The Planning Inspectorate

Appeal Decision

Site visit made on 14 July 2019

by Graeme Robbie BA(Hons) BPl MRTPI

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

Decision date: 16 August 2019

Appeal Ref: APP/A2525/W/18/3218958
land off Battlefields Lane North, Holbeach
E:537238 N: 325600

- 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 S Naylor (Naylor Farms) against the decision of South Holland District Council.
- The application Ref H09-0250-18, dated 6 March 2018, was refused by notice dated 18 June 2018.
- The development proposed is outline (all matters reserved) planning application for up to 12 self-build / custom build plots.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted as an outline planning application with all matters reserved for future consideration. The application was accompanied by a location plan, existing site plan and a topographical survey plan as well as a number of illustrative site layout plans, floorplans and elevations[1]. It is clear that the drawings referred to as illustrative were intended to be considered as such and that the Council considered the proposal on this basis. So too have I.

3. Since the Council determined the application, the South East Lincolnshire Local Plan (2011-2036) (SELLP) has been adopted. The provisions and policies of the South Holland District Local Plan, which are referred to on the Council's decision notice, have been superseded by the adoption of the SELLP. The Council refer to the SELLP policies in their Statement of Case and the appellant has had the opportunity to comment on these matters at the 'Final Comments' stage. I have determined the appeal accordingly.

Main Issues

4. The main issues are:

   - Whether or not, having regard to the development plan and national planning policy, the appeal site is an appropriate location for residential development;

   - The effect of the proposal on the character and appearance of the surrounding area; and

[1] Drwg No: 414.SL.03; Drwg No: 414.SL.02; Drwg No: 1217–141(A) and Drwg Nos: 414 SL 01; 414 SL 04; 414 SL 05; 414 SV 01; 414 PD 01 and 414 SK 01, respectively

- Flood risk.

Reasons

Location

5. The appeal site is a wedge-shaped site formed by the intersection of Battlefields Lane North and the A17, lying immediately to the north of the A17, separated from it by a dense area of woodland planting along the site's southern boundary. To the north, a small group of housing on the southern side of Battlefield Lane North and Washway Road bounds the northern corner of the site, whilst on the opposite side of Battlefields Lane North lies a mix of detached and semi-detached properties.

6. Battlefields Lane North terminates in a turning head a short distance from the A17. Beyond this, a pavement leads to a crossing point across the A17 which is marked by tactile paving and dropped kerbs on either side of the road, and a pedestrian refuge in the centre of the carriageway.

7. It is not disputed that the site lies beyond the settlement of Holbeach. Although the houses along Battlefields Lane North and Washway Road form a distinct grouping of houses the settlement boundary for Holbeach is drawn along the southern side of the A17.

8. Whilst the appellant has demonstrated that the site lies within a 2km walking distance of services and facilities within Holbeach[2], I disagree with the appellant's view that the A17 is not a significant barrier to movement. I accept that there is a footpath from the end of Battlefields Lane North that leads to a crossing point across the A17 and it may well be that, once across the A17, the walk from that point to the centre of Holbeach is level and along less intimidating roads and footways.

9. However, having crossed and re-crossed the A17 during my visit to the site, the existing arrangements do not create a particularly pedestrian friendly environment in which to cross the road. Indeed, for anyone unable to scamper across the road it strikes me that this is a particularly intimidating road to cross.

10. At the time of my visit there was a steady stream of vehicles, including heavy goods vehicles, in both directions along the A17 past the crossing point. The crossing points, which have dropped kerbs and tactile paving, are conveniently located for the natural alignment of Battlefields Lane North as it crosses the A17. However, the volume and nature of traffic using the road, which is subject at this point to the national speed limit, was an overpowering and intimidating presence.

11. The means might therefore be there to facilitate the crossing of the road, but I did not find the environment to be either pleasant, nor particularly conducive to crossing it on foot. And, from my observations of the approach to the crossing point from the north, it seems to me that such thoughts are not mine alone. The path and its approach were overgrown, necessitating passing the vegetation on the grass verge where there was little visible evidence of heavy footfall. The same was also true of the vegetation at the crossing point itself on the northern side of the A17.

[2] Figs 4 and 5 – 'Statement of Case' – Waller Planning December 2018

12. I do not doubt that, once across the A17, the pedestrian links to the centre of Holbeach are more straightforward and pleasant. However, I concur with the Council that the presence of the A17 would act as a significant deterrent to all but the most determined pedestrian, and would certainly do so to those with young children or less mobile. Moreover, the relatively narrow central refuge would also in my judgement act as a deterrent to accessing Holbeach by bicycle, even if once across the cycle journey would be relatively straightforward.

13. I accept that there are housing allocations on land directly to the south of the A17 on the opposite side of the road to the appeal site. The appellant notes that the South East Lincolnshire Housing Land Availability Assessment (SHLAA)(April 2017) describes these sites as being access to Holbeach's services and facilities. My attention has also been drawn to a recently approved scheme for 43 houses at Low Lane[3] which is also described as being in an accessible location.

