
Appeal Decision

Site visit made on 20 May 2020

by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 June 2020

Appeal Ref: APP/A2525/W/20/3246122

Land at 106 Siltside, Gosberton Risegate, Spalding PE11 4ET

- 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 Dobney Developments Ltd against the decision of South Holland District Council.
 - The application Ref H08-0963-19, dated 23 September 2019, was refused by notice dated 15 November 2019.
 - The development proposed is described as 'proposed dwelling to replace former horticultural building.'
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Decision

1. The appeal is dismissed.

Main Issues

- The effect of the proposed development on the character and appearance of the area;
- Whether the appeal site is a suitable location for new housing having regard to the development plan and sustainable patterns of new development; and
- Whether the proposed development would represent the unacceptable loss of viable agricultural land.

Reasons

Character and Appearance

2. The appeal site comprises land historically associated with a horticultural business of some kind. It is to the rear of existing frontage development, accessed via a hedge lined driveway between Nos 106 and 108 Siltside. There is an elongated single storey pitched roof building located close to the southern boundary as it abuts the rear gardens of Nos 108, 110 and 112 Siltside. The site was very overgrown at the time of my visit and a single polytunnel was visible close to the eastern boundary. There are some walkways still evident through the overgrowth as well as some ground mounted apparatus. The wider site is otherwise open and undeveloped, bearing similarities with an open and rural aspect to the north. Development is generally frontage, in pockets and clustered around the B1397 and its spur roads, reinforcing a linear character to the layout.

3. The proposed development would be some distance to the north of the aforementioned single storey building. It and what would be a generous curtilage would therefore encroach into the open and largely undeveloped space to the north of this part of the settlement, noticeably urbanising it and impinging on the dominant rural landscape. There is some evidence to suggest built form and commercial land use did occupy the site of the dwelling and its proposed curtilage, but this was development of a distinctly rural type and agrarian appearance, arguably more befitting of such a location. The settlement boundary drafted by the Local Plan is tight and close to the back edge of established and contained frontage sites so to maintain the shape and character of the settlement, typical of the type that define the rural areas of the district.
4. There is some depth to development along road frontages and as such I do not find that the fact the dwelling would be a backland plot harmful in isolation. By being so far back however it would nevertheless adversely affect the shape and character of the settlement and cause harm to the character and appearance of the area in the manner I have explained. This would result in conflict with Policy 2 of the Local Plan which sets out that, amongst other things, sustainable considerations should be met in terms of impact upon the character and appearance of the area and the relationship to existing development and land uses.

Suitable Location

5. The appeal site is located outside of the settlement boundary as it is defined by the Local Plan¹. In planning terms therefore, it is in the countryside where development of most types is restricted. Policy 1 specifically points out that development will be permitted where it can be demonstrated that it requires a countryside location and/or where it can be demonstrated that it meets the sustainable development needs of an area in terms of economic, community or environmental benefits.
6. Open market housing in the countryside is not supported by the Local Plan. It does not require a countryside location. The appeal scheme does not sit squarely with any of the expressed exceptions for development in the countryside and there is no compelling argument for the proposals meeting sustainable development needs of the area. Given the scale of the appeal scheme, any benefits in economic, community or environmental terms would not be significant. At least not so that it would justify a departure from the principles set out by the development plan's settlement hierarchy.
7. The new dwelling in this case would be on the edge of Gosberton Risegate, a small rural settlement that, along with Gosberton Clough, is contained in sporadic pockets either side of the B1397. Risegate and Clough are identified by Policy 1 of the Local Plan as an 'other service centre and settlement' wherein development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities. It stresses that development will normally be limited to committed sites and infill.
8. Putting aside the fact that the proposed development would fall outside of the defined settlement, Gosberton Risegate does not feature high in the list of

¹ South East Lincolnshire Local Plan 2019

settlements as it is set out by the development plan's hierarchy. It does not have a sufficiently wide range of facilities on which occupiers would be able to rely. It seems to me therefore that occupiers would likely turn to services in Gosberton itself, a much larger village located to the east. Development at the appeal site thus has the potential to encourage the need to travel. From what I have seen in the evidence this is likely to be the case by the use of the private car. The least sustainable travel option.

