
Appeal Decision

Site visit made on 9 August 2016

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5th September 2016

Appeal Ref: APP/Y2003/W/16/3150345

11 Queens Road, Barnetby Le Wold, North Lincs, DN38 6JH

- 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 Ms Susan Clements against the decision of North Lincolnshire Council.
 - The application Ref PA/2015/1136, dated 3 September 2015, was refused by notice dated 18 November 2015.
 - The development proposed is described as "*construct a replacement dwelling, and site 3 additional dwellings on a paddock to rear.*"
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Decision

1. The appeal is dismissed.

Procedural Issue

2. Following the refusal of the original application, the Council has formally adopted the North Lincolnshire Housing and Employment Land Development Plan Document (HELA) in March 2016. This document has adopted development boundaries for settlements in North Lincolnshire including at Barnetby Le Wold, superseding the settlement boundaries within the North Lincolnshire Local Plan, 2003 (NLLP). The Council have confirmed that saved Policy RD2 of the NLLP remains valid as well as Policies CS2 and CS3 of the North Lincolnshire Core Strategy, 2011 (CS).
3. The appellant is aware of the change and therefore no party is prejudiced by my determining of the appeal against CS Policies CS2 and CS3, RD2 of the NLLP and the settlement boundaries for Barnetby Le Wold within the HELA, which all form the adopted development plan for North Lincolnshire.

Main Issue

4. The main issue is whether the appeal proposal could be considered to be sustainable development having regard to the location of development beyond the defined settlement boundary.

Reasons

5. Policy RD2 of the NLLP seeks to restrict development in the countryside in order to maintain or enhance its quality. Policy CS2 of the CS supports the spatial strategy for the District, focussing development within settlement boundaries of rural settlements and restricting development outside these limits.
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6. Similarly, Policy CS3 restricts development beyond defined boundaries. This policy also sets out the criteria applied in considering development limits, and under the final criterion relating to character, it states that *"the limits will be drawn to reflect the need to protect and enhance settlement character. This means protecting areas of open space or land with the characteristics of open countryside within and adjacent to settlements by not including them within development limits. Large rear gardens or paddocks stretching well out the villages built form will also be excluded."* It is on this basis that revised development limits were reviewed and, following examination, were found sound and adopted as part of the HELA in March 2016.
7. The appeal site is a long and roughly rectangular strip of land, located on the junction of Queens Road and Old Post Office Lane. No 11 is an existing detached bungalow located towards the front of the plot, facing Queens Road. Behind this is a long rear garden area on rising ground, which contains a number of trees and vegetation. Properties along Queens Road and Old Post Office Lane form the edge of the settlement and benefit from large rear garden areas. The shared boundaries with No 2 Old Post Office Lane, No 13 Queens Road and Manor Cottages consist of established hedgerows. To the rear of the appeal site are open fields in agricultural use.
8. In accordance with CS Policy CS3, as a large rear garden/paddock area the majority of the appeal site is located outside of the defined settlement limits for Barnetby Le Wold, as depicted by the inset map within the HELA. As set out within their appeal statement, the Council consider the development would adversely affect the character of the settlement and cause visual harm breaking a clear boundary between the settlement and the open countryside.
9. Due to its length, as well as the presence of a number of trees, vegetation and soft boundaries, I consider that the appeal site forms part of the transition from the domestic and suburban form of development along Queens Road and Old Post Office Lane, into the agricultural landscape beyond. I therefore find that the appeal site makes a positive contribution to the rural character of the area.
10. The loss of this area to built development would therefore intensify and consolidate the built form and would have an urbanising effect. This would erode the break between the settlement and the rural environs, and encroach into the countryside.
11. Based on the findings of the Landscape and Visual Impact Assessment, I acknowledge that the vegetation and topography restricts views into the site and as such views would be largely intermittent and glimpsed. I also note that new planting is also proposed in terms of reinforcing hedging and the retention and revitalisation of the orchard to the rear of the site in order to provide a soft urban/rural edge
12. In this context, the visual impact of the new houses would therefore be relatively localised. Nevertheless, such impacts would still be experienced from vantage points both from within the settlement and in the countryside. Furthermore, even with additional planting, I am not persuaded that coverage would be so dense as to negate seasonal impacts and I consider that it would be likely that there would be much clearer views of the development during the winter months when trees are not in leaf.