14. Crucially however, those sites are on the southern side of the A17. Prospective residents of dwellings on those sites would not have to face the regular prospect of having to cross the A17 to reach those services, whether on foot or by bicycle. Neither are therefore comparable to the appeal site in this instance. I have no details of how the crossing point might be upgraded in order to provide improved crossing facilities but, given the nature of the road, it is not clear to me how such a scheme would strike an appropriate balance between the nature of the road and the needs of crossing users.

15. From all that I have seen, and particularly experienced whilst crossing the road at the crossing point, I concur with the Council's assessment that the nature of the A17 is likely to be a significant factor in discouraging access to / from the site by foot or cycle. In discouraging access on foot and by bicycle, and in the absence of any detail regarding public transport links, I consider that it would be highly likely that residents would have little option other than to resort to travelling by car to Holbeach, despite its relative proximity to the appeal site.

16. The Council has confirmed that it currently has 44 applicants on the Council's Self-Build and Custom Housebuilding Register. Whilst policy 17 of the SELLP seeks to meet the housing needs of custom and self-builders as they may come forward, the supporting text[4] to Policy 11 of the same identifies the possibility of opportunities within defined settlement boundaries, or beyond but adjoining settlement boundaries (Policy 19).

17. Although the appellant suggests that the level of demand for self-build and custom housebuilding plots is likely to be greater than that identified by the Council in the form of its register, I have no evidence before me that demonstrates as such. Similarly, the Council have not demonstrated how, other than through development plan policy provision, the Council are meeting, or attempting to meet, their statutory requirements placed upon them[5].

18. However, whilst I am particularly mindful of the statutory requirement and give it considerable weight, I am not persuaded that the appeal site is a suitable location for residential development of the nature proposed. Indeed, for the

[3] APP/A2525/W/17/3177564
[4] Paragraph 5.3.5
[5] Self-Build and Custom Housebuilding Act 2015 (as amended)

reasons I have set out above, the A17 constitutes a considerable visual, physical and psychological barrier to the safe, convenient and sustainable access to services and facilities in Holbeach.

19. The proposal would provide a number of benefits, including the delivery of additional housing, and housing of a specialised nature, and the economic and social benefits that would be associated with, and arise from, 12 additional dwellings. However, whilst these weigh modestly in support of the proposal, the harm and adverse impacts arising from the site's inappropriate location clearly outweigh these modest benefits.

20. The appeal site, whilst lying close to the defined settlement boundary of Holbeach, does not adjoin it. Moreover, the nature of the intervening area between the site and the settlement boundary – the A17 corridor – is a significant and imposing barrier to the sustainable integration of the appeal site with, and relationship to, Holbeach. Nor has it been satisfactorily demonstrated that it would be possible to achieve such an outcome.

21. I have carefully considered the submissions of both parties with regard to the Council's ability to demonstrate a deliverable 5-year supply of housing land in which there is considerable variation in the figures provided by the parties. However, even if I were to conclude that there exists a shortfall in the five-year housing land supply of the scale suggested by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of delivering 12 self-build and custom housing units. For these reasons, the proposal would not be in accordance with SELLP policies 1, 11, 17 and 19.

Character and appearance

22. The appeal site is an open agricultural field. The presence of the A17, other than the background traffic noise that prevails, is largely hidden from the appeal site by the substantial tree belt that marks the site's southern boundary. Together with the equally verdant and dense roadside planting on the other side of the A17 at this point, it also masks the presence of Holbeach beyond.

23. Instead, the site contributes positively to the typically fenland nature of the group of houses along Battlefields Lane North. The appeal site does not lie within a protected landscape, nor do the Council dispute the appellant's suggestion that it is not of any particular sensitivity. However, that is not to say that it does not contribute positively to its immediate setting, or the setting of the nearby houses on Washway Road and elsewhere on Battlefields Lane North. The largely straight form of Battlefields Lane North, with modest houses fronting it along one side, is consistent with the rural setting in which this group of houses lie beyond the northern side of the A17.

24. The proposal, although submitted in outline with all matters of detail reserved, would nonetheless significantly and harmfully erode this rural character. Whilst the appellant has sought to demonstrate that the site would lie close to the existing and, in the future, extended[6] built form of Holbeach[7], and thus has a logical and close physical relationship with the town and the houses to the north, the site is also described as being well enclosed.

[6] By way of housing allocations Hob032 and Hob004
[7] Fig 6, Statement of Case

25. From my observations of the site and its surroundings, that sense of enclosure merely serves to set the appeal site in a context apart from Holbeach. With more open boundaries to the north and east, the site shares more with the rural setting and grouping of houses to the north than it does with Holbeach on the opposite side of the A17 corridor and the dense vegetation along both sides in the vicinity of the appeal site.

26. However, whilst the site may be more closely related to those houses to the north, the proposal would also erode the visual break between them and the A17 corridor, where the strong defensible boundary of the A17 forms a clear and distinct transition point from the built-up area of Holbeach to the fenland countryside and dispersed settlements beyond. Although submitted in outline for, the indicative form of the development, driven in part by a desire to utilise the triangular shape of the site, would be at odds with the simple linear form of the housing to the north.

