
Appeal Decision

Site visit made on 26 October 2016

by Zoe Raygen Dip URP MRTPI

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

Decision date: 29 November 2016

Appeal Ref: APP/D2510/W/16/3151059

Land to east of Main Road, Keal Cotes, Spilsby, Lincolnshire PE23 4AG

- 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 John Hodson against the decision of East Lindsey District Council.
 - The application Ref S/204/02193/15, dated 10 November 2015, was refused by notice dated 8 January 2016.
 - The development proposed is outline erection of 4 No dwellings.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The application is in outline; with all matters reserved for future consideration except access. I will therefore consider the appeal on this basis.

Main Issues

3. The main issues are firstly, whether the proposal would provide a suitable site for housing with particular regard to its location and secondly, whether the appeal site represents an appropriate location for residential development, with particular reference to flood risk.

Reasons

Location

4. Keal Cotes is classed as a hamlet or other settlement within saved Policy A3 of the East Lindsey Local Plan Alteration 1999 (the Local Plan) which sets out a settlement hierarchy for the district. The explanatory text states that the Policy seeks to concentrate most new growth into the principal service centres and established settlements. It goes on to state that hamlets generally have no recognisable village form or facilities and are dependent on larger settlements for practically all services and community facilities.
 5. The Council state that Keal Cotes is also designated as a hamlet within the emerging Local Plan. However, I have been given no further information regarding how far in the process towards adoption the document has reached. Consequently, I can only give it very limited weight. While the appeal site is within the area marked by the Keal Cotes signpost, the settlement has no
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- defined development boundary within the Local Plan and therefore is classed as being in the open countryside for the purposes of planning policy.
6. The Council acknowledges that it is unable to demonstrate a five year supply of housing land. Paragraph 49 of the National Planning Policy Framework (the Framework) states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. I therefore give saved Policy A3 limited weight.
 7. Paragraph 55 of the Framework specifically addresses the provision of housing in rural areas. It states that housing should be located where it will enhance and maintain the vitality of rural communities by avoiding isolated homes in the countryside unless there are special circumstances. The Framework does not define the meaning of 'isolated'. In my experience there are two main aspects to be assessed when considering 'isolation', these being whether the appeal site is physically isolated relative to settlements and other built development and whether it is functionally isolated relative to services and facilities.
 8. Although the appeal site is on the edge of Keal Cotes it is adjacent to and opposite existing development. As a result the proposed dwellings would be viewed in the context of the built up area of the settlement and hence would not be physically isolated.
 9. The appellant refers to a scoring system used by the Council to reflect the facilities and services within villages. He has submitted a spreadsheet, from the Council's website, which shows Keal Cotes has a score of 17 which makes it a small village. The appellant disputes this figure, highlighting inaccuracies within the scoring system on another planning application (N/006/01891/15). He suggests it should also include points for an employer, a large employer, food shop and shopper bus service. However, the food shop would appear to be in East Keal which is about 3 miles away. Furthermore, I have been supplied with no evidence of other facilities and services referred to. Moreover I have not been advised that the scoring system constitutes adopted policy which I can give weight to.
 10. I saw at my site visit that Keal Cotes has a few facilities, restricted to a public house and fishing lakes which has a small shop. However, I saw that the shop mainly sold fishing related products along with limited local produce. There was no local convenience shop, health services or schools. Employment opportunities seem to be restricted to the fishing lakes and the public house. As a result future occupiers would have to travel further distances to surrounding villages and towns to access day to day services.
 11. Although there is a bus stop within walking distance of the appeal site I have been provided with no details of the bus service and therefore cannot be sure that it is regular or would conveniently serve the needs of people commuting to work. The nearest settlements of West Keal and Stickford are 1-1.5 miles away along a busy main road with no footway beyond the edge of Keal Cotes or cycle path. The village of Stickney which has more local facilities is about 3 miles away along the same road. It is unlikely therefore that future occupiers would walk or cycle to the villages particularly in the dark winter months, or if they have mobility issues or accompanied by children.

