

**NORTH LINCOLNSHIRE COUNCIL**

**Town and Country Planning Act 1990**

**APPEAL BY**

**LINCOLNSHIRE ESTATES LTD**

**AGAINST THE REFUSAL BY NORTH LINCOLNSHIRE COUNCIL TO GRANT  
OUTLINE PLANNING PERMISSION FOR A DEVELOPMENT OF 38 DWELLINGS,  
ONE SMALL-SCALE RETAIL UNIT, PUBLIC OPEN SPACE INCORPORATING  
NEW GREEN INFRASTRUCTURE, SUDS FEATURES, AND BIODIVERSITY  
ENHANCEMENTS WITH DETAILS OF MEANS OF ACCESS AND LAYOUT  
SUBMITTED FOR CONSIDERATION (SCALE, APPEARANCE AND  
LANDSCAPING TO BE RESERVED FOR SUBSEQUENT CONSIDERATION)**

**AT LAND SOUTH OF HIGH STREET AND WEST OF SWALLOW LANE,  
WOOTTON, NORTH LINCOLNSHIRE**

**Local Planning Authority's Reference: PA/2021/610**

**Planning Inspectorate's Reference: APP/Y2003/W/22/3298491**

1 September 2022

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## 1. INTRODUCTION

1.1 The appeal is lodged by Lincolnshire Estates Ltd against the decision by North Lincolnshire Council (the council) to refuse to grant outline planning permission for a development of 38 dwellings, one small-scale retail unit, public open space incorporating new green infrastructure, SUDs features, and biodiversity enhancements with details of means of access and layout submitted for consideration (scale, appearance and landscaping to be reserved for subsequent consideration) on Land South of High Street and west of Swallow Lane, Wootton (PINS reference: APP/Y2003/W/22/3298491). This appeal was to be heard at a public inquiry to be held from 13-16 September 2022, but following a change in the Council's policy position, this appeal is now to be determined under the written representation appeal procedure.

1.2 The application was refused by the council under delegated powers on 10 November 2021 with the decision notice dated 10 November 2021. The delegated assessment has already been sent to the Planning Inspectorate and appellant. The application was refused for the following reasons:

1. The proposed development would be an unsustainable form of development as the majority of the site is within the open countryside outside of defined development limits and would not meet any of the exceptions noted for development in this location. Furthermore, Wootton has limited services and facilities and the proposal would increase the need to travel by private motor vehicle in order to access these services. The proposal is therefore contrary to policies CS1, CS2, CS3 and CS8 of the Core Strategy, policies DS1 and RD2 of the North Lincolnshire Local Plan, and paragraph 79 of the National Planning Policy Framework.

2. The proposal to erect up to 38 market dwellings and associated infrastructure, primarily outside the defined development boundary of

Wootton, would have a harmful urbanising effect on the character and appearance of this rural settlement. The proposal is therefore contrary to policies CS1, CS2, CS3 and CS8 of the Core Strategy, and DS1 and RD2 of the North Lincolnshire Local Plan.

3. The noise levels provided within the submitted noise assessment for the commercial unit indicate an adverse impact during the daytime and a significant adverse impact during the night-time hours on residential receptors. In addition, insufficient information has been submitted in relation to noise levels from heavy goods vehicles accessing the site and for the servicing of the commercial development to demonstrate that the scheme would not cause unacceptable adverse impact on residents. The proposal is therefore contrary to policy DS11 of the North Lincolnshire Local Plan and paragraph 185 of the National Planning Policy Framework.

## **2. SITE AND SURROUNDINGS**

2.1 A appeal site comprises 2.67 hectares in size. The majority of the appeal site (apart from the proposed access) is located outside the development boundary of Wootton and is therefore located within the open countryside as established in the Housing and Employment Land Allocations Development Plan Document (DPD). The applicant also owns land to the south of the appeal site which forms the remaining part of the agricultural field. This was marked in blue on the submitted appeal location plan.

