
Appeal Decision

Site visit made on 18 August 2020

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 September 2020

Appeal Ref: APP/Y2003/W/20/3252579

Land adjacent to 56 Bigby High Road, Brigg DN20 9HD

- 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 Harry Thorpe against the decision of North Lincolnshire Council.
 - The application Ref PA/2019/1039, dated 7 June 2019, was refused by notice dated 16 March 2020.
 - The development proposed is the erection of a single dwelling with new vehicle access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single dwelling with new vehicle access at land adjacent to 56 Bigby High Road, Brigg DN20 9HD in accordance with the terms of the application, Ref PA/2019/1039, dated 7 June 2019, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. I have taken the address from the decision notice, as this is more precise with respect to the location of the appeal site on Bigby High Road. I have also shortened the description of the proposal, to remove reference to elements that are not development.
3. The application is submitted in outline form with all matters reserved for later consideration. Therefore, whilst plans have been submitted suggesting how a dwelling could be accommodated on the site, these have been provided for indicative purposes only.

Main Issue

4. The main issue is whether the appeal proposal would constitute an acceptable form of development with particular regard to the provisions of local policy in respect of the location of development.

Reasons

5. Although immediately adjacent to the built up form of the settlement of Brigg, the appeal site falls outside of the defined development boundary. In policy terms, it is therefore located in the countryside. Policies CS2, CS3 and CS8 of the North Lincolnshire Core Strategy 2011 (CS) and Saved Policy RD2 of the North Lincolnshire Local Plan 2003 (LP) collectively set out the approach to the location of new development within the North Lincolnshire administrative area.

With respect to development outside of the development boundaries, new development is to be restricted, in essence to that which is essential to the functioning of the countryside or which falls within one of the defined exceptions.

6. As a new market dwelling, the appeal proposal does not have an essential need to be in the countryside nor does it fall within any of the exceptions stated in the development plan policies. Accordingly, the proposed development fails to accord with Policies CS2, CS3 and CS8 of the CS and Saved Policy RD2 of the LP.

Other Considerations

7. The Council cannot demonstrate a 5 year housing land supply, with the current supply being placed at 4 years. By virtue of footnote 7, the shortfall triggers paragraph 11d) of the National Planning Policy Framework (The Framework). I have not been made aware that the proposed development would harm any areas or assets of particular importance, and therefore paragraph 11d)ii) is the relevant part of The Framework in this case.
8. The main benefit that would arise in this instance would be the delivery of new housing, which must be considered against the shortfall in the 5 year housing land supply that the Council is able to demonstrate. The Council's shortfall is not significant but nonetheless the delivery of new housing must carry weight in favour of the proposals, owing to the fact that it would serve to reduce the shortfall. The appellant also points to economic benefits that would arise through the creation of jobs during construction and from the new residents using local shops and services. However, the benefits arising from the delivery of one new dwelling, including in boosting the supply of housing, would be limited, and accordingly I afford this benefit only limited weight.

The development plan

9. The objectives of Policies CS2, CS3 and CS8 of the CS and Saved Policy RD2 of the LP are broadly consistent with The Framework where they relate to the protection of the countryside and rural areas, which is the main consideration arising from the appeal proposal. Therefore, for the purposes of this decision, I afford the conflict that would arise with them as a result of the proposal substantial weight. The conflict with these policies means that the proposed development would conflict with the development plan, when it is taken as a whole.

The paragraph 11d)ii) balance

10. When triggered, Paragraph 11d)ii) of The Framework states that planning 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 taken as a whole. I have already established that the delivery of new housing would be a benefit, and that this should carry limited weight in support of the proposal.
11. The Council relies primarily upon the conflict with the spatial policies of the development plan that would arise in its reasons for refusal. However, the Council also considers in its appeal statement that the encroachment into the open countryside would alter this well-established entryway into Brigg, resulting in the urbanisation of the existing countryside.

