



Appeal Decision

Site Visit made on 27 July 2021

by Ian Radcliffe BSc(Hons) MRTPI MCIEH DMS

an Inspector appointed by the Secretary of State

Decision date: 07 September 2021

Appeal Ref: APP/Y2003/W/21/3272702

Butchers Arms, White House Lane, West Halton, DN15 9AZ

- 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 M Richards against the decision of North Lincolnshire Council.
 - The application Ref PA/2020/1066, dated 10 July 2020, was refused by notice dated 1 March 2021.
 - The development proposed is up to 5 dwellings and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on that basis and I have taken the illustrative plans that have been submitted into account in relation to my consideration of the principle of the development on the appeal site.
3. On 20 July 2021 a revised National Planning Policy Framework ('the Framework') was issued replacing the version of the Framework published in 2019. The parties were invited to comment and the comments received have been taken into account in the determination of the appeal.

Main Issues

4. On the basis of the reasons for refusal, and particular points raised at application stage and appeal stage by third parties which the appellant has had the opportunity to comment upon, the main issues in this appeal are:
 - whether the location of the proposed development would be in accordance with the development plan and in a suitable location with regard to the accessibility of services;
 - the effect of the proposal on the public house, a local community facility; and,
 - the effect of the proposal on the living conditions of neighbours in terms of noise and disturbance.

Reasons

Location of development and accessibility

5. The development plan for the area of the local planning authority includes the North Lincolnshire Core Strategy ('Core Strategy'), the Housing and

Employment Land Allocations Development Plan Document (HELADPD) and the saved policies of the North Lincolnshire Local Plan ('Local Plan').

6. In order to further sustainability objectives and protect the countryside, policies CS2, CS3 and CS8 of the Core Strategy and policy RD2 of the Local Plan set a spatial strategy for the location of new housing in North Lincolnshire. The strategy focuses the vast majority of new development on the urban area of Scunthorpe, with the balance provided primarily in Market Towns. In Rural Settlements only small scale development within defined development limits that meet identified local needs will be supported. All development is to comply with sustainable development principles, which include minimising the need to travel and encouraging the carrying out of any journeys that remain necessary by walking, cycling and public transport.
7. The Core Strategy and the Local Plan were adopted in 2011 and 2003 respectively. Since then the Framework has been published which has a slightly more positive approach to development in rural areas. Together with local evidence, such as the North Lincolnshire Settlement Survey, the Framework will inform the development of the emerging Local Plan and its spatial strategy in relation to housing in villages such as West Halton. Whilst the draft spatial strategy policy in the emerging Local Plan is broadly similar to the existing development plan it is apparent that the intention is that the development limits to settlements will be reviewed. Given that the emerging Local Plan is only at preferred options stage it is too early to attach material weight to its draft policies.
8. West Halton is classified as a Rural Settlement. The appeal site is rectangular in shape and consists of the Butchers Arms public house and its area of hardstanding and lawn to the rear. The public house lies within the defined village development limits, whilst the area of lawn that would be developed for housing lies outside. As a consequence, for planning policy purposes the proposed development lies within the open countryside where new development is strictly controlled. However, on the ground the appeal site is surrounded on three sides by built development with only a narrow gap on its southern side linking it to open fields beyond. As a result, the site appears to be within the village. Consequently, I attach only limited weight to the conflict of the proposal with policies CS3 and CS8 of the Core Strategy and policy RD2 of the Local Plan which restrict development outside development limits.
9. In terms of the accessibility of services and facilities, those in the village are very limited with only a public house and a village hall present. On the basis of my site visit, it appears to me that the church is only infrequently open. The nearest settlements with a wider range of services and facilities are Winterton and Scunthorpe. Both are not within reasonable walking distance and only the latter is within a reasonable cycling distance. However, the narrow unlit nature of the roads to Winterton and the national speed limit that applies mean that it is likely that only the most confident would cycle between the two settlements. On the basis of the information that I have been provided with regarding bus services, the opportunity to travel by bus would also be limited.
10. The opportunities to maximise sustainable transport solutions varies from urban to rural areas. Even so, access to services and facilities from the proposed development by sustainable modes of transport would be poorer than it is reasonable to expect. As a consequence, the proposal would result in a

development where future occupiers would be dependent on car use to meet day to day needs. For the above reasons, I therefore also find that the appeal site, contrary to policy CS2 of the Core Strategy, is not in a suitable location for housing with regard to accessibility to services and facilities. Taking all the above matters into account, I attach moderate weight to the conflict between the proposal and policy CS2.

