



Appeal Decision

Site visit made on 17 September 2019

by K Savage BA MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2019

Appeal Ref: APP/B2002/W/19/3225246

Land at Grimsby Road, Waltham, NE Lincs DN37 0PT

- 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 Peter Strawson (Peter Strawson Ltd) against the decision of North East Lincolnshire Council.
 - The application Ref DM/0521/18/OUT, dated 22 June 2018, was refused by notice dated 5 October 2018.
 - The development proposed is a residential development of 16 number dwellings.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the site address given on the appeal form as it is more complete than that given on the application form.
3. The application was made in outline with all matters reserved. Accordingly, whilst I have had regard to the submitted plans, I acknowledge that they are only for illustrative purposes.

Main Issues

4. Based on the Council's reasons for refusal, but also having regard to the evidence before me, I consider the main issues are:
 - Whether the proposal would represent a suitable location for housing, having regard to local and national policy and, in particular its effect on the character and appearance of the area;
 - The effect of the proposal on ecology and biodiversity;
 - The effect of the proposal on flood risk and drainage;
 - Whether, if necessary, the proposal would make adequate provision for affordable housing and local infrastructure, having regard to relevant development plan policies.

Reasons

Location for housing/character and appearance

5. The appeal site is an open, agricultural field adjacent to Grimsby Road in Waltham. The western, roadside boundary is defined by a tall, established

- hedgerow. The boundaries are open to the north and south, whilst there is a recently planted band of young trees along the eastern boundary, beyond which is open countryside. The area immediately to the south is under construction to provide residential development. Permission is sought for up to 16 dwellings, indicated by the appellant to be bungalows, though the actual scale and appearance of the dwellings are reserved for future consideration.
6. The development plan consists of the North East Lincolnshire Local Plan 2013-2032 (adopted 2018) (the LP) which, through a suite of policies, sets out the spatial strategy for the area. The settlement boundaries are established by Policy 5. Notwithstanding the appellant's arguments that the site should have been included in the settlement under the LP, it is not an allocated site under Policy 13 and, though adjacent, it is outside the development boundary for Waltham and is therefore in the open countryside for the purposes of the spatial strategy.
 7. As such, whilst not explicit in the reasons for refusal, the Council argues in its statement of case that the proposal would not accord with the spatial strategy and settlement hierarchy. Policy 2 of the LP sets out the requirement to provide 9,742 homes between 2013 and 2032. Policy 3 defines the settlement hierarchy. Waltham is classed as a Local Service Centre forming part of the 'arc' of settlements surrounding the Grimsby and Cleethorpes Urban Area, which offer a good range of basic services and amenities, combined with good accessibility to the wider services available in the urban area. The policy adds that development should be commensurate with a settlement's position in the hierarchy.
 8. Policy 4 sets out the distribution of housing growth, within which the Arc Settlements are expected to take between 30-35% of new homes in and on the fringes of the settlements, and would involve development principally of greenfield sites adjacent to but within the defined settlement development area boundary.
 9. Under Policy 5, proposals within or outside development boundaries will be supported where it supports a prosperous rural economy, community facilities, leisure or tourism development, meets a specific affordable housing need, or has been identified through a neighbourhood plan process. None of these criteria are advanced by the appellant in support of the proposal, and no evidence of local affordable housing need has been put before me, though I address affordable housing provision generally later in my decision. Development will also be considered under Policy 5 with regard to suitability and sustainability, having regard to matters including size, scale and density, impact on neighbouring land uses by reason of visual intrusion and the effect on the landscape, including open land that contributes to settlement character.
 10. The site also forms part of the open countryside between Waltham and New Waltham which is defined as a strategic gap under Policy 40 of the LP, the purposes of which are to provide buffers between potentially conflicting uses; prevent coalescence of settlements; retain the openness of land; and control the nature and scale of urban and rural development. The open nature of the appeal site, and its physical and visual connection to the wider countryside, means there would be an inevitable change to its character from its development for housing.