9. Whilst some development would be permitted in an 'other settlement' as they are identified by Policy 1, it seems sufficiently clear that such would be very limited for reasons of encouraging sustainable patterns of development. Indeed, and referring back to the criteria of Policy 1, the appeal scheme would unlikely be such a development that could be argued to support the role of Gosberton Risegate as a service centre for the settlement itself. A new dwelling may help sustain existing services, but these are limited to public houses, recreation space, a primary school and small businesses. Such support would be limited by the very scale of the appeal scheme and narrow in scope due to the service offer. Furthermore, the appeal site is not one committed for development nor could it be reasonably argued as infill owing to its location.
10. A prior approval scheme was granted in September 2015 for the change of use of a horticultural building on the appeal site under Schedule 2, Part 3, Class Q of the GPDO² (2015 scheme)³. For clarity, this is the single storey building I have referred to in my comments on the first main issue. The appellant argues that the 2015 scheme is extant by virtue of the discharge of conditions that go to its heart⁴ and a commencement of works within the required time period of three years. Should the approval be extant, the appellant advances that the principle of the dwelling on the site has been established and there would not be the net addition of one dwelling in the countryside or sustainability terms given they share the same broad location. The 2015 scheme is therefore advanced as a fallback position.
11. It is the Council's contention that not all of the conditions imposed on the 2015 scheme were discharged in time and since the building was not occupied, it cannot be said to have been implemented. The Council consider the 2015 scheme to have therefore lapsed and the appeal scheme would thus represent the net addition of one dwelling in the countryside and all that entails in terms of this main issue.
12. The works to which the appellant refers was the digging of a trench that runs the length of the access driveway, the laying of water and electricity services and then refilling the trench. The services were visible inside the building which I could see as part of my site visit. Dated photographs of the open trench containing the services have been provided. The same details were provided to the Council at the time the connections were laid and took place after the approval of the aforementioned conditions. Given what these conditions sought to achieve, I agree they go to the heart of the 2015 scheme. All but two of the remaining conditions were compliance worded. These asked for details of the finished floor levels and a scheme of landscaping.

² The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended

³ Local Planning Authority reference H08-0647-15

⁴ Written confirmation of discharge of both parts of condition 3 pertaining to the works to the building dated 6th October 2017, Local Planning Authority reference H08-0769-17

13. Taking into account the nature of the building, its location and the circumstances of the 2015 scheme, the remaining two pre commencement conditions do not go to the heart of the approval in my view. The connections the appellant made to the building would be necessary for it to function as a dwelling and thus one could legitimately argue that they were in pursuant of the development for which the 2015 scheme granted approval. Condition 1 required development to begin, not complete. Occupation was not stipulated and whilst I concede that as a change of use the building has not been in use as a dwelling and thus one could argue that development in that respect has not taken place, works in pursuant of its use have. The connections might not be development in themselves and could take place without the need for express planning permission but they nonetheless demonstrate to me, at a basic level, that the development as a whole and as granted by the 2015 scheme, has begun. In addition, and in the interests of fairness, the appellant provided all of these details to the Council at the time works were carried out. These details clearly show the appellant's intentions and the Council did not appear to object to them or what they represented.
14. As I have said, the works were at a basic level. My findings in this regard are based on the information I have seen and my judgement is finely balanced. It does not form a definitive legal position on a lawful land use but for the purposes of this main issue I am satisfied that a dwelling could be created on the appeal site. This is a material consideration worthy of some weight, particularly in the context of the principle of the appeal scheme.
15. The proposed plans show the 2015 scheme building to be some distance away from the proposed dwelling. Given this, and without the appropriate controls in place, both the new dwelling and the 2015 scheme could be implemented should a planning permission for the appeal scheme be forthcoming. Both buildings are within the ownership of the appellant and within the site as it is edged red on the plans before me. The plans also show that the 2015 scheme building would be demolished, and it is the clear intention of the appeal scheme for the dwelling to replace the 2015 scheme building. I am therefore satisfied that an appropriately worded condition could be agreed that would secure the demolition of said building within a reasonable timescale thus ensuring that there would remain no net addition of a dwelling.
16. As I have explained, there would be some planning harm and thus conflict with the aims of the development plan arising out of the appeal scheme in regard to this main issue. I have explored the aims of the relevant policies above. However, there are material considerations in this particular case that would lead me to a different conclusion on this main issue other than that directed by the development plan.

