

Appeal Decision

Site visit made on 11 April 2017

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

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

Decision date: 8th May 2017

Appeal Ref: APP/D2510/W/16/3165037

Beagle Barn Acrelea, Roughton Road, Kirkby-on-Bain, Woodhall Spa, LN10 6YL

- 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 Mr M Crute against the decision of East Lindsey District Council.
 - The application Ref S/094/00900/16, dated 21 April 2016, was refused by notice dated 13 June 2016.
 - The development proposed is the erection of four holiday cottages, and a detached double garage/workshop/store in connection with the existing dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development from the submitted Appeal Form as this is more precise than the description on the original application form.
3. In their decision notice, the Council made reference to harm in respect of accessibility, character of the River Bain Corridor and flood risk. These matters all form part of a single reason for refusal. This format has differed from the Council's previous approach and decisions at this site which specified separate reasons for refusal.
4. I have considered the submitted information, including the post decision correspondence between parties. While there are inconsistencies in the Council's approach, it is clear that all of these matters are of a concern to the Council. This is also demonstrated by reference to policies relating to visitor accommodation and the River Bain Corridor from the East Lindsey Local Plan Alteration 1999 (LP), and relevant paragraphs regarding the rural economy paragraphs and flood risk the National Planning Policy Framework (the Framework) in the decision notice. The Council has also set out their reasoning in greater detail within their appeal statement, and make specific reference to these matters.

Main Issues

5. In light of the above, the main issues are whether the site is a suitable location for holiday accommodation, having regard to national and local policy in respect of (a) accessibility to services and facilities, (b) character and appearance and (c) flood risk.
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Reasons

Policy Context

6. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Paragraph 215 of the Framework states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. Paragraph 14 states that where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole or where specific policies in the Framework indicate development should be restricted.
7. My attention has been drawn to the Draft East Lindsey Local Plan. However, this remains unexamined and un-adopted and I note that there representations have been made in respect of draft Policy SP15 and SP16. As such, this limits the weight I can attach to this document, in accordance with Framework paragraph 216.
8. For clarity, I have determined the appeal on the basis of saved policies within the adopted LP as well as the Framework.

Accessibility

9. Paragraph 17 of the Framework sets out a number of core planning principles which underpin decision-taking. These include supporting thriving rural communities within the countryside and actively managing patterns of growth to make the fullest possible use of public transport, walking and cycling. Paragraph 28 of the Framework is supportive of sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.
10. LP Policy T12 deals with the development of holiday accommodation. Such development is supported alongside a settlement subject to a number of locational and other criteria relating to living conditions, infrastructure, location and character and appearance. I therefore find that LP Policy T12 is consistent with the Framework and should be afforded moderate weight.
11. On the basis of the above, to achieve sustainable development, an appropriate balance needs to be struck between the various objectives, including the provision of tourist accommodation against access to facilities and sustainable transport.
12. The appeal site is located in a rural location around 840m away from Kirkby on Bain, a medium sized village with some limited services and facilities, including a school, public house, church and other community facilities. A petrol station and shop is located outside of the village on the A153. Woodhall Spa, a large main village with a greater level of service provision is located around 3.5km away.
13. The appeal property is located to the north of the village along Roughton Road. In the vicinity of the appeal site, development along this road is sporadic, with

some farmsteads and rural dwellings separated by open fields and paddocks. While I acknowledge the sprawling nature of development within the village, on the basis of the above, rather than being alongside Kirby-on-Bain, I consider that the appeal site is physically detached from its core.

14. Roughton Road is a narrow rural highway which is unlit and in spite of its wide grassed verges, there are no footpaths running along its length connecting the appeal site to the village centre. I therefore consider that the site is beyond convenient walking distance for potential occupiers of the proposed holiday accommodation. I note that there is a footpath along the River Bain, however this is to the other side of the riverbank to the appeal site and the conditions of this path are as such that it would be unlikely that this would be used as a regular means of access, particularly in the evening or in poor weather.
15. While it may be possible to cycle the route, in practice I consider that the majority of occupiers would be likely to access services by private car, particularly at Woodhall Spa or to other settlements at Tattershall and Coningsby. Furthermore, from the limited details provided, I have considerable doubts in respect of the public transport offer and I do not consider that the 'Call-Connect' service would serve as a realistic and routine transport option for visitors to access these wider facilities.
16. I note the tourist offer in the area, including fishing, horse-riding and nature reserves which are open to the public. There is also a wider network of footpaths and cycleways. I accept that these would be likely to be used by visitors to the area. However, due to the general reliance on unsustainable forms of transport for wider services and facilities, on balance, the presence of such offers would not justify the appeal proposal.
17. It has also not been adequately demonstrated why the identified needs and economic benefits cannot be met by existing facilities located in rural service centres, as required by paragraph 28 of the Framework.
18. My attention has been drawn to a number of examples of recently approved development along Roughton Road, including housing and static caravans. However, I do not have full details of these schemes and so I cannot be sure of the circumstances of such cases. It would also appear to me that the majority of these developments are in proximity to the village centre and while some of the schemes may represent linear development along the road, I do not consider that this would overcome my concern in respect of the detachment of the appeal site from the village core. In any case, I have determined the appeal on its own merits, based on the evidence before me.
19. Overall, I conclude that the proposed change of use would not be in a suitable location for holiday accommodation. The inappropriate location of the appeal site would therefore be in clear conflict with LP Policy T12 as well as the social and environmental objectives at paragraphs 17 and 28 of the Framework in respect of sustainable rural tourism.