Public house, a local community facility

11. The Butchers Arms is the only public house in the village and the Parish Council state that it also serves the surrounding villages of Whitton, Coleby and Alkborough. This assertion has not been challenged by the appellant. I therefore find that it is a facility of value to the local community.
12. Policy 22 of the Core Strategy and policy C2 of the Local Plan seek to prevent the loss of community facilities. The Framework is also an important material consideration. Paragraph 93 of the Framework, amongst other matters, advises that planning decisions should guard against the unnecessary loss of valued community facilities and should ensure that they are able to develop and modernise.
13. The appellant submitted plans with the application indicating how five dwellings could occupy the site. As the application is in outline the appellant is not tied to the detail shown on these plans. However, in the absence of details of any alternative layouts I have treated this as indicative of his intentions and I have assessed the proposal accordingly.
14. The layout shown on the indicative plan would result in the development of the vast majority of the outdoor space to the rear of the public house. As a result, there would be a considerable reduction in off road parking serving the public house. With the limited on road parking available nearby the resulting difficulty in parking would reduce the attractiveness of the public house for potential customers who live in nearby villages and so are likely to drive to the venue. The great reduction in the size of the establishment's hardstanding used for outdoor tables and seating together with the loss to development of the lawn beyond would deter customers in fine weather, especially families with children.
15. The noise assessment fails to acknowledge that the public house has an open internal layout that connects the front of the building to the raised outdoor seating area to the rear via a lightweight, flat roofed, timber structure. As a result, its modelling wrongly assumes that the only entertainment music breakout would be to the front of the building and not the rear. Given the downward slope of the site from its front, the ground floor rear of the public house is in an elevated position in relation to the indicative location of the proposed houses on the site. As a consequence, the proposed solid barrier around the edge of the public house garden and parking area would have to be significantly higher than 1.8m in order to be effective. This would result in a small, oppressively enclosed, outdoor garden area which would be unattractive to patrons.
16. Given the proximity of that part of the appeal site that could be developed for housing to the rear of the public house and the need to provide an access drive, parking and private amenity space, I am not persuaded that an

alternative layout could be achieved that would avoid the problems that I have described.

17. For the above reasons, I therefore find that it has not been demonstrated that in significantly reducing on site car parking and the size and quality of its outdoor space the proposal would not undermine features that are important to attracting custom. As a result, I find that there is a realistic likelihood that the proposal would jeopardise the success of the public house as a business to the extent that it would result in the loss of this community facility. I therefore find that the proposal would be contrary to policy CS22 of the Core Strategy, policy C2 of the Local Plan and paragraph 93 of the Framework.

Living conditions

18. In a residential area, noise associated with the day to day use of dwellings forms part of its character and is generally unobtrusive. On the basis of the indicative layout plan, I see no good reason why the proposed development of the majority of the outdoor amenity and parking area of the public house would result in a greater level of noise and disturbance than its existing use. As a result, I find that the proposal would not harm the living conditions of the occupiers of neighbouring dwellings.

Other Matters

19. Access to the appeal site would be via the existing access on the eastern side of the public house. The Council has no objection to the proposed access subject to conditions regarding access, turning and parking. I agree with that assessment.

Overall Conclusions: The Planning Balance

20. I have found that there is a realistic likelihood that the proposal would jeopardise the success of the public house to the extent that it would result in the loss of this community facility, contrary to policy CS22 of the Core Strategy and policy C2 of the Local Plan. Although these policies predate the publication of the Framework, as they seek to protect community facilities, which is a policy of the Framework, they are consistent with it and I attach considerable weight to the conflict between the proposal and these policies.
21. I have also found that the proposal would conflict with the spatial strategy for the area as it would be partly located outside the development limits for the village and would not be in a suitable location with regard to the accessibility of services and facilities. As a result it would be contrary to policies CS2, CS3 and CS8 of the Core Strategy and policy RD2 of the Local Plan. However, as explained in relation to the first main issue, the weight I attach to the conflict between the proposal and the village's development limits is limited and the weight that I give to the conflict between the proposal and the accessibility of services and facilities is moderate.
22. In principle, and with the control that exists at reserved matters stage and through the attachment of conditions, the proposal would comply with policies of the development plan in relation to the character and appearance of built development associated with the village, residential amenity, highway safety, flooding and drainage issues. The policies that relate to these matters are consistent with the Framework and significant weight should also be attached to them.

23. Given the notable conflict described between the proposal and the policies relating to the protection of community facilities, to which I have attached considerable weight, and the conflict between the proposal and policies relating to the spatial strategy and accessibility, to which I have attached limited and moderate weight respectively, I find that the proposal would conflict with the development plan considered as a whole.
24. The Council has a 3.9 year supply of deliverable housing sites and so cannot demonstrate a five year supply. In these circumstances footnote 7 of the Framework establishes that the policies which are most important for determining the application, detailed in paragraphs 20 and 21 above, are out-of-date. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
25. There would be social and economic benefits associated with the proposal. However, even taking account of the Framework's objective of boosting significantly the supply of housing and the Council's significant shortfall of deliverable housing sites, these benefits would be limited. Up to 5 additional dwellings would make little difference to the overall supply of housing. Furthermore, the support that the construction of these dwellings and the resulting extra households would provide to the local economy in the village and neighbouring villages would be small. With regard to construction, the support would also be of short duration.
26. Taken together the adverse impacts of the proposal on the public house and the spatial strategy of the development plan in terms of the accessibility of services and facilities would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
27. In support of the appeal a number of appeal decisions have been referred to. In those appeals the Inspectors exercised their judgement on the evidence in relation to those particular cases. I have similarly used my judgement in respect of the evidence before me. As a result, these decisions have not altered my findings in relation to the proposal.

Conclusion

28. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above, the appeal should be dismissed.

Ian Radcliffe

Inspector