Planning Inspectorate

Appeal Decision

Site visit made on 8 May 2025

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd June 2025

Appeal Ref: APP/A2525/W/24/3357081
Off Town Dam Lane, Donington, Spalding, Lincs PE11 4TR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Steve Thompson on behalf of Wilf Hammond Homes Ltd against the decision of South Holland District Council.
- The application Ref is H04-0639-24.
- The application sought planning permission for residential development – 6 dwellings without complying with a condition attached to planning permission Ref H04-0425-22, dated 8 August 2022.
- The condition in dispute is No 6 which states that: *"Prior to the occupation of any dwelling, full details of the arrangement for private refuse/recycling collection shall be submitted to and approved in writing by the Local Planning Authority. The approved management arrangements shall be implemented upon first occupation of any dwelling and thereafter retained for the lifetime of the development."*
- The reason given for the condition is: "*This application has been approved on the basis that waste collection will be carried out by a private company and to ensure appropriate arrangements are in place for the collection of refuse/recycling. This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019*".

Decision

1. The appeal is allowed and planning permission is granted for six dwellings at Off Town Dam Lane, Donington, Spalding, Lincs PE11 4TR in accordance with the application H04-0639-24, without compliance with condition number 6 previously imposed on planning permission H04-0425-22 date 8 August 2022 and subject to the following conditions:

    1. The development hereby permitted shall be carried out in accordance with the following approved plans:

        Application form

        3955-21 02J

        3955-21 03D

        3955-21 04E

        3955-21 05E

        3955-21 06D

        3955-21 07C

        3955-21 08D

Flood Risk Assessment, prepared by S M Hemmings

Geoenvironmental Desk Study, prepared by Goldfinch Environmental Ltd, dated March 2022

Ecology Management Scheme, prepared by G R Merchant Ltd

2. The development hereby permitted shall be carried out in accordance with the measures set out in the Flood Risk Assessment (prepared by S M Hemmings) forming part of this planning application, in particular the following measures shall be fully implemented before the property is first occupied:

- sleeping accommodation will be directed to the first floor of all properties;
- the ground floor level of the properties should be at least 300mm above the existing ground level on the site;
- occupiers of the properties should register with the Environment Agency's Floodline Warning Direct Service to receive automated early warnings of potential flooding and;
- on site surface water drainage will be discharged into soakaways and these should be designed to BRE Digest 365 and approved under Building Regulations. All hardstandings and access roadways should be constructed with permeable paving.

3. Before the commencement of the development hereby granted beyond oversite, full details of the proposed means of foul and surface water disposal to separate systems shall be submitted to and approved in writing by the Local Planning Authority and the details so approved shall be implemented in full before there are any flows into the receiving systems.

4. Prior to the first occupation of any dwelling hereby permitted, the refuse collection point shall be implemented in accordance with the details shown on drawing no. 3955-21 02R. The refuse collection point shall thereafter be maintained and retained for use for the lifetime of the development. No waste shall be placed at the bin collection point more than one day prior to the bin collection day, or for collection in any other location.

5. The development hereby permitted shall be constructed in accordance with details relating to contamination approved under reference H04-0789-22.

6. The development hereby permitted shall be constructed in accordance with the approved Construction Management Plan approved under reference H04-0934-22.

7. The water consumption of each dwelling hereby permitted should not exceed the requirement of 110 litres per person per day (as set out as the optional requirement in Part G of the Building Regulations 2010 and the South East Lincolnshire Local Plan 2019). The person carrying out the work must inform the Building Control Body that this duty applies. A notice confirming the requirement for the water consumption has been met shall be submitted to the Building Control Body and Local Planning Authority, no later than five days after the completion of each individual dwelling.

Preliminary Matters

8. I am aware that a number of applications[1] relating to carrying out the development approved under planning permission H04-0425-22 without complying with conditions attached to that planning permission have been approved by the Council. I have not been provided with the details of these permissions, or the changes that they involved.