12. As a result future occupiers would be likely to have a high dependence on the use of motor vehicles to access the local services which would be contrary to one of the core planning principles of paragraph 17 of the Framework to make the fullest use of public transport, walking and cycling. Moreover, the proposal would conflict with one of the aims of paragraph 7 of the Framework to move towards a low carbon economy.
13. Whilst I recognise that there is generally a greater reliance on the private car in more remote rural areas, it remains the case that there would be a lack of sustainable transport choices available to enable future residents to conveniently access facilities. There would be a lack of relationship between the site and the nearest settlements able to provide basic services and in this respect the dwellings would be functionally isolated.
14. Leading on from this I do not consider there to be special circumstances (paragraph 55 of the Framework) to justify the erection of isolated dwellings, including those cited in the Framework namely that it would be essential for a rural worker; would secure the future of a heritage asset; would re-use a redundant or disused building or would be of exceptional quality or design.
15. Paragraph 55 of the Framework refers to development in small villages potentially supporting services either in the immediate environment, or in a village nearby. However, I have seen no evidence to suggest that the location of the appeal site is well placed by way of public transport connectivity, to the available facilities in nearby settlements and four dwellings would in any event, make a limited contribution in this regard.
16. For the reasons above therefore I conclude that the proposal would not provide a suitable site for housing with particular regard to its location. It would therefore be contrary to paragraphs 7, 9, 17 and 55 of the Framework and saved Policy A3 of the Local Plan. As well as the requirements I have listed above, paragraph 9 also requires that development improves the conditions in which people live, work, travel and take leisure.
17. The Council also refer to saved Policy H12 of the Local Plan and paragraphs 14 and 197 of the Framework within their decision. However, policy H12 relates to applications for the design of new housing in relation to full planning permission. As this appeal is in outline form then the policy has not been determinative in this matter. I will return to paragraphs 14 and 197 of the Framework in my balancing and conclusion.

Flood risk

18. The appeal site is located in Flood Zone 2 as determined by the Environment Agency. Paragraph 101 of the Framework requires decision makers to steer new development to areas at the lowest probability of flooding by applying a Sequential Test to those developments on sites in areas at risk of flooding and not already allocated within the development plan. Planning Practice Guidance (the PPG) indicates that the aim is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2, applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be

considered (taking into account the flood risk vulnerability of land uses and applying the Exception Test if required).

19. The appellant's Flood Risk assessment (FRA) states that as the site has not flooded in the past 100 years then a sequential test is not necessary. However the Framework expects that development within Flood Zones 2 and 3, such as that proposed here, will be subject to a sequential test.
20. I note that the Environment Agency have no objection to the conclusions of the FRA that suitable mitigation measures can be incorporated and could be the subject of appropriate conditions. Nonetheless, Paragraph 103 of the Framework makes it clear that the FRA is only considered after the application of the Sequential Test and if required the Exception Test.
21. The appellant has drawn my attention to a site about 100 metres from the appeal site which is shown to be in Flood Zone 1 but is the same height or higher than the appeal site. Furthermore, he states that the heights above sea level on the Environment Agency's web site are indicative only. However the map supplied by the appellant from the Environment Agency clearly shows the site to be in Flood Zone 2.
22. The appellant also refers to hazard ratings that have been agreed between the Council and the Environment Agency. He states that the hazard rating for Keal Cotes is Risk to None. However the Council has subsequently confirmed that, the Environment Agency's Flood Hazard Maps which effectively provide more refined evidence on flood risk, only cover the part of the District at threat from coastal flooding. The appeal site is not within the defined area at threat from coastal flooding. While the site is at little or no risk of coastal flooding, it is though still within Flood Zone 2. The map from the Environment Agency submitted by the appellant shows the presence of East Fen Catchwater Drain both to the east and north of the appeal site.
23. The appellant refers to two examples of planning applications (N/178/02063/15 and N/040/00521/16) which he believes have been subject to hazard ratings yet are inland. I am aware though from the information supplied by the appellant from the East Lindsey Core Strategy February 2016 that coastal flooding can extend some way inland. Therefore, I have no reason to doubt the Council's appropriate use of Flood Hazard Maps.
24. My attention has also been drawn to planning application N/062/00499/15 which did not require a sequential or exception test. However, it appears from the information submitted that the application related to a site within Flood Zone 1 and therefore it is not directly comparable to the appeal site.
25. I have had regard to the appeal decision APP/D2510/A/13/2192631 referred to be the appellant where the Inspector stated that a sequential test can only be realistically applied if there is a Strategic Flood Risk Assessment (SFRA) in place. Nevertheless, the Council has stated that their adopted Strategic Flood Risk Assessment 2012 (the SFRA) confirms that it is the Environment Agency Flood Zone maps that are to be used as the primary tool to assess the potential of development sites and to provide evidence for the Sequential Test. The SFRA 2015 has not yet been finalised or adopted and therefore I can give that document very limited weight. Furthermore, the Council refer to three other decisions on planning applications which were upheld at appeal where a lack of

sequential test was a reason for refusal (S875/134/13, S153/383/13 and S183/320/15).

