



Appeal Decision

Site visit made on 12 April 2022

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 27 May 2022

Appeal Ref: APP/Y2003/W/21/3279686

Windy Ridge Barn, Thealby Lane, Winterton DN15 9TG

- 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 Mr Richard Lepley against the decision of North Lincolnshire Council.
 - The application Ref PA/2020/1750, dated 9 November 2020, was refused by notice dated 8 April 2021.
 - The development proposed is described as 'to erect a two-bedroomed detached dwelling and associated works (including demolition of existing garage) at the garage'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council refer to paragraph 79 of the National Planning Policy Framework (the Framework) within its decision and appeal statement regarding isolated home in the countryside. In the July 2021 revised Framework, paragraph 80 relates to isolated homes in the countryside. For clarity I have determined the appeal within the context of the revised Framework and consider that there would be no prejudice to the parties.
3. This appeal site is subject to a second separate appeal a three-bedroom dormer bungalow and alterations to the existing garage, APP/Y2003/W/21/3287586, which is also before me to determine. Whilst there are similarities between the two appeals, I have dealt with them separately.

Main Issues

4. The main issues are:
 - whether the development would be located in a suitable location, having regard to the development plan's spatial strategy;
 - the effect of the development on the health of future occupiers; and
 - the effect on protected species.

Reasons

Location

5. Windy Ridge Barn is a residential barn conversion which is located approximately 300 metres to the west of Winterton, along Thealby Lane (B1430). The main building is split between the main house and a vintage

- vehicle workshop. There is a large detached garage to the front which the proposal would demolish and replace with a detached two storey dwelling.
6. Other than the lane to the front and a neighbouring large detached residential house, the property is surrounded by agricultural fields. Thealby Lane is an unlit 50mph rural single carriageway road with grass verges and no footpaths. It connects to Winterton at Top Road (A1077) which is lit, has a single housing frontage and associated footpath. A new housing development known as Meadowcroft is being built to the opposite side of the junction of the two roads.
 7. Winterton's development limit and sites allocated for future housing are detailed in the Housing and Employment Land Allocations Development Plan Document 2016 (HELA DPD). The Council confirms that the proposal would sit outside of the HELA DPD defined development limit for Winterton and therefore would be classed as being in the open countryside. This has not been disputed by the appellant.
 8. Policies CS2, CS3 and CS8 of the North Lincolnshire Core Strategy 2011 (Core Strategy), amongst other matters, restricts development in the open countryside to those which are essential to its functioning, such as agriculture, forestry or tourism use which cannot be located elsewhere. As no details of the proposal being essential to the countryside's functioning have been provided, it is reasonable to conclude that it would be simply an open market dwelling. Furthermore, it has not been demonstrated that the proposal could not be located elsewhere within the defined Winterton development limit. On this basis, the proposal would be contrary to the above policies.
 9. Saved Policy RD2 of the North Lincolnshire Local Plan 2003 (Local Plan) also sets out the criteria where development in the countryside would be permitted. No details showing the proposal meeting the policy's permitted use categories which are defined as agricultural, forestry, employment, affordable housing or recreational have been provided. As the proposal would replace the garage and be a separate building from the main property, then it would also not represent re-use or adaptation of the existing building and would not form an extension to the existing property. Accordingly, the proposal would therefore not meet Policy RD2's specified criteria.
 10. Paragraph 80 of the National Planning Policy Framework (the Framework) recommends that isolated homes in the countryside should be avoided unless exceptional circumstances exist. While it is appreciated that there are two properties already in the area, the proposal would be remote from the Winterton settlement, or any other settlement and would therefore be an isolated home in the rural area. It would not be essential for a farming business and would not secure or be a viable use of a heritage asset. It would not constitute re-use of a redundant or disused building and would not subdivide an existing residential building. The proposal's design would be standard in form and content and would not represent exceptional quality. As such, the proposal would not meet the above exceptional circumstances set out in paragraph 80 of the Framework.
 11. It is acknowledged that the proposal would only be 300 metres away from the new Meadowcroft development and it would not take a significant amount of time to drive or walk into Winterton. However, this does not change the fact that it would be outside the settlement boundary and contrary to the above policies. Furthermore, as there is no footpath or lighting along Thealby Lane,

then the proposal would not offer the same level of accessibility that the new Meadowcroft development provides.

