

NORTH LINCOLNSHIRE COUNCIL

Town and Country Planning Act 1990

APPEAL BY JACKSON PHILIPS ASSET SOLUTIONS

**AGAINST THE REFUSAL BY NORTH LINCOLNSHIRE COUNCIL TO GRANT
OUTLINE PLANNING PERMISSION FOR UP TO 20 DWELLINGS**

**AT AGRICULTURAL BARN (NEXT TO THE STABLES RESTAURANT), HIGH
STREET/SCOTTER ROAD, MESSINGHAM**

Local Planning Authority's Reference: PA/2021/1330

Planning Inspectorate's Reference: APP/Y2003/W/22/3297656

June 2022

1. INTRODUCTION

1.1

This appeal relates to the refusal of outline planning application PA/2021/1330 for the erection of up to 20 dwellings with all matters reserved for subsequent consideration. Planning permission was refused on 7 April 2022 on the following grounds:

The applicant has failed to demonstrate that a sufficient level of amenity exists for future residents. Furthermore, there is potential that local businesses may have unreasonable restrictions placed on them as a result of the proposed development. The proposal is therefore contrary to saved policies DS1 and DS11 of the North Lincolnshire Local Plan, policy CS5 of the Core Strategy and paragraph 187 of the National Planning Policy Framework.

2. APPEAL SITE

2.1

The appeal site consists of an agricultural field positioned towards the south western side of Messingham, to the west of the High Street. This site is designated as an Area of Amenity Importance (LC11) as identified by the Housing and Employment Land Allocations DPD. The proposal is wholly located within the settlement boundary for Messingham. The site is located within flood zone 1 as identified by the North and Northeast Lincolnshire SFRA 2011 and is abutted by residential development to the north, west and south. To the east is an electricity substation north of the restaurant. The site hosts an existing dilapidated barn and hardstanding, and the rest is scrubland. A watercourse runs along the western boundary of the site.

3. PLANNING POLICY

3.1

Policies DS1, DS11 of the North Lincolnshire Local Plan and CS5 of the adopted Core Strategy are considered to be the most relevant in relation to the current appeal proposal.

4. COMMENTS ON THE APPELLANTS GROUNDS OF APPEAL

4.1

Page 4, Paragraph 4- The appellant refers to what they consider the first point of refusal and that none of the policies referred to in the reason for refusal have any reference to demonstrating a sufficient level of amenity. The appellant goes on to state the reference to 'sufficient level of amenity' is vague, lacks clarity and fails to clearly state what deficit the application has failed to address.

In response to this point, the LPA refers to the minutes of the planning committee meeting on 6 April 2022 (which were sent with the appeal questionnaire) which states concerns were raised by members that following the site visit it was considered the proposal would have a significant impact on the surrounding properties.

In addition, it could be argued that by introducing dwellings on this site there could be the potential for impact on the amenity of the future occupants (through noise and other disturbance) of said dwellings arising from the proximity to existing businesses which include the Stables Restaurant and a children's nursery to the east and northeast of the site. This was highlighted in the committee report at page 14 whereby reference was made by the planning officer to the comments made by Environmental Health, it stated the following:

The council's Environmental Health department has assessed the application and has stated, '...This site is located adjacent to The Stables restaurant and Wise Owl Farm Nursery which has an outdoor play area. These sources have the potential to cause an adverse noise impact for the proposed dwellings.

In addition to this it is considered that the policies referred to in the LPA's reason for refusal refers to impacts on residential amenity and pollution control and are considered relevant to refusal of planning permission in that regard; this is contrary to the view of the appellant, these planning policies were sent with the appeal questionnaire.

4.2

Page 5, Paragraph 1- The appellant then moves on to the second point of refusal and states the planning committee failed to identify which businesses may be affected or to define the unreasonable restrictions which may be placed on local businesses. They go on to state the reason for refusal is inconclusive and are unable to confirm whether the proposal will have adverse impacts.

Paragraph 187 of the NPPF is relevant to the appeal proposals and states the following:

Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

Taking the above paragraph into account it is considered by the LPA the appeal proposals could result in unreasonable restrictions placed on nearby businesses, it is considered the businesses most affected would be the Stables Restaurant and the children's nursery located to the east and northeast of the site. Restrictions could include the requirement to install noise mitigation measures, re-consideration of hours of operation or reduced use of outdoor spaces. Environmental Health, in their comments to the planning application made the following observations in respect of noise-

This site is located adjacent to The Stables restaurant and Wise Owl Farm Nursery which has an outdoor play area. These sources have the potential to cause an adverse noise impact for the proposed dwellings.

Based on the above it is clear, in the view of the LPA which businesses may be most affected by the appeal proposals and this consultation response was available to view by the appellant on public access during the period when the planning application was under consideration and was clearly set out in the officer's report to committee on 06 April 2022. The LPA is therefore of the opinion they have not been vague in identifying which businesses may be affected and that the potential for adverse noise impacts from these existing businesses upon future residential amenity was clearly set out in the committee report and in the consultation response from Environmental Health. In addition the LPA is also of the opinion the two points for refusal are intrinsically linked in respect of potential for loss of amenity.

5. CONCLUSION

5.1

It is the view of the Local Planning Authority that the applicant has failed to demonstrate that a sufficient level of amenity exists for future residents and whether there is potential that local businesses may have unreasonable restrictions placed on them as a result of the proposed development. Therefore, the local planning authority is of the opinion that the decision to refuse planning permission is reasonable in this case and the reason for refusal is valid. The Planning Inspector is respectfully requested to dismiss the appeal.