
Appeal Decision

Site visit made on 2 June 2020

by Darren Hendley BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th June 2020

Appeal Ref: APP/Z2505/W/20/3246332

Land to the west of Cherry Tree Lodge, Swineshead Road, Frampton Holme, Boston PE20 1SF

- 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 A McLoughlin, Happy Rainbow Homes Ltd. against the decision of Boston Borough Council.
 - The application Ref: B/19/0441, dated 1 November 2019, was refused by notice dated 18 December 2019 .
 - The development proposed is described as an outline application for the construction of 2 no. new dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 2 no. new dwellings at land to the west of Cherry Tree Lodge, Swineshead Road, Frampton Holme, Boston PE20 1SF in accordance with the terms of the application, Ref: B/19/0441, dated 1 November 2019, subject to the conditions in the attached schedule.

Procedural Matter

2. The application is in outline form with all matters reserved for future consideration apart from access. 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.

Main Issues

3. The main issues are (i) whether or not the proposal would be in a suitable location for housing with regard to the spatial strategy for the area; (ii) whether occupants of the proposal would have reasonable access to services; and, (iii) if harm arises, if this is outweighed by housing supply and other considerations.

Reasons

Suitable Location for Housing

4. The appeal site comprises an area of open land that fronts onto Swineshead Road, adjacent to the dwelling at Cherry Tree Lodge. On the opposite side of the site is the garden for a neighbouring property. To the rear is further open land which contains a number of small structures and, beyond that, is a

concrete works. Fen Road lies to the east of Cherry Tree Lodge and development extends in that direction towards Boston.

5. Policy 1 of the Council's South East Lincolnshire Local Plan 2011-2036 (2019) (SELLP) sets out a spatial strategy approach to the location of development, on a hierarchical basis. The site lies outside of defined settlement boundaries, under the strategy. As a consequence, it is an area which is designated as Countryside. Policy 1 states that development will be permitted in the Countryside that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.
6. Based on the evidence before me, the proposal would not necessitate a countryside location. Where the policy refers to the sustainable development needs of the area, this is not, in my view, so broad as to include housing development of the type proposed. Hence, it would not accord with the circumstances in the Countryside where development will be permitted. The defined settlement boundary ends only a short distance from the site, which I return to later in my decision. Nonetheless, this does not alter the strict lack of compliance, under Policy 1.
7. I conclude that the proposal would not be in a suitable location for housing with regard to the spatial strategy for the area. As such, it would not comply with Policy 1 in terms of how it seeks to meet development needs because the proposal would be outside of the defined settlement boundary.

Accessibility of Services

8. Swineshead Road leads towards a retail park which includes a food superstore and a smaller supermarket, amongst a number of other services found on and around it. These are accessed from the site by way of a footway, apart from the last few metres beyond Fen Road and up to the site boundary. The Highway Authority has stated that the footway should be extended up to the site, which the appellant has indicated a willingness to provide. Subject to the provision of the footway extension, these services are within reasonable and safe walking distances from the site.
9. The appellant's submissions indicate there is a not infrequent bus service into Boston, a sub-regional centre, which has a broad range of shops and services. This has not been disputed by the Council.
10. Consequently, the occupants of the proposal would be able to access the local services and those in the centre of Boston, either by use of the footway or by bus services. This would likely lessen reliance on the use of the private motor car. The level of accessibility would not be appreciably different from the nearest properties that are within the settlement boundary on Swineshead Road and Fen Road. Accordingly, the proposal would be unlikely to encourage a greater dependency on the use of the car.
11. As this is a matter of planning judgement concerning where the services are located in relation to the site and their accessibility, the extent of the settlement boundary is not determinative. The SELLP refers to shops, services and public transport in relation to defining such boundaries, but there is not the substantive evidence before me that suggests this is the reason why this boundary has been delineated as it is.

12. I conclude that the occupants of the proposal would have reasonable access to services. Therefore, it would comply with Policy 2 of the SELLP where it concerns access related matters and with Policy 3 which requires proposals to demonstrate accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways, amongst other considerations.
13. The proposal would also comply with the National Planning Policy Framework (Framework) where it is concerned with the planning system actively managing patterns of growth in support of promoting sustainable transport objectives, including opportunities to promote walking, cycling and public transport use, and patterns of movement, amidst other matters.

