
Appeal Decision

Site visit made on 7 February 2017

by Mrs Zoë Hill BA(Hons) Dip Bldg Cons(RICS) MRTPI IHBC

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

Decision date: 3 March 2017

Appeal Ref: APP/D2510/W/16/3155099

Land between Boothby House and Ann's Cottage, Station Road, Legbourne, Louth, Lincolnshire LN11 8LS

- 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 Mrs Jane Casswell against the decision of East Lindsey District Council.
 - The application Ref: N/100/02003/15, dated 17 October 2015, was refused by notice dated 3 May 2016.
 - The development proposed is described as outline erection of 10 No. dwellings each with a detached garage that is a resubmission of application N/100/01344/14.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made for outline planning permission with all matters reserved. Whilst illustrative plans have been provided, given the nature of the application, I have dealt with them on that basis only.
3. Since the application was determined by the Council a geophysical survey has been undertaken on the site. This has confirmed that there is archaeological interest in the site. On this basis, the Council has withdrawn from its second reason for refusal but instead seeks conditions regarding archaeology. I am satisfied that the archaeological interests of the site could be safeguarded by the imposition of suitable conditions. As such, this issue is no longer a main issue between the parties or for the appeal.

Main Issue

4. The main issue in this case is whether or not the site is suitable for residential development having regard to the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Housing Land Supply Context

5. The Council acknowledges that it currently has an undersupply of housing land, setting out in its committee report that the level of supply is some 3.75 years. The appellant appears to confirm a similar level stating that 'the Council is below the 5 year supply of deliverable housing sites at present (currently 1.3
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years)'. As such, it is clear that the Council's housing policies cannot be considered up-to-date as set out at paragraph 49 of The National Planning Policy Framework (the Framework). Paragraph 14 of the Framework makes it clear that for decision-making purposes where a local plan is silent or policies are out-of-date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole¹.

Planning Policy

6. The Council's Local Plan is the East Lindsey Local Plan Alteration adopted in 1999 (the Local Plan). The Council relies on those policies of that plan which were 'saved'. The Local Plan Proposals Map and settlement insert maps date from 1995 the Council explains that these maps remain applicable and I note that the appeal site is situated outside of the settlement limit for Legbourne. However, the Council does not take issue on that basis.
7. Legbourne is classified as a 'Main Village' in Policy A3. Policy A3 seeks to permit development in the settlements listed (subject to compliance with other policies of the Plan) provided its location, character, function, scale, design and operation are all consistent with the role, status and character of the settlement. If this policy is taken as seeking to adhere to the 'settlement limits' it would be out-of-date insofar as it acts as a restraint on housing land supply which limits the weight which can be applied to it. However, in other respects (i.e. aside from the settlement limits) this policy does not fundamentally conflict with the Framework such that some weight can be afforded to it.
8. Policy A5 of the Local Plan states that development will be permitted only where its design, including layout, density, scale, appearance or choice of materials, does not detract from the distinctive character of the locality. This policy does not fundamentally conflict with the Framework and I accord it significant weight.
9. The Council sets out that its emerging plan has been the subject of public consultation on three occasions and as a result has been modified. The resultant plan has been approved by the Council as a pre-submission document which the Council sets out as to be consulted upon between 30 November 2016 and 25 January 2017. Following that consultation the Council intends to consider representations prior to sending the emerging plan to the Secretary of State for examination. As such, the Council considers that the emerging plan represents the 'direction of travel for the Plan'. However, as the outcome of the final consultation is awaited and the emerging plan has not yet been examined by an Inspector it may be subject to change. As such, I accord it very limited weight in the planning balance.

Character and Appearance

10. The appeal site is located on the western side of Legbourne and the northern side of Station Road. It has a long frontage and narrow depth. It is currently agricultural land, with a single field access and a strong defining hedgerow along the remainder of the site frontage. The northern site boundary cuts across the farmland and there are no defining features at this point, rather the

¹ It is not argued that any specific policy of the Framework indicates that development should be restricted (reflecting 'footnote 9' of the Framework)

land continues as an open field. To the western end, before Boothby House there is a small copse of trees which adjoins about half of the site's boundary at this side. Two plots for dwellings have been approved in the east of the appeal site, originally dating from 2014, where construction is ongoing.