2.3 Wootton is identified as a rural settlement within the North Lincolnshire Core Strategy (NLCS) and a smaller rural settlement in the North Lincolnshire Settlement Survey 2019. The Wootton's overall hierarchy position is 38. Wootton has a population of approximately 545 with 237 dwellings. The North Lincolnshire Settlement Survey 2019 identifies that Wootton has 4 key facilities – school, public house, village hall and is within 30mins of an employment centre.

- 2.3 The site is predominantly part of an agricultural field of Grade 1 agricultural land classification that is in agricultural production. The topography of the site is relatively flat. The site is surrounded by residential development to the north (High St), east (Swallow Lane) and west (Cherry Lane). The boundaries of the site comprises rear garden fences. Hedgerows, trees and shrubs. Wootton village hall lies adjacent to the north eastern corner of the appeal site. Adjacent to the access is a two storey dwelling (8 Swallow Lane) and 5 old people's bungalows.
- 2.3 Whilst the site is not covered by any formal landscape designations, the appeal site is designated as Character Area Lincolnshire Drift in the North Lincolnshire Countryside Design Summary (1999). This character area is further divided in the North Lincolnshire Landscape Character Assessment and Guidelines (1999) as 'Open Undulating Farmland'.
- 2.4 The appeal site is not designated as an area of local archaeological importance. However, there Historic Environment Record (HER) database records indicated that the appeal site had the potential to contain archaeological remains, The appellant subsequently carried out an archaeological assessment and field evaluation which did not identify that any significant remains were preserved within the appeal application area. There is a Grade II Listed Building (Manton Cottage) located on Swallow Lane adjacent to the appeal site.
- 2.5 The appeal site lies in Flood Zone 1 in the Council's Strategic Flood Risk Assessment (SFRA) and is therefore at low risk of flooding.

### **3. THE PROPOSED DEVELOPMENT**

- 3.1 The appellant has modified the development proposals during the application process. The application initially submitted under planning ref PA/2021/610 was for:

“Outline planning permission for a development of 38 dwellings, one small-scale retail unit, public open space incorporating new green infrastructure, SUD's features, outdoor classroom, and biodiversity enhancements with details of means of access and layout submitted for consideration (scale, appearance and landscaping to be reserved for subsequent consideration”

3.2 The appellant in September 2021 subsequently amended the proposal to remove the outdoor classroom structure and remove the footpath link to the village hall. The appellant also submitted a justification for the demand for a village shop, an amended design brief and an amended outdoor learning brief.

3.3 This appeal seeks permission for:

“Outline planning permission for a development of 38 dwellings, one small-scale retail unit, public open space incorporating new green infrastructure, SUDs features, and biodiversity enhancements with details of means of access and layout submitted for consideration (scale, appearance and landscaping to be reserved for subsequent consideration).

3.4 The application was submitted with a number of supporting technical assessments and reports setting out the various details of the proposed development.

#### **4. PLANNING APPLICATION HISTORY**

4.1 In 2018, the applicant applied for pre application to the council for 90 dwellings on the site shown within the red and blue lined area of the submitted location plan. The council considered 90 dwellings was too great for the site and advised the appellant he could put the site through the ‘call for sites’ for the new draft local plan. No formal pre application advice by the council has been given in relation to the current appeal application.

- 4.2 The appeal site including the blue lined area was submitted in the initial consultation stage for the new local plan (Regulation 18) in 2017 for residential development, and again, the same site (blue and red line area) was submitted in 2020 at the preferred options stage for the new local plan (regulation 18) for residential development. The appeal site has now been put forward as an omission site in the publication draft new local plan (Regulation 19) in 2021 for essentially for 38 dwellings, 1 retail unit and public open space and outdoor classroom. It is anticipated that the draft new local plan for North Lincolnshire will be submitted to the Planning Inspectorate shortly.
- 4.3 On 25 March 2020 a planning application (planning ref no PA/2020/546) was submitted by the appellant for outline planning permission to erect up to 90 dwellings and two retail units, with public open space incorporating new green infrastructure, SuDS features, a local equipped area for play (LEAP), woodland planting and biodiversity enhancements, with appearance, landscaping, layout and scale reserved for subsequent consideration.
- 4.3 The application (PA/2020/546) for this site included both the blue and red line area of land shown on the location plan submitted for this appeal. A committee report recommending refusal of this application was drafted and placed on the council's website. This application was subsequently withdrawn by the appellant on 15 July 2020 just before the application was reported to planning committee.
- 4.4 On 25 March 2021, the appellant submitted a new application (PA/2021/610) subject of this appeal for outline planning permission for a development of 38 dwellings, one small-scale retail unit, public open space incorporating new green infrastructure, SUDs features, and biodiversity enhancements with details of means of access and layout submitted for consideration (scale, appearance and landscaping to be reserved for subsequent consideration). This application was subsequently refused under delegated powers on 10 November 2021.