Agricultural Land

17. The Council's reasons for refusal set out that the proposed development would constitute a loss of viable agricultural land to an unacceptable extent. Their written evidence however does not go into further detail on the amount and in what context harm would be caused. Further, I am not directed to a relevant policy of the development plan on the matter.
18. The appeal scheme would see the erection of a detached dwelling with an associated curtilage on land that the evidence suggests was a horticultural business. The proposed development would subsume some land therefore on

which produce was grown. Albeit produce that appears to have been of the commercial garden type rather than truly agricultural. The area of land would be small in the context of locally available food growing agricultural land and it is not clear the land in question would be suitable for the purposes of growing agricultural produce based on the evidence I have seen. I am unsure if it is of a particularly high grade or whether there is a limited local supply thereof. I am also mindful that the demolition of the existing building would return some land and thus there is a form of 'trade off' to take into account.

19. All things considered, and with regard to this main issue in isolation, it does not strike me that there are sufficient grounds to withhold planning permission and in the absence of a specific policy, I cannot find conflict with the development plan.

Other Matters

20. Both main parties have drawn my attention to the granting of planning permission for the erection of six dwellings on land to the rear of Clough Road⁵. The appellant advances that the context of the appeal site is similar to this case and whilst the decision taken by the Council was prior to the adoption of the current Local Plan and when there was an undersupply of housing, they argue that the broader matters of locational sustainability were considered as acceptable at the time yet are argued in the case of the appeal scheme.
21. Whilst I have found in the appellant's favour in regard to the main issue this argument concerns, and as pointed out by the Council, the decision on the cited case was in a situation of housing undersupply and thus guided by the so called tilted balance set out by the 2012 iteration of the Framework⁶. This balance directed a planning permission to be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Accordingly, some policies would have been considered out of date. The matter of the locational sustainability of the site in question would have been taken as one consideration amongst others with weight ascribed accordingly. I was not party to the circumstances of that scheme and the apportionment of weight in any event is a matter for the decision maker in each case. The appeal scheme before me is considered in the context of the adopted Local Plan which was not in force at the time of the cited case. With this and the above factors in mind, the two cases are not sufficiently comparable such that their outcomes should be the same.
22. Whether the appeal succeeds or fails, there could reasonably be a dwelling on the appeal site and thus the presence of built form, a curtilage and associated domestic paraphernalia. Whilst some of this carries weight in the context of the second main issue as I have said, the 2015 scheme building is located close to the southern boundary of the site and read more as part of the cluster of buildings focused around the main road. It is also of a more utilitarian appearance, shape, size and scale. For these reasons, it would be fundamentally different to the appeal scheme which would be a much larger and taller building of an obviously more domestic type, with an expansive curtilage. It would be sited noticeably further into the site and as a consequence lead to the harm I have described in my comments on the first main issue. The continued presence of the 2015 scheme building and other

⁵ Local Planning Authority reference H08-0033-16

⁶ National Planning Policy Framework

works associated therewith would not therefore be sufficient to justify the appeal scheme as a 'trade off'. Particularly in regard to the size, design and siting of the proposed dwelling.

Conclusion

23. I have found that there would not be any harm arising out of the third main issue and that the particular circumstances of the case lead me to find in the appellant's favour on the second. This would not however diminish the harm or make up for the conflict with the development plan that would arise out of the first main issue. It is for this reason that the appeal is dismissed.

John Morrison

INSPECTOR