11. On the opposite side of Station Road there are a few residential buildings, the most prominent being residential accommodation created in former Station buildings belonging to a rail route no longer in use. Other than the main 'station' buildings, buildings on this side of the road and a public car park area are well screened by trees and hedging. As a consequence, the first visually prominent houses of the settlement are those of the recent plot development at the eastern side of the appeal site. It is beyond this point where there is a 'gateway' entrance feature to the settlement and the road bends that the village appears to begin.
12. In contrast, the appeal site looks like part of the open countryside with little visual association to the settlement further along the road. Thus, development of this long thin site with ten houses would significantly intrude into the countryside creating a prominent new ribbon of development on this side of the road. Whilst the details are only illustrative, the proposal to retain the frontage hedge would do little to mitigate the situation. Were the hedge retained the dwellings would appear rather awkwardly related to the road, unlike elsewhere in the village where housing mainly has direct frontage including for access. That said, removal of much of the hedge might be required to achieve sightlines. Such a loss of hedgerow would harmfully urbanise the appearance of this stretch of roadside in an area of distinctly rural countryside character.
13. Whilst the modest copse of trees near Boothby House would provide a degree of screening on approaching the site from the west, it would not overcome the main harmful effect on approaching or leaving the village. Rather, developing between Boothby House and the two new plots at the east of the site would consolidate development, limiting any benefit that the copse of trees would have.
14. The appellant considers that the plots to the east of the site justify this proposal. However, those plots are close to the existing settlement with its 'gateway' entrance and they do not extend into the open countryside along Station Road as would the appeal scheme for 10 dwellings. Thus, I do not consider that it is illogical for the Council to have supported that development as a modest addition and windfall site, while resisting the appeal scheme.
15. On this matter I am firmly of the view that the proposed development would conflict with Policy A5 of the Local Plan because the likely layout of this outline scheme would detract from the distinctive character of the locality. For this reason the proposal would also fail to accord with Policy A3 as it would not be consistent with the character of the settlement. In respect of character, it also seems likely that there would be a loss of a hedgerow that is a feature which is important to the quality of the local environment adding to the Policy conflict. Whilst these Policies are dated, they reflect the Framework insofar as it seeks to support housing but acknowledges that there is a need to take account of the different roles and character of different areas, including by recognising the intrinsic character and beauty of the countryside. The harm I have identified would amount to a serious harm to the environmental dimension of planning

which is one of the three threads of sustainability which the Framework identifies as important for the planning system.

16. However, this harm only forms part of the planning balance and it is necessary to consider the other matters raised.

Other Matters for the Planning Balance

17. It is not disputed that Legbourne is a relatively sustainable settlement with facilities including two schools, a village hall, play space, a shop and post office, a church and a chapel, and a public house. This is reflected in its identification as a main village in the Local Plan. In terms of the planning balance this weighs in favour of the scheme. Indeed the Council acknowledges that it does not object to the principle of residential development in or alongside the settlement. Moreover, the appellant indicates a footpath could be provided, with lighting, up to the site access.
18. The appellant makes much of other planning permissions and pre-submission responses in support of other sites for different parts of the settlement. However, I do not agree that this amounts to inconsistency. Rather, those permissions and provisionally supportive responses illustrate that the Council acknowledges the need for housing and is seeking to support it where it is acceptable, much as seems to have been the case for the two dwellings allowed beyond the eastern end of the appeal site. Thus, this is a matter which carries neutral weight in the planning balance.
19. Whilst the appellant says there is a particular demand for the proposed development there is no substantiated evidence of this and, in any event, as people would often prefer attractive open countryside views/edge of settlement this is neutral in the planning balance in terms of sustainability. However, this attractiveness is likely to make the scheme more likely to be delivered, but that could be said for other similar sites. That said, the site has other positives in terms of deliverability. In particular, it is in Flood Zone 1 which is suitable for housing. Despite concerns of the Parish Council and some local residents, the Council accepts that there is scope to adequately drain the site. There is no dispute that the site could be linked to the foul sewer in Station Road and has access to public utilities which pass the site frontage. These deliverability points weigh highly in favour of the scheme.
20. The appeal statement indicates that the plots could be for self-build housing. However, the application states it is for open market housing and there is nothing to secure it for self-build purposes. As such, I have dealt with the scheme as if it were for any form of open market housing.
21. I agree that further housing in the village would help to sustain the village and its facilities and this weighs in favour of the proposal.
22. Although it is suggested that the housing would meet local needs, there is no substantiated evidence of this and there would be nothing to secure this housing for locals. Thus, I do not attach weight to this matter.

Other Matters

23. As the proposal has been made in outline only matters of privacy between the site and existing properties would be for consideration at reserved matters stage should the scheme be acceptable in other respects. However, given the

size of the site and its linear form it seems to me that a scheme could be achieved which would provide for acceptable levels of privacy for existing and future occupiers.

24. Whilst there is local concern that the appeal proposal might be part of incremental development at this side of the village I must consider the scheme before me on its own merits. Any other scheme would similarly have to be dealt with on its own merits.

Planning Balance and Conclusions

25. I have found significant harm to the character and appearance of the surrounding area. There are positive factors in the planning balance in respect of the proximity to the settlement of Legbourne with associated accessibility benefits, support for local services and facilities. The site is also deliverable. Most significantly, it could contribute to providing housing where there is a shortfall in supply. However, having weighed all those matters in the balance I conclude that for this site the adverse impacts would significantly and demonstrably outweigh the benefits such that the proposal does not represent sustainable development. Thus, I conclude that the development would fail to accord with the Framework as well as the Local Plan.

26. For the reasons set out above the appeal is dismissed.

Zoë Hill

Inspector