11. Grimsby Road and the existing hedgerow define the edge of the settlement. The proposal, through its location behind the hedgerow, and in the same manner as the adjacent development, would not address or engage with the public realm, in contrast to the existing dwellings on the opposite side of Grimsby Road. As such, the proposal would appear detached from and unrelated to the existing settlement. I recognise that the existing hedge is tall and thick and would limit the prominence of the proposed dwellings, though this would be less effective when the hedgerow is not in leaf or if it were cut back. The dwellings would also be visible from the site entrance and in views from upper windows of properties on Grimsby Road, where the detached nature of the proposal and incursion into open countryside would be apparent.
12. I understand the aims of the Council to preserve the strategic gaps between settlements and to enhance the green infrastructure network. Whilst there would be encroachment into the strategic gap, the small area of the site relative to the width of the gap means the proposal would not lead to an evident coalescence of Waltham and New Waltham. However, there would still be conflict with Policy 40 in so far as the development would fail to retain the openness of the land due to the nature of urban development proposed.
13. It is a material consideration that dwellings are under construction immediately to the south of the appeal site, which were granted on appeal¹. I note this decision was granted prior to the adoption of the LP, and was considered against now superseded policies of the North East Lincolnshire Local Plan 2003 and at a time when the Council could not demonstrate a 5 year supply of deliverable housing land, which engaged the tilted balance of the National Planning Policy Framework (the Framework). I note that the Inspector considered, as I have done, that the scale of the proposal would not have a significant effect on the strategic gap, and that proposed landscaping would limit views of the site from the open countryside to the north and east. However, the Inspector did conclude that there would be limited harm to character and visual amenity from the proposal.
14. I accept that the hedgerow and nascent band of trees to the east of the site would soften the edges of the development, preventing it from appearing exposed in the landscape and containing it over time. As such, the impact of the appeal scheme would be localised. Nevertheless, the proposal would demonstrably extend an urban form of development into the open countryside beyond the existing physical and planning boundaries of the settlement. The proposal would intrude upon appreciation of the open countryside and so would cause some limited harm to the character and appearance of the area.
15. I acknowledge that, in locational terms, the proposal would be relatively accessible to a good number of local services, which could be reached by public transport and reduce reliance on the private motor vehicle, and I note the intention to utilise utilities and site infrastructure already being introduced on the adjacent land. However, it is an expectation of the spatial strategy that development is located where it is accessible to local services and reliance on the private car can be reduced, which limits the extent to which this weighs in favour of the proposal.

¹ APP/B2002/W/17/3171223 – Allowed 17 August 2017

16. The Council indicates that it can demonstrate a 7.2 years supply² of deliverable housing land, inclusive of past shortfall and applying a 20% buffer. The appellant appears to question this, but incorrectly refers to the government requirement being to demonstrate a 7 year supply, rather than a minimum 5 year supply as set out under Paragraph 73 of the Framework. Notwithstanding this, the appellant offers no substantive evidence to demonstrate the supply is other than 7.2 years, and therefore I have no reason to doubt the Council's housing supply position. I also note the similar conclusions on housing land supply of my colleague Inspector in an appeal at Laceby³. As such, I find that the Council can demonstrate an appropriate supply of deliverable housing sites and the relevant policies are up-to-date for the purposes of this appeal.
17. Taking these considerations together, although the proposal would be in a relatively accessible location, it would conflict with the LP in terms of its location outside of the settlement boundary and would lead to limited harm to the character and appearance of the area. Therefore, the proposal would not represent a suitable location for housing under the spatial strategy and, consequently, would conflict with the requirements of Policies 2, 3, 4, 5, 13 and 40 of the LP. It would also conflict with Policy 22 of the LP, which requires development to achieve a high standard of sustainable design informed by a thorough consideration of the particular site's context.

Effect on ecology and biodiversity

18. The appeal site is not subject to any designation as a site of ecological interest. An ecological appraisal has been submitted with the appeal, which indicates no significant evidence of bats, amphibians, reptiles or barn owls. Some limited evidence of badger activity is noted, along with nesting by common bird species in the existing hedgerow. As such, the appraisal's recommendations are largely limited to the adoption of good working practices or adherence to method statements to avoid disturbance to species which may be present, retention of the hedgerow and provision of bat boxes within the development. Despite the Council's continued dissatisfaction with the information provided, it offers no evidence of its own. As such, I have no reason to doubt the appellant's evidence and I find that any effect on biodiversity could be overcome through planning conditions to secure the recommended measures.
19. Therefore, I conclude that the proposal would not have an adverse effect on biodiversity and so would accord with Policy 41 of the LP which, among other things, seeks to minimise the loss of biodiversity features, ensure appropriate mitigation and compensation measures are provided and create opportunities to retain, protect, restore and enhance features of biodiversity value. The proposal would also comply with the similar aims of Paragraph 170 of the Framework.

Effect on Flood Risk and Drainage

20. Policy 33 of the LP requires that in order to minimise flood risk impacts and mitigate against the likely effects of climate change, developments should demonstrate there is no unacceptable increased risk of flooding to the development site or to existing properties and that Sustainable Drainage Systems have been incorporated into the development unless their use has

² North East Lincolnshire Five Year Housing Land Supply Assessment (April 2018)

³ Appeal Ref: APP/B2002/W/18/3196126 – Dismissed 4 September 2018

been deemed inappropriate. Policy 34 requires proposals to consider how water will be used on the site and to ensure that appropriate methods for management are incorporated into the design.