Planning Balance

14. Under the Framework, the proposal would make a contribution towards the Government's objective of significantly boosting the supply of homes by way of the 2 additional dwellings. The Framework is also supportive of the delivery of smaller sites as they form an important contribution to meeting the housing requirement of an area, and as they are often built-out relatively quickly. The proposal would not be unacceptable as regards the accessibility of services. These matters attract moderate weight in favour of the proposal.
15. Set against these benefits would be the harm that would arise by way of the proposal being located outside of the settlement boundary and the conflict with Policy 1. However, with the site's proximity in relation to the boundary and when the numbers of the proposed dwellings are considered, the level of harm that would arise with regard to the spatial strategy would be limited. This also limits the weight that I attach to the conflict with Policy 1.
16. The Council's Planning Officer Report also refers to a previously dismissed appeal on the site for up to 13 dwellings. This was for a substantially greater number of units and the decision seems to predate the adoption of the SELLP. Thus, the circumstances are sufficiently different so as to not alter my conclusion.
17. The Parish Council raised concerns during the planning application that the proposal would cause ribbon development in the countryside. The pattern of development along this side of Swineshead Road is linear in its form, and there is already a dwelling further beyond the site. The proposal would not unacceptably effect this character and nor would it result in a precedent as each development would need to be carefully considered on its merits, in particular where there would be non-compliance with Policy 1. In relation to access, the Highway Authority raised no objection and I see no reason to disagree, in particular given the likely traffic generation. These issues attract neutral weight in my decision.
18. Taking these matters together, the benefits that would arise would outweigh the harm. In this case, this is a material consideration that outweighs the conflict with the development plan as a whole and indicates that planning permission should be granted for development that is not in accordance with it.

Conditions

19. I have imposed conditions which concern the statutory time limit and the reserved matters. In the interests of certainty, I have also imposed a condition concerning the approved plan as access is a matter before me.
20. I have also imposed a condition in relation to the details of the access junction, parking and manoeuvring, in the interests of highway safety. For the same reason, and for the purposes of enabling pedestrian access to the services, a condition is also imposed to provide for the footway connection.
21. Conditions are also imposed by way of the mitigation measures contained in the submitted Flood Risk Assessment, and the surface and foul water drainage details. These are in the interests of minimising flood risk and ensuring satisfactory drainage. A condition is also imposed concerning the reduction of pollution, and providing for renewable and low carbon energy measures, in the interests of public health and reducing reliance on fossil fuels.
22. The Council also requested conditions pertaining to details of walls, fencing and external materials. As these relate to reserved matters that are not before me, such conditions cannot be imposed at this outline stage and so would not be reasonable. Where I have altered the wording of the remaining conditions put forward by the Council I have done so in the interests of precision, without changing their overall intention.

Conclusion

23. For the reasons set out above, I conclude that the appeal should be allowed, subject to the conditions.

Darren Hendley

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: 19/03/HRH/Pr-01 Revision A but only in respect of those matters not reserved for later approval.
- 5) The development hereby permitted shall not be occupied until the detailed arrangement of the access junction, parking and manoeuvring space has been carried out in accordance with details that have been previously submitted to and approved in writing by the local planning authority. Thereafter the access junction, parking and manoeuvring space shall be maintained.
- 6) The development hereby permitted shall not be occupied until a connection has been made to the existing footway network in accordance with details that have been previously submitted to and approved in writing by the local planning authority. Thereafter the footway connection shall be maintained
- 7) The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA), prepared by AF Architecture, and the following mitigation measures detailed within the FRA:
 - (i) finished floor levels of the dwellings shall be set at least 3.0m AOD (above ordnance datum);
 - (ii) the developments to have at least two storeys; and
 - (iii) Flood resilience and resistance measures to be incorporated into the proposed development as stated.

The mitigation measures shall be implemented prior to the occupation of the development hereby approved and shall thereafter be maintained.
- 8) Prior to the commencement of development, a scheme for the provision and implementation of surface water drainage details shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be constructed and completed in accordance with the approved details prior to the occupation of the development hereby approved and shall thereafter be maintained.
- 9) Prior to the commencement of development, a scheme for the provision and implementation of foul water drainage details shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be constructed and completed in accordance with the approved

details prior to the occupation of the development hereby approved and shall thereafter be maintained.

- 10) No development of any building shall take place until details of the measures that aim to reduce pollution and promote renewable and low carbon energy (including measures such as facilities for EV car charging) and details relating to the timing of their implementation, have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details and thereafter be maintained.