## **5. THE CASE OF BEHALF OF THE COUNCIL**

- 5.1 In respect of refusal reason no. 3 this was withdrawn by the council in June 2022, within the council's initial statement of case submitted to the Planning Inspectorate on 22 June 2022. On further reflection of refusal reason 3, the Council considered that this matter could be dealt with by planning conditions to control noise from the commercial unit and HGV deliveries to the commercial unit.
- 5.2 In light of the recent appeal decision received on the 20th July 2022 regarding the appeal by Cyden Homes Ltd against the refusal by the Council of planning application reference, PA/2020/554 (PINS reference, APP/Y2003/W/21/3278257), this appeal decision was allowed and concluded that the Council did not have a five year housing land supply of deliverable site (5YHLS). In considering this and given the Council's 5YHLS position statement is awaiting an update, it is not the intention of the Council to resist the lack of 5YHLS within this appeal (PA/2021/610).
- 5.3 Given the above recent appeal decision the Council's planning policy position has materially changed in relation to this appeal. Notwithstanding the development plan policies set out within the original officer delegated report and the Council's initial statement of case, the National Planning Policy Framework (NPPF) is a material consideration when determining planning applications. Paragraph 11(d) of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, relevant policies which were most important to determining the application should not be considered up-to-date.
- 5.4 In this appeal case, as the council no longer has a 5YHLS and the council's 5 year housing land supply position statement is still awaiting an update, the

council has to take account of the presumption in favour of sustainable development as set out in paragraph 11 of the NPPF. The current development plans policies which are most important for determining the application will carry reduced weight during this period.

5.5 Given the current 5YHLS deficit, it is considered that there is a clear and demonstrable need for housing development in North Lincolnshire. Accordingly, the 'tilted balance' in paragraph 11 of the NPPF is triggered, whereby there is a presumption in favour of sustainable development and development proposals should be approved 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.' Whilst the restrictive policies of the development plan (CS2, CS3 and CS8) do still apply, given the lack of a 5YHLS and the scale of the shortfall limit the weight which can be attributed to these policies. Restricting development to land within development limits, if strictly applied, would severely affect the ability of the authority to address the need for housing. In determining the sustainability of the proposed development, an assessment not only relies upon planning principle but also whether the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or if any adverse impacts exist that would significantly and demonstrably outweigh the benefits of the proposal.

5.6 In light of the aforementioned change in the Council's planning policy position the first reason for refusal regarding the principle of the development falls away due to the 'tilted balance'. Given the removal of the first reason for refusal, the overall planning balance has changed to favour the proposed development. Having regard to the second reason for refusal. Whilst the Council's assessment in respect of the impacts on the character and appearance of this area of Wootton have not changed, given the limited weight attached to the various planning policies which apply to the proposals,

the Council do not consider that the second reason for refusal holds enough weight in order to tip the planning balance and justify the refusal of this application.

5.7 As a result, the council is not intending to resist this appeal and all of the reasons for refusal are in effect withdrawn.

## **6. CONCLUSION**

6.1 Due to the lack of 5YHLS, the council's planning policy position in relation to this appeal has changed since the planning application was originally determined, as outlined in the previous section of this statement (Section 5). The Council no longer intends to resist this appeal and all of the reasons for refusal are in effect withdrawn.