26. I therefore conclude that in the absence of any evidence to demonstrate that the dwelling could not be located in an area with a lower risk of flooding, the proposal would not provide a suitable site for housing with regard to flood risk. It would therefore be contrary to paragraph 101 of the Framework which seeks to avoid inappropriate development in areas at risk of flooding by directing development away from those at highest risk.

Other matters

27. Apparent inconsistencies in decisions relating to issues of flood risk and planning applications which have been granted in areas with a sustainability score of less than 23 have been highlighted by the appellant¹. However I do not have full details of the circumstances that led to these proposals being accepted. Therefore I cannot be sure that they represent a direct parallel to the appeal proposal, including as to whether a sequential test was submitted or the location of the sites in relation to local facilities and the opportunity for accessing services by means other than the car. In any case I have determined the appeal on its own merits.
28. The appellant has submitted the committee report in respect of the consideration of planning application N/052/1315/15. It is clear that the application site was considered to be in an acceptable location near to a medium sized village which would help support accessible local services and facilities, and therefore different circumstances to the appeal in front of me.
29. My attention has also been drawn to an application for two houses which has been approved near to the appeal site in Keal Cotes. However, the Council advise that in that instance the site was considered as infill and did not have the flood risk associated with the appeal site. Furthermore a benefit of the proposal was that money would be reinvested into a farm business. I am satisfied therefore that there are sufficient differences between the two proposals which enable me to reach a different conclusion on this appeal.
30. The appeal site is a large overgrown green field with an existing access to Main Road. It is bound by hedges to three sides with a bund at the rear boundary. There are some small sheds within the site and caravans. The majority of the site is though greenfield. The Parish Council has suggested that the proposal would help improve the appearance of the site. Nonetheless, the size of the access and presence of hedges restricts views into the site from the road. Furthermore I did not consider the site to be of such poor appearance to necessitate the construction of houses.
31. The appellant also refers to Policy H4 of the Local Plan. I understand from the Council though that this Policy was not saved and therefore it has not been determinative in this appeal.
32. The appellant is clearly aggrieved with the way that the Council has handled the application and a previous application at the appeal site. However, those are not matters I can take into account in assessing the planning merits of the appeal.

¹ S/023/01993/15, N/105/00851/13, appeal ref APP/D2510/W/15/3138543 and application at Great Steeping. Also refer to document Historic Planning decisions ELDC within appellants statement.

Balancing and conclusion

33. In considering the potential benefits of the proposal, I note that the new dwellings would contribute to the Council's five year housing land supply as required by the Framework. However, a net increase of only four dwellings would be a small contribution so I afford this benefit only moderate weight. There is also reference to the houses being low cost starter homes which would be a benefit of the proposal. Nevertheless, I have no means before me, such as a S106 legal agreement, to ensure that such provision could be secured and maintained in perpetuity. Furthermore, the Council has confirmed that a housing survey has identified no need for such provision in the settlement. I therefore give this alleged benefit very limited weight.
34. In addition, the construction of the dwellings would derive some economic benefits but this would be for a limited time. Furthermore, given the small scale of the development, the contribution to the local economy from the spending power of future occupants is unlikely to be significant. In any event, such a contribution could be made by a dwelling constructed closer to local facilities.
35. The proposed development would be in an isolated location resulting in the inherently harmful effects I have already identified. It would also fail to provide an appropriate location for residential development, with particular reference to flood risk. These impacts are contrary to both local and national planning policy to which I give considerable weight.
36. I have considered the benefits which would be derived from the appeal scheme but these carry limited to moderate weight. I therefore conclude in accordance with paragraph 14 of the Framework that the considerable harm caused by the proposal would significantly and demonstrably outweigh the limited to moderate benefits I have identified. The proposal would conflict with the Framework when taken as a whole. Consequently the proposal is not sustainable development for which paragraph 197 of the Framework carries a presumption in favour. For this reason, and having regard to all other matters raised, including the support from the Parish Council, I conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR