

Appeal Decision

Site visit made on 18 March 2019

by A Graham BA(hons) MAued IHBC

an Inspector appointed by the Secretary of State

Decision date: 17 September 2019

Appeal Ref: APP/Z2505/W/18/3219328

Land west of Millview, Donington Road, Kirton End, Boston PE20 1NX

- 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 Carl Bates against the decision of Boston Borough Council.
 - The application B/18/0346, dated 16 August 2018, was refused by notice dated 22 November, 2018.
 - The development proposed is for outline submission for 8 no. residential units with all matters reserved.
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Decision

1. The appeal is allowed subject to the conditions as set out in the schedule below.

Procedural Matters

2. The application was made with all matters reserved. I have dealt with the appeal on this basis and I have treated any details not to be considered at this stage as being illustrative only.
3. Since determination of this application an amended revised National Planning Policy Framework has been published in February 2019. I have therefore had regard to any changes in the Government's position in assessing this appeal under the relevant sections of the revised Framework as have the appellants themselves.
4. The South East Lincolnshire Local Plan (SELLP) was formally adopted in March 2019. Although previously a material consideration, I have had regard to the formal adoption of this policy document and the parties have had the opportunity to comment on any changes as introduced that they wish to be considered.

Main Issues

5. The main issues are:
 - a) whether the proposal would be in a suitable location for housing with regard to the effect on the character and appearance of the area.
 - b) The effect of the proposed development upon the living conditions of neighbours.
 - c) Whether future occupants of the development would have reasonable access to services and facilities.

Reasons

Whether the proposal would be in a suitable location for housing with regards to the effect on the character and appearance of the area.

6. The appeal site forms part of a large field under arable cultivation that lies adjacent to the village of Kirton End. The site is bounded on the south by Donnington Road, to the west by Whitebread Road and to the east by the village of Kirton End itself. To the north of the site there is a large commercial greenhouse. This structure, although partially transparent and offering views around its sides, does contribute to the enclosure of a large part of this site when seen from the surrounding area and it is the area south of this greenhouse, extending to Donnington Road, that is the area subject to this appeal.
7. Kirton End is identified in the SELLP as a 'Other service centre or settlement' which defines it in the context of other identified centres for the purposes of the plan. The site lies outside of this identified settlement, but it is bounded by development to the opposite side of Donington Road that is included within the defined settlement limit.
8. Although the site can be seen past the greenhouse, as a continuous flat arable field, the overriding character of the site is one that is enclosed and that is more related to the character of the village than that of the openness of the countryside to the north. Once beyond this greenhouse the perception of the site is therefore one of a piece of land more heavily enclosed by built development on nearly all its edges and as such any rural character is further diluted. Any encroachment into the open countryside will therefore not appear at odds with the overriding character and appearance of the area as a whole.
9. The indicative plans as submitted provide an idea of the appellant's intentions for development and although all matters are reserved I consider the proposed sketch scheme as being a reasonable attempt to show what actual development of this site could look like. Although the existing greenhouse does visually shield much of this site, there would still be an impact upon the views to and from the open agricultural landscape around. The land is very flat and although it rises slightly towards Holmes Lane, any development would be visible, even with the greenhouse in its current position.
10. I note also that the site is within Flood Zone 3 as identified by the Environment Agency. This will require dwellings to be raised higher than would be usual due to the potentially high flood risk. I find some harm will therefore occur to the openness of the countryside through the visual appearance of development here, especially if properties to this northern boundary are large two storey houses as the indicative plans suggest. Development here would therefore change the views towards this site from the north and would effectively extend the perception of residential built form in this direction.
11. Such an impact would however be synonymous with the village character and it is this village character that is the dominant visual form to either side of this site. Therefore, although some harm will occur through the loss of a small area of open landscape, the overall impact upon the wider landscape will be minimised due to the site being seen as a continuation of the existing village.

12. In light of the reserved matters nature further mitigation of this harm could occur through development that reflects the local character of the village and enhances the village characteristics through good architectural design and landscaping, especially to the northern and southern boundaries.
13. As such the principle of development of this site would not create such an awkward and alien encroachment into the open countryside to such a degree as to be noticeable. There will be a visual impact upon the wider open countryside to the north but this will be synonymous with the overriding village character at either side of this site.
14. The field as it stands represents the last area of open agricultural land between Kirton End and Kirton End Bridge. Historically it appears that these two settlements were distinct places, separate from each other and this is reflected in the defined settlement limits shown on Inset Map No. 50 of the SELLP.
15. On entering Kirton End from the west one passes the clusters of buildings around the cross roads of Donnington Road, Whitebread Road, Kirton Holme Road and Drainside. This area forms the focus of settlement of Kirton End Bridge. On entering this area the impression is one of entering a village where roads adjoin around junctions, houses are clustered amongst landscape and residential gardens appear. This character is then near continuous until one reaches the opposite end of Kirton End itself.
16. As a result, the effective end of the village of Kirton End would appear to conclude beyond the existing lines of built development and to the western side of Kirton End Bridge. The overriding impression is therefore one of this site being inclusive, rather than exclusive of the village. Although the appeal site still maintains some of the characteristics of an open agricultural field, this is eroded by development to its edges and the greenhouse to its northern boundary. As a result the open rural character of the site is significantly lessened.
17. Although I consider that some harm may occur through the loss of this site being the last piece of agricultural land between Kirton End and Kirton End Bridge, I consider that the two settlements have already been physically linked through the historic development alongside Donnington Road itself and as such the identified harm is more limited.
18. In summary some harm will occur to the character and appearance of the area through the loss of this site and the resultant impact of development upon the open countryside, especially when seen from the north. Such development would also consolidate the two settlements of Kirton End and Kirton End Bridge which would effectively merge the two, distinct settlements. Such harm is however significantly lessened, as the site is already effectively enclosed existing development. Therefore, although the site will result in the loss of an area of agricultural land between the villages, this will not necessarily be harmful.
19. In light of this the requirements contained within SELLP Policies 2 and 3 can be met through good design and landscaping and as such the principle of development here will compliment the existing character and appearance of the area.

The impact of the proposal upon the living conditions of neighbours

20. The application is for all matters reserved and as a result details such as window openings and garden areas will be reserved for later approval by the Local Planning Authority.
21. Notwithstanding this however I consider that the indicative plans as submitted can be considered as illustrating the intention of any future reserved matters application and are relevant to this point.
22. The requirements as set out by the Environment Agency for finished floor levels of proposed houses to be not lower than 0.5 metres will result in habitable room floors that are higher than other properties nearby. This has the potential to cause issues of overlooking of neighbours whose properties are located around the site, most notably on the south side of Donnington Road.
23. In considering this I note the indicative plan as showing a driveway to the front of properties facing Donnington Road from the proposed development site. Although development here would introduce houses facing towards existing properties on Donnington Road, I do not consider that such properties, primarily due to the distances involved between them, would harm the living conditions of neighbours through overlooking.
24. Even with the proposed raise in floor level as suggested by the Environment Agency, I do not consider that such harm would occur as to lead me to the conclusion that living conditions would be so sufficiently harmed so as to dismiss this appeal. As a result SELLP Policies 2 and 3 are met.

Whether future occupants of the development would have reasonable access to services and facilities

25. The proposed development will be located to the edge of Kirton End village. The village itself would appear not to contain many of the facilities and amenities required for modern family living and the vast majority of such facilities are to be found in nearby Kirton that is located around 1.6 miles away, with the much larger market town of Boston being around 4.2 miles to the east.
26. I consider that the proximity of these facilities would lead to the strong temptation for the private car to be used for the vast majority of visits to these essential amenities. However I consider it possible to cycle such distances with relative ease and that the smaller lanes between Kirton End and Kirton could, for instance be used for active travel between this site and local facilities. Moreover I consider that Kirton End is not an insubstantial settlement and that new development may help the village sustain future viable businesses to serve residents.
27. Paragraph 78 of the Framework also recognises the contribution that smaller villages make to larger, rural settlements. In this case, I consider that such benefits would exist and that development to this site could enhance the social and economic benefits to the wider area. As a result SELLP Policies 1 and 5 are met.