13. It is on this basis that I consider the development would be materially harmful to the rural character of the area and would not accord with CS Policies CS2 and CS3, saved NLLP Policy RD2.
14. I note that the appellant has not sought to justify the appeal scheme based upon the CS and NLLP policies, as it is considered that the adopted development plan policies are out of date and there is no demonstrable 5 year housing land supply. This is a matter of dispute between parties.
15. Where policies of the development plan are considered to be out of date, paragraph 14 of the National Planning Policy Framework (the Framework), applies. This requires permission to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.
16. The Framework is clear that housing applications should be considered in the context of the presumption in favour of sustainable development and the aim is to boost significantly the supply of housing (paragraphs 49 and 47). In rural areas, this should be located where it will enhance and maintain the vitality of rural communities (paragraph 55). Maximising opportunities for energy conservation is also supported (paragraph 96).
17. I recognise that in terms of accessibility Barnetby Le Wold, as a rural settlement, contains a number of services and facilities to meet day to day needs and maintain the vitality of this community. I also note the sustainable design credentials as set out in the Sustainable Design Statement, in respect of low carbon development. The development would also make a small contribution to housing supply in the District. These factors weigh in favour of the proposed development.
18. Balanced against this is the harm I have identified in respect of rural character. As one of the core planning principles of the Framework is to recognise the intrinsic character and appearance of the countryside (paragraph 17) and secure development which responds to local character (paragraph 58), I do not consider the proposals meet with these objectives, for the reasons previously discussed.
19. I note the proposed 'community orchard,' however I am unable to attach any significant weight to this as the details of it are limited. Specifically, it is not clear who the community orchard would serve, other than plots 3 and 4 which would back on to this, as depicted on the site plan. Furthermore, the condition suggested by the appellant seeks only to provide for the retention, planting and management of the trees and provides no formal mechanism for the use of this by the community or otherwise. Although the planting of trees in the orchard would be a benefit, in the context of the harm identified relating to the overall development of the site, this is not something which would justify the appeal development.
20. Even if I were to conclude that there is a shortfall in the District in terms of 5 year housing land supply, and that relevant policies for the supply of housing, including the recently adopted settlement limits as defined by the HELA should not be considered up-to-date, I find the adverse impacts I have identified in respect of the loss of this land to development and the resultant impact upon rural character would not secure sustainable development when assessed against all three strands (environmental, economic, and social). The harm

would therefore significantly and demonstrably outweigh the benefits I have identified.

21. On careful analysis, I therefore conclude that the development would not deliver sustainable development and would be in clear conflict with CS Policies CS2 and CS3, saved NLLP Policy RD2, as well as the Framework paragraphs 17 and 58.

Other Matters

22. The appellant has drawn my attention to a previously consented scheme for a single dwelling, located outside of the defined development limits which was approved by Planning Committee, against the recommendation of the Officer. A subsequent approval was for an amended design on the same site. However, I am not in possession of the full details which led to the proposals being accepted at that time and, as such, I cannot therefore draw any comparisons with the appeal proposals before me.
23. In respect of the recently adopted HELA, concern has been raised in respect of the review of the development limits, and resultant amendments to this only being on the basis of requests made by consultees. Comments made in the Inspector's report regarding the future production of Neighbourhood Plans as a mechanism to address the on-going concerns of the community in respect of settlement limits have also been drawn to my attention.
24. However, I understand that, as part of the examination, the appellant sought to make a representation in respect of the development limits at Barnetby Le Wold, however as these were made at a late stage, the representation was not considered by the Inspector as a point of procedure. I am also not aware of a Neighbourhood Plan being developed for Barnetby Le Wold.
25. Having been found sound by the Inspector, the HELA forms part of the statutory development plan for the District to which decisions must be determined in accordance with unless material considerations indicate otherwise. The approach taken in other authorities Lincolnshire in other unexamined plans, do not have any relevance in this instance.
26. In any case, it falls to me, as an appeal made under s78 of the Town and Country Planning Act (1990), to assess the merits of the appeal based upon the policies and evidence before me and I have determined the appeal accordingly.
27. Finally, procedural concerns are raised by the appellant regarding the handling of the application by the Council and its determination under delegated powers in spite of a request for determination by Planning Committee. However, this has no bearing on my assessment of the appeal based upon its planning merits.

Conclusion

28. For the reasons above, taking into account all other matters raised, I dismiss the appeal.

C Searson
INSPECTOR