Flood Risk

20. The River Bain forms the eastern boundary of the appeal site. While the appellant disputes the accuracy of the Environment Agency (EA) maps, I am satisfied that part of the site is located within Flood Zone 3, with the remainder is within Flood Zone 1. Relevant policies in respect of flood risk in the East

Lindsey Local Plan (LP) 1999 have not been saved and therefore the National Planning Policy Framework (the Framework) applies.

21. One of the Government's core planning principles is to take full account of flood risk (paragraph 17). Paragraph 100 of the Framework also states that inappropriate development in areas of flooding should be avoided by directing development away from areas at highest risk. A sequential risk-based approach is required by way of a Sequential Test and if necessary, an Exception Test. Paragraph 103 of the Framework relates to site specific Flood Risk Assessments (FRA).
22. The submitted Flood Risk Assessment fails to undertake the sequential test. I note that only part of the site is considered to be of a high risk, however it is a requirement of the Framework that such a test be undertaken. I consider that this is necessary as part of the proposed development would be located in Flood Zone 3.
23. Moreover, while I note that the development includes flood reliance measures, including safe access and escape routes, paragraph 103 of the Framework also requires that within the site the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location. Such justification in respect of the siting of the proposed development within Flood Zone 3 has not been made in this regard.
24. I acknowledge the lack of objection by the EA, however it is for the Council to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case.
25. I note the submitted decision notice in respect of a nearby approval for a caravan site. However, I have no evidence that the application of the Sequential Test was not undertaken and thus I am unable to come to any view on whether this approval is comparable to the proposals before me. In any case, I have determined the appeal on its own merits.
26. I therefore conclude that, in the absence of any robust evidence to demonstrate that the holiday accommodation could not be located in an area with a lower risk of flooding, the proposal would not provide a suitable site for holiday accommodation. As a consequence, it would be contrary to paragraphs 100, 101 and 103 of the Framework which seeks to direct development away from areas of highest flood risk.

Character and Appearance

27. LP Policy ENV21 seeks to protect the open character, nature conservation and recreational importance of watercourses within the District. While this is a local policy, I consider that it is consistent with the Framework which seeks to conserve and enhance the natural environment and I consider that this should be afforded moderate weight.
28. The appeal proposals comprise of an 'L-shaped' building, which would be located adjacent to the bank of the River Bain, as well as associated hardstanding for parking/turning and private patio areas serving the units.
29. While the development would be located in proximity to Beagle Barn as well as the original farmhouse, as located away from the centre of Kirkby-on-Bain, the

river has an open character which is largely unaffected by the existing development along its banks.

30. The introduction of further development in this location into the corridor of the River Bain would be prominent in views, particularly along the public footpath which runs on the opposite side of the river to the appeal site. This would be particularly conspicuous and would have an urbanising effect which would cause harm.
31. On this matter, I therefore conclude that the development would fail to preserve the open character of the River Bain Corridor, in conflict with LP Policy ENV21.

Conclusion

32. I note the economic and social benefits of the proposal in respect of tourism, employment opportunities and use of local services. While such matters lend support to the proposals, in light of the scale and scope of the proposed development, such these benefits would only be moderate.
33. I have found that the development would be in clear conflict with the social and environmental objectives which underpin the Framework in respect of accessibility and character and appearance and thus I consider that such harm significantly and demonstrably outweighs the benefits of the scheme.
34. Moreover, I have found that the development would be in conflict with paragraphs 100-103 of the Framework. Accordingly, the development fails in respect of the second limb of paragraph 14 of the Framework. The proposals cannot therefore be considered sustainable development for which the Framework presumes in favour.
35. For the reasons given above, taking into account all other matters raised, I conclude that the appeal should be dismissed.

C Searson
INSPECTOR