9. The appeal now before me relates to the original planning permission only, and does not, therefore, take account of any previously approved amendments to the scheme, although I understand the layout shown on the provided drawing relates to a subsequent amendment, rather than the scheme as originally approved. Nevertheless, should any of the subsequent permissions be implemented, any conditions attached to them will remain unchanged by the outcome of this appeal, and I have taken account of the provided drawing only insofar as it relates to the location of the bin collection point, rather than the layout of the development itself.

Main Issues

10. The main issues are whether varying the condition would provide acceptable arrangements for the collection of domestic refuse for future occupiers, and the effect that varying the condition would have upon the living conditions of occupiers of existing properties, with particular reference to smell, noise and disturbance.

Reasons

11. Planning permission[2] was granted in 2022 for 6 dwellings. Amongst others, Condition 6 requires details of private refuse/recycling collection to be agreed, implemented and thereafter retained. The appellant is seeking to vary the condition to allow refuse/recycling by means other than private collection and has provided details of a scheme to provide a bin collection point close to the adopted highway in order to facilitate this.

Effect on future occupiers

12. It is common ground that the furthest dwelling from the proposed bin collection point is around 116 metres ('m'). I understand that the Council has advised that it would not be able to provide a collection service from the development itself, as it would require collection vehicles to make use of the private access road, and that this is the reason that Condition 6 makes specific reference to private means of collection.

13. The appellant is now proposing to provide a bin collection point close to Town Dam Lane in order to eliminate the need for collection vehicles to use the private road, on the basis that this would allow refuse collection to be undertaken by the Council, if necessary. Although it has not been shown that it would not be possible for private collection vehicles to access the site, I have not been directed to any hierarchy of preference within any development plan policy in this regard.

14. The Council's "Private Drives – Waste Vehicle Collection Service Guidance Note" ('the Guidance Note') states that the maximum distance that residents should carry waste is 30m. Although this provides a useful starting point in terms of considering

[1] H04-1112-22, H04-0672-23, H04-0870-23 and H-04-1134-23
[2] H04-0425-22

the distance that residents might reasonably be expected to carry refuse, it does not form part of the development plan, I am unsure whether it has been subject to consultation, and I afford it only very limited weight as a result.

15. At 116m, the farthest distance that future occupiers of the development would be expected to transport waste to the collection point would be far in excess of the maximum “carry distance” of 30 metres set out in the Guidance Note. However, I saw that the route between the proposed dwellings and the collection was flat, relatively straight and comprised a surfaced road.

16. As means of providing mitigation, it is stated that four-wheeled trolleys would be provided to future occupiers to facilitate movement of waste to the collection point. This would prevent future occupiers from having to carry waste by hand in most cases. If it was not practical for waste to be moved in this fashion, other means of transportation could be utilised, and a range of options would be available to future occupiers including vehicles. Moreover, future occupiers would likely be aware of the refuse collection arrangements at the point of purchasing a property. Overall, I do not consider the use of the bin collection point would be unacceptably onerous for future occupiers of the development, despite the distances involved.

17. Therefore, varying the condition would provide future occupiers with acceptable arrangements for the collection of domestic refuse. It would accord with Chapter 12 of the National Planning Policy Framework (‘the Framework’) in that it would lead to a development which would function well and create a place with a high standard of amenity for future users.

18. The Council has cited conflict with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan in relation to this main issue, however none of these policies makes specific reference to refuse collection arrangements, beyond requiring storage to be provided at each dwelling. They are not, therefore, relevant to this main issue.

Living conditions

19. It is the case that the bin collection point would be located close to an unrelated dwelling (Barn View). The fact that the proposed bin collection point would be closer to unrelated properties than to those that it would serve, would not, in itself lead to harm, however I acknowledge that it would be likely that waste placed at the collection point would be visible from within this property.

20. Adequate space would be provided at the proposed dwellings to enable waste to be stored at each property between collections. It would only require transportation to the bin collection point in anticipation of collection day, and it seems unlikely that the future occupiers would seek to “drip-feed” waste to the collection point throughout the period between collections, particularly given the location of the collection point at a prominent point at the entrance to the development.

21. It is the case that the number and size of the proposed dwellings means that the level of waste to be stored at the bin collection point could potentially be reasonably significant, and I accept that views of, and potentially odour from waste at the bin collection point would be noticeable to occupiers of Barn View or other local residents. However, such inconvenience would likely be short-term and limited to the duration of the day of collection, and this can be secured by means of a planning condition. On this basis, I consider that the short-term storage of domestic

refuse at the bin collection point would be unlikely to cause harm to the living conditions of existing occupiers in this respect.

22. Moreover, although there is dispute between specific locations and attributions of waste to particular properties, it is nevertheless evident that the area around the proposed bin collection point is already utilised for the temporary storage of waste on collection day, and I have not been directed to any persistent harm that has resulted from this arrangement.

23. There is no substantive evidence before me to demonstrate that the temporary use of the area on a short-term basis would be likely to attract vermin. I have not been made aware of any previous instances of vermin infestations resulting from the collection of waste from a roadside location.

24. The collection of the waste would likely involve the generation of some noise through the use of the collection vehicle, and this could be audible to occupiers of nearby properties. However, the duration of such noise would likely be brief and likely already occurs to extent at present, given that waste is already collected in this location. It is stated that collection could occur up until 6pm, however I do not consider that this would be an unreasonably late hour for such activity to occur.

25. It is also the case that future occupiers could use a vehicle to transport waste to the collection point, and in doing so that vehicles would be pulling up close to nearby properties, and that noise could be generated by the opening and closing of doors, along with the removal of waste. However, given the bin collection point would serve only 6 dwellings, the number of such journeys is likely to be low, and would not necessarily be undertaken with a vehicle. Overall, I consider it unlikely that such activity would be likely to be unacceptably noisy or lead to disturbance.

26. Varying the condition would not unreasonably harm the living conditions of occupiers of nearby existing properties. It would be in accordance with SELP Policies 2, 3 and 30, which, together and among other factors expect development to not have unacceptable impacts upon the amenities of the area by way of air quality, odour, noise and disturbance.

Conditions

27. It has been highlighted that the proposed location of the bin collection point falls outside of the red line boundary on the provided drawing. There is no blue line boundary to indicate the extent of land within the appellant's control. However, it is stated at several points within the evidence that the land in question is controlled by the appellant and I have been provided with no substantive evidence to demonstrate to the contrary. Accordingly, I am satisfied that a revised wording of the relevant condition to secure the provision of the bin collection point would be enforceable in this instance.

28. Planning Practice Guidance ('PPG') makes clear that decision notices for the grant of planning permission under section 73 of the Town and Country Planning Act 1990 should also restate the conditions imposed on earlier permissions that continue to have effect. As I have only limited information before me about the status of the other conditions imposed on the original planning permission, I have imposed all those that I consider remain relevant where it is unclear whether they have been discharged. In the event that some have in fact been discharged, that is a matter which can be addressed between the parties.

29. I have not imposed a time limit to commencement as it is stated that the development has already commenced, and I saw that this was the case at my visit. Such a condition is therefore unnecessary.

30. I have amended Condition 6 (renumbered as Condition 4) in order to take account of the details which have been placed before me. I have also included a limitation to when waste could be deposited at the bin collection point, in the interests of the living conditions of occupiers of existing properties. I consider that there would be no obvious impediments to the enforcement of such a condition and it would meet the relevant tests set out in PPG and the Framework.

Conclusion

31. The development accords with the development plan taken as a whole. Therefore, for the reasons given above, and taking account of all other considerations, I conclude that the appeal is allowed.

C Harding

INSPECTOR