12. In this respect, the appeal site sits between the last dwelling in Brigg and a surfaced accessway to other properties in the vicinity. The route of this access is defined by fencing and by mature trees and hedges, as are the boundaries of the appeal site. The presence of the accessway and the vegetation gives the appeal site a sense of enclosure and means that it does not appear as part of the wider open countryside that is found beyond the limits of the existing settlement. A new dwelling could be accommodated on the appeal site with a layout, scale and design to compliment those of the existing dwellings on Bigby High Road. For these reasons it would assimilate well into its surrounding environment and there would not be harm to the character and appearance of the area or the countryside as a result.
13. In conclusion, whilst the provision of one new dwelling would be only a limited benefit due to the scale of the proposal, there would be no adverse impacts arising from the proposed development. Therefore, there would be no adverse impacts to significantly and demonstrably outweigh the benefit that would arise, however limited, when assessed against The Framework. Accordingly, the proposal benefits from the presumption in favour of sustainable development that is set out in The Framework.

Other Matters

14. An interested party has made reference to other housing developments that are being planned or built, however the Council has confirmed in its appeal submission that it cannot demonstrate a 5 year housing land supply. Accordingly, for the reasons I have outlined, paragraph 11d)ii) of The Framework is triggered.

Planning Balance and Conclusion

15. The proposal would not accord with Policies CS2, CS3 and CS8 of the CS and Saved Policy RD2 of the LP, all of which refer to the location of new development and seek to protect the countryside. The conflict with these policies carries substantial weight and means that the proposed development would conflict with the development plan, taken as a whole. However, for the reasons I have outlined, the proposal benefits from the presumption in favour of sustainable development set out by The Framework. The Framework is clear that in such instances planning permission should be granted. This is a material consideration and one which outweighs the conflict with the development plan.
16. Therefore, I conclude that the presumption in favour of sustainable development is a material consideration which indicates that the determination of this appeal should be made otherwise than in accordance with the development plan. On that basis the appeal should, subject to conditions, be allowed.

Conditions

17. Conditions relating to the submission of the reserved matters, the relevant time period for submitting these and for carrying out the development, and a condition confirming the approved plan, are necessary to provide certainty. A drainage condition is necessary to ensure that the development meets the required standards. There is insufficient information before me to conclude whether the land has been subject to past contamination and given the

sensitive end use that is proposed, it is both reasonable and necessary to impose a condition relating to this matter.

18. Conditions relating to ecological considerations have been suggested and these are proportionate to the scale and impact of the development proposed. They are both necessary and reasonable to ensure that ecological matters are addressed, and to deliver a net gain in biodiversity as is set out in The Framework. They can however be combined into a single condition. A condition addressing the use of loose material on the driveway and parking areas is necessary to prevent its spillage onto the public highway, which would have the potential to cause harm to highway safety.
19. Several of the conditions suggested by the Council, or parts thereof, duplicate matters that would either be addressed at reserved matters stage, such as landscaping, boundary treatments, vehicle access and parking arrangements, or that would be addressed by the conditions specified above, such as in relation to surface water run-off. These additional conditions are therefore not necessary.
20. I have reworded and combined the Council's suggested conditions where appropriate, in the interests of precision.

Graham Wraight

INSPECTOR

Schedule of Conditions

- 1) Details of the access, 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: 379.01
- 5) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to

and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 7 days of the report being completed and approved in writing by the local planning authority.

- 6) No loose material shall be placed on any driveway or parking area within 10 metres of the adopted highway unless measures are taken to prevent such material from spilling onto the highway, in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 7) The development hereby permitted shall not be occupied until foul and surface water drainage works have been implemented to serve the approved development, in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 8) No development shall take place until a biodiversity management plan has been submitted to and approved in writing by the local planning authority. The biodiversity management plan shall include:
 - a) details of measures to avoid harm to hedgehogs and nesting birds during vegetation clearance and construction works
 - b) details of bat roosting features to be installed
 - c) details of bird nesting sites to be installed
 - d) restrictions on lighting to avoid impacts on bat roosts, bat foraging areas, bird nesting sites and sensitive habitats
 - e) an implementation programme

The approved biodiversity management plan shall be carried out in accordance with the agreed implementation programme and measures relating to bat roosting, bird nesting and lighting shall be retained in accordance with the approved details thereafter.