
Appeal Decision

Site visit made on 12 April 2017

by S J Lee BA(Hons) MA MRTPI

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

Decision date: 18th May 2017

Appeal Ref: APP/D2510/W/16/3163402

Land Opposite Sunny View, Kirkby Lane, Kirkby on Bain, Woodhall Spa, Lincolnshire LN10 6YW

- 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 Morley, Kirkby-on-Bain Developments C/O Misura Architectural Design against the decision of East Lindsey District Council.
 - The application Ref S/094/01766/16, dated 23 August 2016, was refused by notice dated 20 October 2016.
 - The development proposed is the erection of up to 9 dwellings with access only to be considered. Appearance, Landscaping, Layout and Scale to be subject to a reserved matters application.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline, with all matters reserved except for access. I have treated the submitted site massing plan as indicative only.
3. Slightly different addresses for the site appear on the original application form, the appellant's appeal form and the Council's decision notice. For the avoidance of doubt, I have used the one provided on the decision notice as I consider this to be the most accurate description of the site's location.

Main Issues

4. The main issues in this case are:
 - The effect of the development on the character and appearance of the area;
 - Whether or not adequate arrangements are made for the surface water drainage from the site; and
 - Whether the development is in a location with good access to everyday facilities by a range of means of transport.

Reasons

Character and appearance

5. The appeal site comprises part of an open field located outside the defined settlement boundary of Kirkby on Bain. The site is located on an unpaved country lane and forms the start of a large and largely unbroken swathe of
-

open countryside stretching out from the edge of the village along Kirkby Lane. A short row of dwellings fronting onto Roughton Road can be seen running perpendicular to the eastern boundary of the site. These create a definitive edge to the village that demarcates a clear change in character between the built form and the open countryside beyond. As a result, the site creates an attractive open setting to the village which reinforces the rural character of the settlement.

6. There is a single detached bungalow opposite the site known as Sunny View. This is detached from the edge of the village and does not create any form of precedent or character context for a larger form of development opposite. Whilst the site may be in close proximity to other dwellings, it does not represent a gap in the built form, a logical extension or rounding off of the village or an area of transition between the settlement and open countryside. The rear edge of the site would also not follow any logical boundary or feature, but would simply extend into an open field. Despite the appellant's comments the site clearly forms part of the open countryside beyond the village.
7. Whilst design and layout are reserved matters, the indicative plan shows a loose-knit linear form of development that would represent a significant encroachment into the open countryside. The dwellings, along with all associated domestic paraphernalia and the access road, would also have an urbanising effect on the site that would significantly diminish the contrast between the settlement and the countryside. This would be to the detriment of the rural character and setting of the village. The retention of much of the hedgerow that currently borders the site would provide some degree of screening, but this would be unlikely to sufficiently mitigate the impact or reduce the prominence of the development when travelling along Kirkby Lane. The change in character would also be particularly stark and prominent for users of the public footpath that runs through the site.
8. Irrespective of the exact layout of the scheme or position of the access road, both the single point of access from Kirkby Lane and the arrangement of dwellings behind the hedgerow would give the impression of a small estate or elongated cul-de-sac. This would appear disconnected and poorly related to the existing built form of the village. Such an arrangement would also be out-of-keeping with the broad character of the village where dwellings tend to have individual accesses directly onto the street. I saw no nearby signs of similar development in the vicinity of the site, and such a layout only increases my concern that the development would appear as an incongruous and unsympathetic encroachment into the open countryside that would create a sprawling and artificial edge to the settlement.
9. The landscape sensitivity of the site is moderate to low. Nonetheless, this does not mean that consideration should not be given to the impact of development on the intrinsic beauty of the countryside, as highlighted in paragraph 17 of the National Planning Policy Framework (the Framework), or the general effect on local character as required by local policies. In my view, a ribbon of development along Kirkby Lane would detract from this intrinsic beauty and the character and appearance of the area to an unacceptably harmful degree. Accordingly, there would be conflict with saved policies A4, A5 and H12 of the East Lindsey Local Plan Alteration (1999) (LP) which seek, amongst other things, to secure development which reflects or enhances distinctive local character.

Flooding

10. The appellant's FRA includes an assessment of the level of risk and sets out an outline strategy for dealing with the acknowledged issue of surface water drainage. The conclusion of the report is that a combination of sustainable drainage measures (SuDS) would result in a satisfactory level of mitigation. This would include the need for some on-site water storage in the form of storage cells or an attenuation pond. The level of detail in this FRA would not be sufficient or specific enough to be considered an appropriate drainage strategy in its own right. However, I recognise that the intention may have been to demonstrate that a condition requiring the approval of details would be acceptable in the event the appeal was allowed.
11. As the scheme is an outline, the assessment of run off and discharge rates in this report are by necessity based on estimates and the outline drainage strategy is general in nature, albeit I recognise an attempt has been made to quantify the size of storage required. While this is helpful, I am concerned that it does not provide sufficient detail or certainty relating to this site to provide the necessary comfort. There are issues raised in the FRA relating to the need to protect nearby dwellings from overland flow and that the use of a ditch has been discussed with the relevant bodies. However, I have no confirmation as to whether this would be acceptable. Different types and scales of attenuation measures are also put forward, which might have different requirements in terms of land take or layout of the scheme. It may also lead to the need to use land outside the extent of the appeal site. All of this adds to the level of uncertainty around the nature of mitigation needed and whether it would achieve its objective.
12. The appellant has also submitted a document outlining a number of options for a flood mitigation scheme being considered by the County Council that may benefit the rest of the village. These include a pumping station, attenuation measures or a combination of the two. The options generally sit outside the redline of the appeal site, but are within land in the appellant's control. The appellant has indicated that should planning permission be granted, they would be willing to provide any land and easements to implement the scheme free of charge. However, it would appear that the scheme is still at a relatively early stage in planning and neither its exact nature nor land requirements are known at this time.
13. Even if there were sufficient detail to understand what would be required, there is no mechanism before me through which the necessary land or access could be secured or linked to the development. This is not something that I consider could be suitably addressed by a planning condition and no legal agreement has been submitted for me to consider. As such, I cannot give the potential benefits of this scheme any weight in my decision. In addition, the lack of clarity around this issue and any potential interrelationships with the mitigation of flooding on the appeal site itself also adds to my concerns that this is not a matter than can be overcome by condition.
14. In light of the specific circumstances of the site and all of the evidence put to me in terms of flooding and drainage, I do not consider a condition requiring the future approval of the details of a drainage strategy would be appropriate in this case. As such, I find that the development would not provide adequate arrangements for surface water drainage. Accordingly, there would be conflict