12. In conclusion the proposal would not be located in a suitable location, having regard to the development plan's spatial strategy. It would conflict with Policies CS2, CS3 and CS8 of the Core Strategy, saved Policy RD2 of the Local Plan and the Framework.

Protected Species

13. The Council's delegated assessment suggests that there is potential protected species habitat present due to the brick-built nature of the structure within a countryside setting. The appellant has provided no evidence to the contrary, suggesting use of a condition to ensure provision of a survey. However, whether or not protected species are present is a material consideration to determination of this appeal.
14. Where there is a reasonable likelihood of a species being present, it is essential that the presence of protected species, and the extent to which they would be affected by the development, is established prior to planning permission being granted. Whilst ecological surveys can be carried out under conditions attached to a planning permission, this should only be done in exceptional circumstances. There is no evidence before me to suggest that there are any such exceptional circumstances
15. Consequentially, in the absence of an ecological assessment of the appeal site it is not possible to ascertain the effect the development would have on protected species. As such, the proposal would conflict with Policy CS17 of the Core Strategy and saved Policy LC5 of the Local Plan. These policies seek, amongst other matters, to protect, conserve and enhance North Lincolnshire's wildlife.

Ground conditions

16. The Council has provided no evidence that the site is strongly suspected of being contaminated. In its delegated assessment, the Council advises that Environmental Health has not commented on the application. However, it does note that a previously refused application for the site agreed that this issue could be adequately addressed through use of a suitable planning condition. The Council has not provided any substantive reason why this approach would not be acceptable for this application. As a planning condition could address this potential issue and make the proposal acceptable.
17. I find therefore that the proposal would not be harmful to the health of future occupants. As such, the proposal would not be contrary to saved Policy DS7 of the Local Plan. Where land is known, or strongly suspected, to be contaminated this policy requires a detailed site survey with any appropriate remediation to be provided to demonstrate that the level of contamination can be overcome.

Other Matters

18. It is noted that the proposal would be built on the same footprint as the existing building. However, this does not change my view that it would constitute an unacceptable form of development outside the defined development limit of Winterton.

Planning Balance and Conclusion

19. Although the issue was not explicitly raised by the appellant, the Council acknowledged that it is unable to demonstrate a five-year supply of deliverable housing sites in accordance with paragraph 74 of the Framework. As such, relevant policies for the supply of housing should not be considered up-to-date and paragraph 11 of the Framework should be applied.
20. The proposal would contribute to local housing supply in the form of one two-bedroom dwelling, with associated socio-economic benefit during and after construction. These benefits would be limited in scale.
21. I appreciate that the Framework sets out a presumption in favour of sustainable development but even where paragraph 11 is engaged, the benefits of additional housing do not necessarily outweigh all other concerns. Moreover, case law has found that even where policies can be considered out of date, this does not mean they carry no weight. The balancing exercise remains a matter of planning judgement.
22. Given the totality of harm identified above, I conclude that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefit, when assessed against the policies in the Framework taken as a whole.
23. In conclusion, although I have found ground conditions which could affect public health of future occupiers could be adequately addressed through use of a suitable planning condition, I have not found this an acceptable approach for dealing with the potential loss of protected species habitat from the demolition of the garage. Furthermore, I have found that the proposal would constitute an unacceptable form of development, contrary to the spatial strategy of the development plan. There are no other considerations which outweigh these findings. For these reasons, and having had regard to all matters raised, the appeal is dismissed.

J Symmons

INSPECTOR