
Appeal Decision

Site visit made on 6 January 2022

by J P Longmuir BA(Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2022

Appeal Ref: APP/B2002/W/21/3278465

Land off Grimsby Road, Waltham, Lincolnshire, 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 on behalf of Idyllic Estates Ltd against the decision of North East Lincolnshire Council.
 - The application Ref DM/0955/20/OUT, dated 9 November 2020, was refused by notice dated 8 January 2021.
 - The development proposed is a residential development of 17 number dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved. A layout was submitted but has only been considered as indicative.
3. The e-mail of 17th January 2022 confirms that the Section 106 agreement covering primary and secondary school provision as well as affordable housing is at draft stage and unsigned. I therefore have considered the appeal on this basis.
4. The adjacent site was the subject of an appeal¹ dated as 17 August 2017 for residential development, which warrants consideration where relevant. The appeal site itself was the subject to an appeal² decision dated 4th November 2019 for 16 dwellings, which I have also given consideration.

Main Issues

5. The second reason for refusal concerns insufficient evidence on ecology. However, the Council's statement of case refers to their collaboration with the appellants and the submission of an updated ecological appraisal, which found that the site does not have notable value. Potential enhancement could be provided by new landscaping and details of specific habitat creation could be required by condition. The Council suggest that the ecological concern has now been remedied and I conclude similarly. The third reason for refusal refers to insufficient evidence on heritage and archaeology. The Council's statement of case notes a geophysical survey has been submitted which showed negligible

¹ APP/B2002/W/17/3171223

² APP/B2002/W/19/3225246

significance. I similarly conclude that in this respect the proposal would not be harmful.

6. The first reason for refusal refers to the impact on the visual character and appearance of the area. It also states that the proposed development represents an unsustainable form of development in the countryside. This implies that the location also needs to be considered in terms of its accessibility to everyday services and facilities. In addition, as the section 106 is unsigned, there is a need to consider the implications on the delivery of those aspects.
7. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the intended occupants would be in an accessible location for everyday local services and facilities without car dependency; and
 - whether the proposal would provide affordable housing and make contributions for education provision commensurate with the number of the likely new residents arising from the housing.

Reasons

Character and appearance

8. The appeal site lies just off Grimsby Road which provides a main through route. It also serves an extensive residential area to the west and opposite the appeal site. Off Grimsby Road, a newly constructed side road, Woodland Way, forms another side of the appeal site and also serves an area of new housing. The other sides of the appeal site border countryside and the eastern side has been planted with mixed species trees.
9. The appeal site itself is flat with sparse grass and with the exception of a boundary hedge and ditch along Grimsby Road, it is open and featureless. There are distant views towards trees on the skyline but otherwise the landscape character is not distinctive.
10. The hedge along Grimsby Road is deciduous and offers only limited screening and filtering of winter views into the appeal site. The previous Inspector, for the 2019 appeal, had the benefit of a September site visit and found that 'the existing hedge is tall and thick which would limit the prominence of the dwellings'. The Inspector does then remark on the winter aspect and the threat of its cutting back.
11. The proposed development would be seen in conjunction with twentieth century development on the other side of Grimsby Road and the new houses off Woodland Way. Nonetheless it would be a partial incursion into open countryside and would appear abrupt against the expansive landscape on the other two sides. In addition, the proposed houses would lead to the loss of openness of the site and obstruct the distant views.
12. The 2019 Inspector concludes that 'the open nature of the appeal site, and its physical and visual connection to the wider countryside, means that there would be an inevitable change to its character from its development for housing'. I find similarly, particularly as 17 houses are now proposed whereas the 2019 scheme was for 16.

13. Waltham is separated from the neighbouring edge of Grimsby by countryside, which the Council's statement quantifies as 400m. The North East Lincolnshire Local Plan (LP) identifies this as a strategic gap, which helps to preserve the identity of settlements and the dominance of the countryside. Whilst the appeal site contributes to this gap it is small compared to the size of the swath of fields which separate the settlements. Indeed, the houses along the west side of Grimsby Road are nearer towards the gap and the proposal would not protrude beyond this housing. Consequently, I find that the appeal proposal due to its extent and position would not harm the strategic gap.
14. The 2019 Inspector concluded that the impact would be localised and 'would intrude upon the appreciation of the open countryside and so would cause some limited harm to the character and appearance of the area'. I similarly conclude, although some of this impact could be ameliorated by planting. The indicative scheme shows a new landscape area to the north. The hedge along Grimsby Road could also be reinforced. Additionally, the recent landscaping adjacent to the appeal site shows that mixed species trees can flourish in this area.
15. Policy 5 of the LP requires development within or adjacent to settlement boundaries to have regard to the size, scale and density of the development and impact on the landscape. Development should recognise the open character of the landscape and the setting of independent settlements. Policy 22 requires good design and the protection and enhancement of natural assets. Policy 40 seeks to maintain and improve the network of green infrastructure, maintain the separate identity of settlements, retain the openness of land and control the scale of development. Paragraph 174 of the National Planning Policy Framework (the Framework) states planning decisions should recognise the intrinsic character and beauty of the countryside. The proposal would be harmful to the character and appearance of the landscape and so would be in conflict with these policies.

The access to local services and facilities

16. Policy 3 of the LP is the settlement hierarchy which aims to place and prioritise development where there is access to facilities and services. Waltham is recognised as a service centre, but the site is outside the settlement boundary. The policy states: future development would involve development principally of greenfield sites adjacent to but within the defined settlement development area boundary. Policy 4 of the LP provides the distribution of housing growth, whereby Waltham is identified as one of several local service centres, wherein in combination between 30-35% of new homes will be constructed in and on the fringes of the arc settlements. Policy 13 allocates sites for development elsewhere in Waltham. However, the site lies outside the settlement boundary of Waltham.
17. There is a shop for everyday essentials on Fairway, which is just beyond the other side of Grimsby Road, approximately 200m from the appeal site. The indicative layout suggests a footpath across the appeal site which would provide a conducive link. There are also bus stops on Grimsby Road opposite the site.
18. The appeal site is close to Waltham and linked by pedestrian pavements with streetlights, which would allow easy and pleasant walking. Waltham has a range of shops and services for everyday needs.

19. The previous Inspector acknowledged '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 private motor vehicle'.
20. I therefore conclude that the appeal site would be accessible to essential facilities without dependency upon private transport.
21. Policy 5 of the LP requires development within or outside defined boundaries to consider the provision of services. Against this particular wording, I find that the principle of residential development, being in an accessible location, would not be harmful or in conflict with policy 5, notwithstanding the conflict with policies 3, 4 and 13 due to the settlement boundary.

Affordable housing and contributions for education provision

22. The appellant's e-mail of 17 January 2022 states the Section 106³ agreement is draft and unsigned. Whilst this indicates an intention, it does not offer a guarantee of the delivery of its provisions. The Council's statement confirms that the proposal would need to provide £11,276.64 for primary education based on the estimated need from 4 dwellings, and £16,991.84 for secondary education derived from 5 dwellings.
23. Education payments are necessary to provide for expansion of facilities to cater for the pupils arising from the development. The number of dwellings would be significant in terms of pupil generation and increase pressure on existing facilities. Such financial contributions would not be appropriate by condition and therefore would not be deliverable without a signed Section 106 agreement.
24. An affordable housing contribution is necessary to provide homes for those who are in substandard living conditions. LP Policy 18 requires 20% provision of a development for affordable housing.
25. Whilst affordable housing in theory can be the subject of conditions, no wording has been suggested and the intricacies of delivery can be cumbersome by condition. Indeed, the Council assumed delivery would be by a signed Section 106 agreement and their statement indicates a lack of discussion on the content of the mechanism. Moreover, the previous Inspector found the submitted agreement incomplete and unsigned and therefore gave it no weight. In that decision the deliverability of the affordable housing was particularly significant. I therefore conclude that the affordable housing delivery is uncertain.
26. LP Policy 6 requires contributions towards primary and secondary education provision. Policy 18 requires 20% provision of a development for affordable housing. Similarly, paragraph 57 of the Framework provides the tests for obligations: the education and affordable housing are necessary, directly related to the development and are fair and reasonably related in scale and kind to the development. Paragraph 34 of the Framework supports developer contributions for affordable housing and education. The proposal would be in conflict.

³ Planning appeals: procedural guide. Annexe A sets out the timescales for submission.

Other matters

27. The Council's statement comments about a heap of soil which has been formed on the appeal site. This is not part of the submitted appeal proposal and it is not therefore a matter for my consideration.

Planning balance

28. The Council confirms that at the time of determination it was meeting its 5 year housing land supply requirements. However subsequently its assessment at 1 April 2021 showed a drop to 4.2 years supply. Paragraph 11d of the Framework is therefore triggered as footnote 7 does not apply.
29. The Council's strategy is to provide housing on a spatial basis according to settlement hierarchy. The appeal site is classed as countryside, but Waltham is classed as a local centre with Grimsby and Cleethorpes forming an 'arc' of settlements. Policy 4 allows development in and on the fringes of the settlements but within the settlement boundaries. Whilst I found conflict with the Development Plan overall, particularly as the site was not within a settlement boundary, the site is in an accessible location which was one of the factors forming the strategy.
30. The inadequate housing supply questions the housing strategy and in particular the over reliance of development within the designated settlement boundaries. The housing supply shortfall is significant, and I have not been made aware of any prospect of the situation improving. Indeed, as the Local Plan was adopted in 2018, the situation may well get worse as the Plan ages.
31. There is a need to look beyond the settlement boundaries for new housing. As the appeal site is in a location where it is well served by facilities, the occupants would not be car dependent. The 17 houses would be a significant contribution to housing land supply and contribute to the economy.
32. However, as I found earlier the proposal would lead to an adverse impact on the landscape. This would be a limited impact, potentially easing when the landscaping begins to flourish, albeit depending upon its details.
33. In addition, the proposal has failed to make provision for the expansion of education facilities and the new households would create more demand and pressures on the existing infrastructure. The most robust means for delivering affordable housing has also not been provided.
34. Paragraph 8 of the Framework provides the three overarching objectives of the planning system: economic, social and environmental. The proposal would provide 17 houses which would have economic benefits from their construction. Additionally, there would be an economic benefit as the occupants would support local services. However, the lack of delivery for affordable housing and education provision would mean that the social benefits of the proposal have not been realised and the proposal would put undue harm on existing facilities. In terms of the environmental objective the proposal would lead to limited landscape harm albeit potentially easing with landscaping.
35. In the light of the above, I therefore conclude that the adverse impacts of the proposal would significantly outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

36. I therefore conclude that the appeal should be dismissed.

John Longmuir

INSPECTOR