with LP Policy ENV3 which seeks to ensure surface water drainage is of an adequate standard to serve all new developments. It would also conflict with paragraph 103 of the Framework which seeks to ensure development is appropriately flood resilient and resistant. While other paragraphs in the Framework are referred to by the Council in their reason for refusal, not all are relevant to planning applications.

Access to facilities

15. Policy A3 of the LP establishes a settlement hierarchy which includes towns and main, medium and small villages. Kirkby on Bain is identified as a medium village. The policy seeks to focus growth in towns and main villages, with development in medium villages principally aimed at meeting identified local needs, as opposed to speculative or wider market needs that may be met more appropriately elsewhere. There is no evidence before me which suggests the dwellings here are being provided to meet specific identified local needs.
16. The Council's 'village facilities survey' suggests that Kirkby on Bain contains a small number of services and facilities, including a primary school, church, community hall and pub. There is also reference in the evidence to employment opportunities, though no details on this have been provided. However, it does not contain important facilities such as shops, a post office, medical facilities or a bank. This document also suggests that there is no public transport passing through the village. The appellant has not disputed this.
17. There are therefore limited facilities within a reasonable walking distance of the site. While the proximity to a primary school in particular is a positive aspect of the development, the occupants of the dwellings would still have to rely heavily on the facilities and services of other larger settlements to fully meet their daily living needs. The nearest settlements of any size are Woodhall Spa (around 3.5km away) and Horncastle (6km away). The lack of public transport from the village, and the distances involved, lead me to conclude that the majority of these trips would be undertaken by car. Whilst it is not unusual for there to be a greater reliance on the car in rural areas, allowing development in such a location would lead to a cumulative increase in the number and distance of less sustainable trips in the area.
18. Paragraph 55 of the Framework states that housing in rural areas should be located where it can maintain or enhance the vitality of rural communities and new development can support facilities within the village. I recognise that the development would provide some economic support for those facilities that do exist. However, this would add only small weight in favour of the proposal when considering the limited nature of these facilities and the extent to which they can meet future occupants' daily needs.
19. In conclusion on this matter, the proposal would be located outside a defined village and would not be in a suitable location to access most everyday local facilities by a range of means of transport. Accordingly, there would be conflict with Policy A3 of the LP which, amongst other things, seeks to locate growth in the most accessible and sustainable locations. It would also conflict with the Framework in terms of managing growth to make the fullest possible use of walking, cycling and public transport and supporting thriving rural communities.

Other Matters

20. The appellant has drawn my attention to a nearby permission granted on land fronting Roughton Road. They argue that as this was granted on lower ground it must logically be subject to a greater risk of flooding. The Council have explained that in that case the appellant submitted a detailed surface water drainage strategy which provided them with the necessary comfort. I am satisfied therefore that there has been no inconsistency in approach. I note that this site is in close proximity to the appeal site. However, I do not have all of the details of this decision and, in any event, have considered this appeal on its own merits.
21. The appellant has drawn my attention to a lack of conflict between the development and LP Policy ENV24. However, this policy relates only to sites that have been specifically identified as being protected. As such, the policy is not relevant to this site. The Highway Authority raised no concerns over the safety of the access. Whilst I saw nothing that would lead me to a different conclusion, this would be a neutral factor and would not weigh in favour of the proposal.

Conclusion

22. I have concluded above that the proposal would cause material harm to the character and appearance of the site and the surrounding area. The development would also not adequately address flood risk on the site and would be in a location contrary to Policy A3 where there is likely to be reliance on the car for most day to day trips. Balanced against this is the delivery of nine dwellings to the housing land supply to which I have given moderate weight. None of the other factors considered carry any more than limited weight in favour of the proposal.
23. The appellant has challenged the Council's assertion that they now have a five year supply of deliverable housing sites. However, even if I were to conclude there is a shortfall in five year supply of the scale suggested by the appellant and that the relevant policies for the supply of housing should not be considered up-to-date, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when considered against the policies of the Framework when taken as a whole.
24. As a result, the application of paragraph 14 of the Framework does not indicate that permission should be granted and the proposal would not represent sustainable development. In the circumstances of this appeal, the material considerations considered above do not justify making a decision other than in accordance with the development plan. For this reason, I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR