
Appeal Decision

Site visit made on 10 May 2022

by Edwin Maund BA (Hons) MSc Dip UP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 May 2022

Appeal Ref: APP/E2530/W/21/3288420

23 Colton Close Baston PE6 9QH

- 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 L Russell, Seagate Homes against the decision of South Kesteven District Council.
 - The application Ref S21/1011, dated 19 May 2021, was refused by notice dated 14 July 2021.
 - The development proposed is residential development consisting of 5 dwellings to rear of No 23 Colton Close (to include demolition of single storey buildings of No 23 to form access to rear of property for planned development and minor alterations to No 23).
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Decision

1. The appeal is dismissed.

Preliminary Issue

2. I have taken the description of development and address for the site in the banner heading above from the Council notice of decision.
3. In setting out their case the appellant refers to the Rutland and South Kesteven Design Guide. This is not relied upon or referred to by the Council and currently only in draft form, I have therefore not given this document any weight in coming to my decision.

Main Issue

4. The main issue is whether the site is a suitable site for housing development having regard to local development plan policy.

Reasons

5. Baston is identified as a larger village under the terms of Policy SP2 of the South Kesteven District Local Plan 2011-2036 (LP) (2020). Residential development is supported in such villages where the development proposals 'will not compromise the settlement's nature and character'. Two further policies flow from this settlement hierarchy in setting the policy background to support sustainable development in the district.
6. Policy SP3 supports infill development within the main built-up part of the settlement, while Policy SP4 supports proposals for residential development on the edge of a settlement. Both policies then set out a series of tests which need to be met for a proposal to be considered policy compliant.

7. The appellant contends that the site forms part of the built-up area of the village. I do not agree. The appeal site is not enclosed by other built development as the appellant describes. It has the rear gardens of Colton Close to the West, and the side gardens and the head of the cul de sac for Starsmore Fields to the South. As noted in the Council report *"the entrance to the site lies within a substantially built-up frontage, the main part of the site is to the rear of existing properties and is not a redevelopment opportunity."*
8. Agricultural land is to the east, with a small copse of trees to the north. The planning applications granted by the Council to the north and referred to me, do not extend as far as the appeal site, and to my mind this is an important factor in considering whether the site could readily be regarded as within the built-up area of the village or an edge of settlement site. It is not enclosed as the appellant suggests, but open on two sides.
9. While the LP does not formally define infill sites, I consider it appropriate to adopt the usual understanding of such a term, and the appeal site would not in most people's thinking be regarded as an infill site. It is an area of garden behind existing properties, does not form part of an existing frontage, where a gap would exist that would allow development to infill.
10. I therefore do not agree with the assertions made by the appellant that the proposal should be assessed against Policy SP3, but prefer the approach adopted by the Council in considering that the scheme should be assessed against the tests in policy SP4.
11. The Council's sole argument in this case is that the appellant does not have substantial support from the local community for this development as required by sub-category (a) of policy SP4. The wording of which is definitive, each test 'must' be met.
12. I agree that the appellant has not passed this important test. The Council officer report references that a small number of individuals may have expressed support for the scheme. The appellant refers to having had 4 letters of support, however the Council did not receive these during the consultation exercise when the application was considered. The Council provides advice on what might be a proportionate consultation exercise, to seek the views of the local community but there is no evidence before me that indicates such an exercise was carried out, and the responses received do not meet the threshold of 'substantial' within the policy.
13. From the evidence before me there have only been objections to the appeal proposal from neighbours, other local residents and the Parish Council with no indication of wider community support as required by the policy. In this respect, I consider the proposed development would be in conflict with policy SP4 of the LP.
14. The appellant has also argued that the Council in refusing permission identified no harm. I would disagree, by being in conflict with the policy of the development plan, granting permission in such circumstances could cause harm in itself. Section 38 (6) of the Planning and Compulsory Purchase Act 2004, states *"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."*

15. By seeking to argue that the proposed development should be assessed against the tests set out within Policy SP3 the appellant has not provided any material considerations that could reasonably be put forward that could outweigh the harm that would be created by allowing a scheme in conflict with up to date development plan policy.

Other Matters

16. Interested parties have raised a considerable number of objections about the adverse impacts that they consider would arise in the event that the appeal was to be allowed. These include amongst other matters adverse effect on amenity, inadequate parking, increased noise and disturbance, adverse effect on street scene. As I have concluded against the principle of the development it is not necessary for me to consider these matters further.
17. Reference has also been made to the existence of a restrictive covenant on the current properties in Colton Close, this is not a matter which can be addressed through a planning appeal, and I have not given this argument weight in coming to my decision.
18. The appellant has drawn my attention to a series of other decisions approved by the Council when assessed against Policy SP3. Since I have concluded that it is more appropriate to assess this proposal against Policy SP4 I do not consider that they are directly comparable to the appeal proposal. They cannot be afforded other than very limited weight and do not overcome the principal harm I have identified.

Conclusions

19. For the reasons given the appeal is dismissed.

Edwin Maund

INSPECTOR