, by enhancing or maintaining the vitality of rural communities.

Any formal proposal would need to demonstrate this with supporting evidence to show how the development accords with these objectives.

On balance therefore, without any supporting evidence, it is considered that the development of this site is likely to prove unsustainable and in principle, would not receive the support of the council.

In terms of the size of the site and the numbers proposed, it may prove difficult to achieve 5 dwellings, without affecting the character of this part of the settlement, which is characterised by frontage development, on spacious plots, together with the required vehicular access for each dwelling (see attached comments from highways). In terms of other possible issues with the development of this site, please see the attached comments from relevant consultees.

I hope that this is helpful.

Please note that this advice is given at your request as does not prejudice any formal decision that the council may make upon receipt of a planning application.