21. The Council was not satisfied with the appellant's information in respect of flooding and drainage, claiming discharge rates would be too high, and the proposed open ditch would change the hydrology of the area. The appellant has provided a brief flood risk assessment, drainage plans and storm sewer design calculations. There is very limited commentary or explanation of the overall approach to drainage or how the plans and calculations relate to each other. From the plans, it appears that the proposed dwellings would connect to a main sewer under the access road also serving the development to the south, with attenuation into a swale near the tree group, which appeared in the process of being dug out when I visited the site.
22. The appellant argues that the use of the drainage infrastructure installed as part of the adjacent development has been approved by the Council's drainage officer. However, the drainage officer objects to the proposal, stating, albeit without explanation, that there is no sustainability in the surface water drainage system.
23. The evidence before me is inconclusive. In particular, there is no detail as to whether the proposed infrastructure has the capacity to deal with both this proposal and the dwellings being built next to the site. As such, I cannot be certain that the proposal would adequately minimise flood risk or manage water on site, or require additional on-site infrastructure. Given the degree of uncertainty in this respect, I am not satisfied that this is a matter which could be resolved through a planning condition. I therefore conclude that the proposal would conflict with Policies 33 and 34 of the LP which aim to minimise flood risk and ensure adequate drainage is provided.

Affordable housing and infrastructure

24. Though not forming a reason for refusal, the Council has advised that a financial contribution would be required towards the provision of educational facilities to address demand for school places arising from the development, in accordance with Policy 6 of the LP to ensure the delivery of infrastructure, services and community facilities necessary to develop and maintain sustainable communities. In addition, Policy 18 of the LP relates to the provision of affordable housing. The site is identified as being within a high market value area and a greenfield site for the purposes of the policy, which translates to a requirement for 20% affordable housing on site.
25. The appellant confirmed a willingness to provide these contributions in a draft Heads of Terms. A draft Section 106 Agreement has also been submitted. However, this agreement is incomplete as it is not signed or dated and contains no undertakings related to affordable housing, nor is justification offered for departing from the requirements of Policy 18. Moreover, within the agreement, 'Planning Application' is defined as that registered on 21 June 2016 under reference DM/0579/OUT, and 'Planning Appeal' is defined as that under reference APP/B2002/W/17/3171223, neither of which relate to this appeal. As the agreement is not complete, it attracts no weight in my decision.
26. On the evidence before me, it appears the need for the contributions sought by the Council satisfies the tests of the CIL Regulations 2010 and the Framework.

In the absence of a completed planning obligation, the development would not secure the contributions towards education in conflict with Policy 6 of the LP, and would fail to deliver affordable housing in conflict with Policy 18 of the LP. Whilst these are further concerns I raise against the proposal, I am mindful that with a revised obligation these matters could be readily addressed.

Other Matters

27. The Council did not refuse the development in respect of the effect on neighbours' living conditions or highway safety. The evidence before me does not lead me to different conclusions in these matters. I note the Council's separate indication that off-site highway works could be secured by condition to extend the public footpath to the eastern side of Grimsby Road, upgrade the bus stop on this side to provide level access and provide a real-time display.
28. Other appeal decisions have been referred to me to which I have had regard. Ultimately, those decisions relate to different sites or circumstances and are not directly comparable to the appeal before me, which I have considered on its own planning merits.

Planning Balance

29. In light of the Council's housing supply position, the delivery of housing through this proposal would not be essential to meet housing delivery targets, but I accept that the proposal would still assist in meeting those targets, and I note the submissions of the local estate agent as to the potential demand for bungalows in the area. However, the scale of the development means these would be no more than limited benefits in the proposal's favour. There would also be economic benefits associated with the construction of the dwellings and from use of local services by future occupants, though given the scale of the proposal, such benefits would again be limited overall, as would the relative accessibility of the site to local services and public transport.
30. I conclude that the identified harms arising from the proposal, including the conflict with the settlement strategy, effect on character and appearance, flood risk and lack of affordable housing, result in conflict with the development plan that is not outweighed by the other material considerations in this case, including the contribution to housing supply and the economic benefits previously identified.

Conclusion

31. For the reasons given, the proposal would result in conflict with the development plan and other material considerations, including the Framework, do not indicate that a decision should be taken at variance with this. The appeal is therefore dismissed.

K. Savage

INSPECTOR