Planning Balance

28. It is common ground between the parties that the Council cannot demonstrate an adequate five years supply of housing as required by The Framework. As such Paragraph 11d is engaged as regards the planning balance of the proposed development. The Framework also states that 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.
29. I have found some harm with regards the development with particular reference to the impact of the proposals upon the character and appearance of the area through the infilling of what is at present an open agricultural field, between two historically separate places. Notwithstanding the harm that I have identified however, I consider that some of this harm can be mitigated through high quality design as required by SELLP Policies 2 and 3.
30. In considering the benefits of this proposal I give substantial weight to the need for more housing within the district in light of this lack of a five year housing land supply. I also give some weight to the economic benefits of constructing more houses and the resultant increase in local residents that could help sustain the local village and any future amenities it may wish to introduce. In support of this I note the letters of support from local residents.
31. As a result I do not consider that the identified harm significantly and demonstrably outweighs the benefits of this proposal when assessed against the policies in the Framework as a whole.

Conditions

32. The conditions as outlined below are considered reasonable, enforceable and practical for enabling sustainable development to this site. Apart from the standard conditions, a number of other conditions are required. These include; Details of the estate roads and pedestrian footways should be agreed for pedestrian safety purposes. A scheme should also be agreed to ensure satisfactory surface water drainage. The proposals in the approved flood risk assessment need to be conditioned because of the risk of flooding and the maximum number of houses needs to be set at 8, to protect the character and appearance of the area.

Other Matters

33. I have been made aware there are issues with regards highway safety that residents feel could be exacerbated by this proposal. I am satisfied however that the requirements and conditions as set out by the County Highways Officer can sufficiently alleviate highway safety concerns.
34. Similarly I am aware that the site is located within Flood Zone 3 as identified by the Environment Agency. I am satisfied however that the proposed mitigation will minimise the risk of flooding and enable the dwellings to be constructed without undue risk.

Conclusion

35. Overall, the adverse impacts identified above would not significantly and demonstrably outweigh the benefits of this proposal. Consequently, the

proposal would accord with the definition of sustainable development, as is set out in the Framework. Therefore, in the circumstances of this appeal, there are substantial material considerations to justify making a decision other than in accordance with the development plan. For these reasons, the appeal should be allowed.

A Graham

INSPECTOR

Schedule of Conditions

- 1) No development shall commence until details of the layout, access, appearance, landscaping and scale of the development (hereafter referred to as the 'reserved matters') have been submitted to and approved by the local planning authority.
- 2) Application for approval of reserved matters shall be made to the Local Planning Authority not later than the expiration of three years from the date of this permission.
- 3) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 4) Before any dwelling is occupied, all of that part of the estate road and associated footways that forms the junction with the main road and which will be constructed within the limits of the existing highway, shall be laid out and constructed to finished surface levels in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority.
- 5) The permitted development shall be undertaken in accordance with a surface water drainage scheme which shall first have been approved in writing by the Local Planning Authority. The scheme shall:
 - Be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development;
 - Provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
 - Provide attenuation details and discharge rates which shall be restricted to 1.4 litres per second;
 - Provide details of the timetable for and any phasing of implementation for the drainage scheme; and
 - Provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.
- 6) No dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved

scheme shall be retained and maintained in full, in accordance with the approved details.

7) The development hereby permitted shall not be occupied before a 1.8 metre wide footway to connect the development to the existing footway network, has been provided in accordance with details that shall first have been submitted to, and approved in writing by, the Local Planning Authority. The works shall also include appropriate arrangements for the management of surface water run-off from the highway.

8) The development shall be carried out in accordance with the approved Flood Risk Assessment (FRA) ref. 18-0438/FRA, Revision A, September 2018 by BSP Consulting, including the following mitigation measures detailed within the FRA:

- Finished floor levels shall be set no lower than 0.5m above average existing ground level.
- Flood resilient construction shall be used to a height of 300mm above the predicted flood level.
- The mitigation measures shall be fully implemented prior to occupation and subsequently remain in place.

9) No more than 8 dwellings shall be constructed on this site.