
Appeal Decision

Site visit made on 10 October 2016

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 22 November 2016

Appeal Ref: APP/Z2505/W/16/3154244

Land at Park Lane, Freiston, Lincolnshire PE22 0LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Cressey & Mr Smith against the decision of Boston Borough Council.
 - The application Ref B/16/0057, dated 4 February 2016, was refused by notice dated 5 April 2016.
 - The development proposed is an outline application for 5 dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for an outline application for 5 dwellings at land at Park Lane, Freiston, Lincolnshire PE22 0LG in accordance with the terms of the application, Ref B/16/0057, dated 4 February 2016, subject to the conditions set out in the Annexe.

Application for Costs

2. An application for costs was made by Mr Cressey & Mr Smith against Boston Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The proposal is for outline planning permission with all matters reserved. Access, appearance, landscaping, layout and scale are reserved for later consideration and the appeal has been determined on this basis. To the extent that the plans submitted touch upon any of the reserved matters, I shall treat the details as being illustrative only.
4. Reference has been made to Policy 2 of the South East Lincolnshire Local Plan (the emerging Local Plan). The examination of the emerging Local Plan has not yet occurred and as such the plan remains subject to change. I therefore find that limited weight can be attached to Policy 2 of the emerging Local Plan, when regard is paid to paragraph 216 of the National Planning Policy Framework (the Framework).

Main Issues

5. In their decision notice the Council listed three reasons for refusal. However following the submission of an amended site plan and Flood Risk Assessment, the Council confirmed that the third reason for refusal, on grounds of flood risk,
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had been adequately addressed and should no longer form a reason for refusal. Accordingly, I therefore find that the main issues are:

- (i) whether the site would provide a sustainable location for the proposed development, having particular regard to national planning policies; and
- (ii) the effect of the proposal on the character and appearance of the surrounding area.

Reasons

Sustainable location

6. Freiston is identified as an 'other village' within the Rural Area Settlement Strategy in the Boston Borough Interim Plan 2006 (the IP) and modest growth to sustain village services either within the village or within other nearby rural communities may be acceptable. As the site is located within the village envelope, under the provisions of Policy H4 of the IP, infill housing will only be permitted where there is a proven housing need or where there will be environmental benefits in terms of the visual and residential amenities of the area.
7. However, the IP does not form part of the development plan. Moreover, the Council accepts that there is a lack of a five year supply of housing land in the district. Therefore, the guidance at bullet 4 in Paragraph 14 of the Framework is triggered. This advises that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits of the proposal and also unless specific Framework policies indicate that development should be restricted.
8. Paragraph 55 of the Framework states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. New isolated homes in the countryside should be avoided, apart from in very limited cases.
9. In this case, due to the proximity to existing dwellings on Park Lane and Butterwick Road, I do not consider that the proposal would appear as an isolated form of development and would appear well related to existing development within Freiston. Consequently, the proposed dwellings would therefore represent a form of infill development in this location.
10. In terms of existing facilities and services, it was evident from my site visit that two public houses, a post office, two small stores, a church, playing fields and a community centre are located within a short distance of the site. Furthermore, the majority of these facilities appeared to be accessible via footpaths with street lighting. I accept that for a broader range of services both existing and any future residents of Freiston would need to travel to Boston which is approximately three kilometres from the village. However I observed two bus stops within the village, both of which would be within walking distance of the site. From the appellant's evidence I note that the available transport services include travel to Boston, Skegness and other villages including Butterwick, where a school is located.
11. As such, I do not consider that the appeal site is physically isolated from the existing built form within Freiston and also that future occupiers of the proposal

would not be totally reliant on the use of the car to reach day to day services, facilities and employment elsewhere.

12. The proposal would, therefore, result in a pattern of development which would have access to public transport facilities, in accordance with paragraph 35 of the Framework. It would also not compromise the Core Planning Principles set out in paragraph 17 of the Framework, in particular Core Principle 11. This aims to actively manage patterns of growth through the plan-led system to make the fullest possible use of public transport and walking, to which this proposal would conform with. In addition, I find consistency with paragraph 55 of the Framework which states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and that isolated new homes in the countryside should be avoided.

Character and appearance

13. The site consists of paddock land, which from my site visit appears to be under-utilised. Whilst the site has frontages onto both Park Lane and Butterwick Road, it also shares a boundary with the playing fields to the west of the site. The site is bounded by low fencing on all sides and although there is limited vegetation, a substantial oak tree dominates the north-east corner of the site.
14. Whilst some properties in the village are of a considerable age, the area in the vicinity of the site is characterised by predominately modern dwellings. These are of relatively simple design, but they are made up of a mixture of bungalows and houses of varying styles and forms. The site has a close physical and visual relationship with the existing residential dwellings on both Park Lane and Butterwick Road.
15. I acknowledge that the site is designated as a 'Protected Landscape Site'. Policy C24 of the Adopted Boston Local Plan 1999 (the LP) states that planning permission will not normally be granted for development on such sites, as the open space forms an important component of the overall character of the village. However, the Council accepts that it cannot demonstrate a five year housing land supply in accordance with paragraph 47 of the Framework. Paragraph 49 of the Framework states that relevant policies for the supply of housing cannot be considered up to date if a five year supply of deliverable sites cannot be demonstrated.
16. Policy C24, in so far as it relates to the supply of housing, should not therefore be considered up to date. In such cases paragraph 14 of the Framework sets out a presumption in favour of sustainable development. Accordingly, I have therefore afforded Policy C24 reduced weight in my determination.
17. I acknowledge that the location of the playing fields acts as the core centre of the village. As such, the Council considers that the proposed development will harm the open rural character of the locality.
18. Whilst details regarding layout, scale and appearance are only illustrative at this stage, the evidence before me demonstrates that the site could comfortably accommodate five dwellings of a mixed architectural design without resulting in a cramped and overbearing form of development.

19. Moreover, the proposal is to be sited on the un-used paddock area and would not encroach onto the playing fields. I accept that views from the existing dwellings on Park Lane and Butterwick Road across the playing fields will be reduced. However, I do not consider that this would result in a significant detrimental effect on the living conditions of the existing occupiers. Furthermore given the expanse of open space which would remain, in the form of the playing fields and the open space adjacent to the Rowanfields housing development, I do not find that the open rural character of the locality would be significantly harmed.
20. Consequently, although a technical breach of Policy C24 of the LP, I find that the proposal would respect the intrinsic character of the locality. Subsequently there would be no conflict with paragraphs 17 of the Framework which expects, amongst other things, new development proposals to respect and complement the physical characteristics of the site and its surroundings.

Other Matters

21. A range of other planning decisions and appeals have been cited. I have had regard to all such references, and have noted both similarities and distinctions with the appeal proposal. Even so, whilst mindful of the importance of consistency in decision-making, and particularly in terms of fairness and expectation, each decision ultimately reflects the particular planning circumstances appropriate to that case. The conclusions I have reached are based upon the case-specific considerations relevant to this appeal proposal as described.
22. Local residents draw attention to matters relating to flood risk, access, highway safety and ecology. With regard to flood risk, I acknowledge that the site is located within both Flood Risk Zone 3 and a 'danger for all' area. However, following the submission of a revised Flood Risk Assessment, the Council and the Environment Agency consider that the appellant has satisfactorily demonstrated that the proposal will be safe from the identified flood risk. No objection has been received from Witham Fourth Internal Drainage Board.
23. I note various concerns which have been raised about the impact of the proposed scheme on access, highway safety and ecology but, again, there is nothing before me in this regard which would lead me to conclude the scheme should be resisted on these grounds.
24. Concerns relating to overlooking and privacy have also been raised. However from the indicative layout provided by the appellant, I consider that it would be possible for the proposal to achieve adequate levels of separation which would not result in overlooking or privacy issues.
25. I do not underestimate the importance of the above matters to those involved. However, none of these matters have altered my overall decision.

Planning Balance

26. Paragraphs 6, 7 and 8 of the Framework indicate that the purpose of the planning system is to contribute to the achievement of sustainable development, with sustainable development having three roles, economic, social and environmental. None of these roles should be undertaken in isolation as they are mutually dependent.

27. The scheme would occupy an accessible location, add five dwellings to the housing supply, and would also bring economic benefits through the construction phase of the new dwellings, and social benefits through the support of local services and the contribution to the social life of the area.
28. Whilst modest in scale, these benefits are to be given significant weight. I have found no adverse impacts that would significantly and demonstrably outweigh these benefits, and the development would represent a sustainable form of development, as sought by the Framework.
29. Accordingly, I find the scheme to be sustainable development whereby any limited harm would not significantly and demonstrably outweigh the benefits. As such, the presumption in favour of sustainable development warrants a decision in this instance other than in accordance with the development plan and Policy H4 of the IP.

Conditions

30. I have considered the conditions suggested by the Council against the tests in the Framework and advice provided within Planning Practice Guidance. I find them to be reasonable and necessary in the circumstances of this case.
31. I have attached conditions relating to the standard time limits for outline applications and approval of reserved matters. I have also imposed a condition requiring that the development is carried out in accordance with the revised Flood Risk Assessment, in the interest of reducing the risk of flooding.
32. A condition requiring the submission of parking and turning arrangements is considered necessary in the interest of highway safety. Finally, a condition relating to the existing oak tree on site is required in order to secure adequate protection for the tree.

Conclusion

33. I therefore conclude that, subject to appropriate conditions, the appeal should be allowed.

Helen Cassini

INSPECTOR

Annexe

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) An application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby approved shall be carried out in accordance with the approved Flood Risk Assessment (revised for Appeal). All mitigation measures shall be fully implemented prior to the first occupation.
- 5) The application for the approval of reserved matters shall show detailed arrangements for the parking and turning of vehicles within each of the plots in order that vehicles can enter and leave the highway in a forward gear.
- 6) The oak tree located in the north-eastern corner of the site shall be protected during all construction work by 1.5 metre high chestnut pale fencing, or similar fencing, erected around the tree at a distance from the trunk equal to the spread of the crown of the tree. The fencing shall be retained until the completion of all construction works. Within the protected area, no alteration to ground level shall take place, no additional water shall be allowed to flow in, no vehicles shall be allowed to pass, no material shall be stored, no waste shall be tipped, no fires shall be lit, no pruning of branches shall take place and no services shall be routed without the written permission of the local planning authority.