27. Nor, it strikes me, is there any pressing need for the development complete the streetscene. The group of houses on Battlefields Lane North and Washway Road have a distinct and separate identity to that of Holbeach and is typical of such groups and settlements in the surrounding area. The proposal would introduce a form of development at odds with the prevailing character and nature of the immediate context in which it would lie. This would be contrary to SELLP policy 3 which seeks to ensure that proposals create an appropriate sense of place having regard to the nature, character and appearance of the surrounding area.

Flood risk

28. Holbeach is defined as a Main Service Centre by Policy 11 of the SELLP. As such, is considered to be an appropriate location for new housing. The site is not an allocated site, nor is it within the defined settlement boundary for Holbeach however. Like much of Holbeach itself, including allocated housing sites within the settlement boundary, the appeal site also lies within Flood Zone 3. The South Holland SFRA describes the appeal site as being identified as 'Danger to Most' in terms of flood depths and, again, like much of the surrounding area the risk arises predominantly from failure of river and sea defences in which case a significant proportion of the District would be similarly affected.

29. The Council have stated that it is possible for new housing to be delivered within areas of the district that are more sustainable and of lower flood risk but have not expanded upon this or provided any detailed explanation thereof in the submissions. Holbeach, as a Main Service Centre, is considered to be an appropriate location for housing whilst much of the district lies within areas at similar risk from flooding. I am mindful in this respect of the Local Plan Inspector's comments as set out in the appellants Final Comments[8].

30. The Framework sets out a sequential risk-based approach to the location of development. The Council offer no further explanation of how or why they consider the proposal fails the sequential test, nor are the appellant's conclusions regarding alternative sites in the sequential test disputed. I have no compelling evidence before me therefore to enable me to reach an

[8] Paragraph 4.14 – quoting paragraphs 20 and 21 of the Inspector's Report on the Examination of the South East Lincolnshire Local Plan

alternative conclusion in this respect and, as the aim of a sequential test is to steer new development to areas with the lowest risk of flooding, I cannot conclude that the proposal fails the sequential test.

31. Turning to the second element of the Framework's approach to planning and flood risk, the appellant's Flood Risk Assessment (FRA) sets out measures that would enable the development to be safe for its lifetime and that it would not increase the risk of flooding elsewhere. I have noted that the Environment Agency do not object to the proposal provided that the measures set out in the FRA are adhered to. Such an approach could be secured by way of a suitably worded planning condition.

32. However, the first strand of the exception test as set out in the Framework is that the proposal should provide wider sustainability benefits to the community that outweigh the flood risk. I have carefully considered the provisions of the Design Code in energy efficient homes with an element of micro energy generation, incorporation of vehicle charging points and water and energy efficiency. Whilst these can be considered to be sustainability benefits they are by no means unique. However, and more pertinently, they would be outweighed by the physical and psychological barrier to sustainable movement presented by the busy A17 corridor and the impact that this would have on resident's travel choices.

33. As the Framework requires both elements of the exception test to be satisfied for development to be permitted, I conclude that the proposal fails in this respect to accord with the provisions of SELLP policies 2 and 4 and paragraphs 158 to 161 and in particular, paragraph 160 of the Framework.

Planning Balance

34. Paragraph 11 of the Framework sets out a presumption in favour of sustainable development. With regard to decision-taking the relevant provisions are set out at 11(c) and (d). The ability of the Council to be able to demonstrate a five-year supply of deliverable housing site is a source of dispute between the parties. However, even if I were to conclude that this amounts to the most important policies being out-of-date, the proposal would fail to accord with policies in the Framework which seek to protect areas or assets of particular importance. This provides a clear reason for refusing the development[9] by application of policies in the Framework that protect areas or assets of particular importance[10].

35. The tilted balance does not therefore apply in this instance. Whilst the proposal's contribution in economic and social terms arising from the construction and occupation of 12 new dwellings weighs modestly in its favour, it has not been demonstrated that the proposal would deliver the wider sustainability benefits to the community required by the second strand to the exception test and as set out at Framework paragraph 160(b).

36. The proposal would also be in an inappropriate location beyond the settlement boundary for Holbeach which, whilst not isolated, would nonetheless be subject to the significant physical and psychological barrier to movement (and ease of movement) presented by the A17 corridor. Furthermore, due to the relationship of the site to Holbeach, the A17 and the group of houses on

[9] Paragraph 11(d)(i)
[10] Footnote 6 to paragraph 11(d)(i)

Battlefields Lane North and Washway Road, the proposal would result in a harmfully urbanising form of development at odds with the rural character of the surrounding area. There are no material considerations of sufficiently positive weight to outweigh the harm that would arise from the inappropriate location of the proposal, the effect that it would have on the character of the surrounding area and in terms of flood risk.

Conclusion

37. For the reasons I have set out above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR