

**DEVELOPMENT MANAGEMENT**
**APPEALS LIST - 15TH DECEMBER 2023**

<b>APPLICATION NUMBER &amp; SITE ADDRESS</b>	<b>APPEAL REFERENCE &amp; STATUS</b>	<b>OFFICER &amp; PROCEDURE</b>
DM/0046/22/TPO  24 Park Avenue Grimsby North East Lincolnshire DN32 0DQ	AP/020/22  INPROG	Paul Chaplin  Fast Track
DM/1002/22/FUL  1, 3, 4, 5, 6 And 7 Anita Grove (former Tynedale, Cheapside) Waltham North East Lincolnshire DN37 0BW	AP/011/23  INPROG	Bethany Loring  Written Representation
DM/0124/23/FUL  16 Osborne Street Cleethorpes North East Lincolnshire DN35 8LB	AP/013/23  INPROG	Owen Toop  Written Representation
DM/0123/23/FUL  3 Beckhythe Close Grimsby North East Lincolnshire DN33 2ES	AP/014/23  INPROG	Becca Soulsby  Written Representation

DM/0778/22/FUL  Plot 80 Humberston Fitties Humberston North East Lincolnshire	AP/015/23  INPROG	Emily Davidson  Written Representation
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DM/0696/19/FUL  Land East Of Midfield Road Humberston North East Lincolnshire	AP/016/23  INPROG	Richard Limmer  Informal Hearing
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DM/0795/22/FUL  The Barns Killingholme Road Habrough North East Lincolnshire	AP/017/23  INPROG	Jonathan Cadd  Written Representation
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DM/0240/21/FUL  Land At Roundhill And Fairfield Plantations Ravendale Road Hatcliffe North East Lincolnshire	AP/018/23  INPROG	Richard Limmer  Written Representation
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DM/0324/23/FULA  21 Church Lane Humberston North East Lincolnshire DN36 4HZ	AP/019/23  INPROG	Owen Toop  Fast Track
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DM/1098/22/OUT  Land South Of Millennium Park Humberston Avenue Humberston North East Lincolnshire	AP/020/23  INPROG	Jonathan Cadd  Informal Hearing
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# Appeal Decision

Site visit made on 24 October 2023

by **J Smith MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 6<sup>th</sup> December 2023**

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## **Appeal Ref: APP/B2002/W/23/3319932**

### **Land off (Phase Three) Grimsby Road, Waltham DN37 0PT**

- 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 Idyllic Estates Ltd against the decision of North East Lincolnshire Council.
  - The application Ref DM/0719/22/FUL, dated 8 August 2022, was refused by notice dated 31 March 2023.
  - The development proposed is: Erect 9 dwellings with associated highways, landscaping and boundary treatments (amended description and plans January 2023).
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### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The description of the proposal in the heading of this appeal decision has been amended from the description on the application form. The application was originally submitted for sixteen dwellings. Agreement to change the description was given to the Council by the appellant and has been provided in this appeal. The description now matches the description of the development in section E of the appeal form provided by the appellant.
3. The Council has provided a Statement of Case which contains new evidence regarding its 5-year housing land supply (5YHLS). This is based on its Housing Land Supply Assessment 2023 (titled 'North East Lincolnshire Five Year Housing Land Supply Assessment 2023'). This evidence has been accepted as it is the Council's latest 5YHLS position. The Council is required by the National Planning Policy Framework (NPPF) to identify and update annually a supply of specific deliverable sites which are sufficient to provide a 5-year HLS against the local housing requirements.
4. Comments were requested and received from the appellant. The appellant has questioned the inclusion of this evidence at this stage of the appeal. The Procedural Guide: Planning Appeals – England states that accepting late documentation will be considered if it is satisfied that the content is directly relevant and necessary for the decision and that it would be procedurally fair to all parties. I find that these requirements have been met.
5. The appellant has provided an appeal decision (appeal reference: APP/B2002/W/22/3311282) as new evidence which they believe has a bearing on this appeal. This is based on the consideration given to the position of the Council's 5YHLS in this appeal decision. This evidence has been accepted due to its proximity and relevance to the appeal site. Comments were requested but not received by the Council.

## **Main Issue**

6. The main issue is the effect of the proposal on the character and appearance of the area.

## **Reasons**

7. The appeal site would be located outside of the Waltham Development Boundary and would be located within the open countryside. The site is bordered by a hedgerow which runs along Grimsby Road, with an access road from Woodlands Way. Across the other side of Grimsby Road is Fairway. Fairway contains a mixture of two storey semi-detached dwellings and single storey bungalows. The other sides of the appeal site are also bordered by countryside. The existing appeal site is open with few features except for a hedge along Grimsby Road. This creates a visual connection with the wider open nature of the countryside which separates Grimsby and Waltham.
8. In the appeal decisions from 2019 and 2022 it is noted that there would be an inevitable change to the open character of the site and its visual connection to the wider countryside. Despite the reduction in the number of dwellings proposed in this appeal to the 2019 and 2022 appeals, I agree that the open character of the appeal site would be changed. This is due to the expanse of the nine dwellings into the open countryside which would be a stark contrast when viewed in the context of the wider countryside surrounding the appeal site. The proposal would extend into the open countryside and would therefore reduce the openness of the countryside through the provision of housing.
9. The North East Lincolnshire Local Plan (LP) has identified this location as a strategic gap. The identification of this location as a strategic gap helps to preserve the identities of Waltham, New Waltham and Grimsby. The proposal would be located in this gap. Notwithstanding, relative to the strategic gap between the two settlements, this site would be a small incursion. The proposal would not lead to an evident coalescence of Waltham, New Waltham and Grimsby. From my site visit, I noted that several houses are located along Grimsby Road. These houses protrude further into the strategic gap than would the proposed development. The 2022 inspector found that the appeal proposal would not harm the strategic gap due to its extent and position, but there would nevertheless be a conflict with the LP as the proposal would fail to retain the openness of the land. I also share this finding.
10. I note that the dwelling types included in the application are a variation of bungalow designs. This would complement the dwellings on the adjacent site found on Woodlands Way and on Fairway. However, I do not consider that this complementary design would outweigh the harm of the development on the character and appearance of the local area, due to the presence of buildings in the open countryside.
11. I further note that landscaping details are included in this appeal which includes the retention of the existing hedge along Grimsby Road. This would soften the appearance of the development and therefore some of the impact of the proposal would be reduced. However, extending beyond the settlement boundary of Waltham, the proposal would significantly harm the open character of the countryside here.

12. The appellant notes that the extent of a previously approved phase of development included a woodland planting strip and an area of open space to the north of the appeal site. The appellant further adds that the extent of the settlement and any residential sites that fall within them are already defined, such as the appeal site. I do not share this view. The location of woodland planting is located far beyond the extent of the previously approved phase. The appeal site is situated within the open countryside and within an area allocated as Strategic Green Infrastructure. I do not consider that the location of woodland planting, which is a considerable distance away from the previously approved phase, therefore sets the boundary for a settlement or any potential residential sites.
13. Consequently, I conclude that the proposal would cause unacceptable harm on the character and appearance of the area. As such, I find that the proposal would work against the provisions of Policies 5, 22 and 40 of the LP. Policy 5 of the LP requires development to recognise the open character of the landscape and the setting of independent settlements. Policy 22 seeks development to have good design and to protect and enhance natural assets. Policy 40 seeks to maintain and improve the network of green infrastructure, maintain the separate identity of settlements, retain the openness of land and control the scale of development. The proposed development would harm the character and appearance of the landscape and open countryside and therefore conflict against these policies and the LP read as a whole.

### **Other Matters**

14. The appellant also notes that comments were made in the application regarding the unfinished road of Woodlands Way and to a soil stockpile that was located on site. As noted in my site visit, this road had been finished and a minor soil pile was left on the appeal site. However, this is not a consideration for this appeal.

### **Planning Balance**

15. The appellant notes the possible benefits of the proposed scheme. The appellant suggests that the site is located in an accessible location through the use of alternative modes of transport including walking and cycling. The appellant further adds that Waltham is a sustainable location and hosts a range of services and key facilities. I note that the previous 2019 and 2022 appeal decisions concluded that the appeal site would be accessible to these facilities without the use of a private car. Furthermore, the appellant notes that this proposal is a natural conclusion to the existing phase two development. These are benefits of the scheme. The proposal would also provide local economic benefits during the construction period. The future occupiers would also provide economic benefits to the local area once the development would be complete. However, I do not consider that these benefits would outweigh the harm of the development on the character and appearance of the local area.
16. I acknowledge paragraph 69 (c) of the NPPF which states that windfall sites should be supported through policies and decisions, as these small and medium sites can make an important contribution to meeting the housing requirement of an area. However, the Framework indicates that this applies to suitable sites within existing settlements; this is not the case here. Notwithstanding this, there is no upper limit to the supply of homes. Indeed, the Framework highlights that the Government anticipates a significant boost to the supply of

- homes, to which objective this proposal would make a small contribution to this supply.
17. Paragraph 60 of the Framework refers to significantly boosting the supply of housing. A further additional 9 dwellings would make a small contribution to that supply. I have concluded that there are benefits to the proposal, such as its sustainable location. In addition, economic advantages would also arise from the construction of the 9 dwellings and after once occupied by future occupiers. However, the harm to the character and appearance of the area identified would be significant. When assessed against the policies in the Framework when taken as a whole, the adverse impact to the character and appearance of the area would significantly and demonstrably outweigh the benefits when taken as a whole.
  18. At the time of the determination of the planning application, the Council could not demonstrate a five-year supply of deliverable housing sites. The Council has provided new evidence to this appeal, demonstrating that the latest published 5YHLS figure is 13.1 years. The Council is required by the NPPF to identify and update annually a supply of specific deliverable sites which are sufficient to provide a 5YHLS against the local housing requirements. This evidence has been accepted as it is the Council's latest 5YHLS position.
  19. The appellant complains that the Council has changed its methodology for calculating its present 5YHLS. However, they do not detail precisely how the methodology has changed, or how the figure arrived at may be incorrect, nor the amount of any inaccuracy in the calculation. Based on the evidence before me, I have no reason to doubt the 5YHLS figure given by the Council.
  20. The appellant suggests that despite knowing its present 5YHLS position, the Council determined the application using the previous 5YHLS figure. The appellant contends that the Council have also used an inconsistent approach to its decision making. However, on the evidence before me, the present 5YHLS figure was published after the determination of this application. In any event, even with a 5YHLS of less than 5 years the Council refused the application.
  21. The appellant holds the view that supply figure set in the HLS will be revised on completion of a review of the local plan being undertaken by the Council. The appellant further notes that windfall sites such as this appeal should not be discounted to overall housing supply. However, at the time of writing, I find that the HLS figure is 13.1 years and no evidence has been provided to conclude otherwise.
  22. The appellant has provided an appeal decision (appeal reference: APP/B2002/W/22/3311282) as new evidence, drawing particular attention to paragraphs 47 & 48 which concern housing supply. I note that the Inspector in this decision found a deliverable 5YHLS of 13.1 years and noted that there has been a history of undersupply in the area. I have also arrived at the same conclusion.
  23. However, despite there being no ceiling to the 5YHLS and the benefits a higher supply would bring, I still find harm as a result of this proposal. Having had regard to this previous appeal decision, I note that the Inspector found that the appeal site in that decision is heavily influenced by development along two sides of its boundary. There is a hard, domesticated edge which results in an abrupt change from the existing situation to the open countryside. There is a

difference between the two appeal sites. The site subject to this appeal is more open in its character which is bordered by open countryside and the hedgerow running along Grimsby Road.

24. I note the points raised by the appellant as discussed, however, even if the Council did have a shortfall in their supply of housing, I consider the harm that I have identified would significantly and demonstrably outweigh the benefits of the increased supply of dwellings promoted through this windfall site when assessed against the policies in the Framework when taken as a whole. Therefore, the proposal would not represent sustainable development.

### **Conclusion**

25. I conclude that the proposal would conflict with the development plan when read as a whole and there are no material considerations of sufficient weight that indicate the development should be determined otherwise than in accordance with it. Therefore, the appeal is dismissed.

*J Smith*

INSPECTOR