



Appeal Decision

Site visit made on 4 January 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2023

Appeal Ref: APP/Y2003/W/22/3306737

Land to the North of Habrough Lane, Kirmington

- 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 and Mrs Jenkins against the decision of North Lincolnshire Council.
 - The application Ref PA/2021/1826, dated 6 October 2021, was refused by notice dated 11 March 2022.
 - The development proposed is described as 'Outline planning permission is being sought for three dwellings. All matters are reserved for subsequent approval'.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application has been submitted in outline with all matters reserved for future consideration. I have dealt with the appeal on that basis, with the details shown on the un-numbered indicative site plan being illustrative only. However, it is clear that access to the site would be taken from Limber Road.
3. I have used the description of the appeal site from the application form as the address in the banner heading.
4. The appellant has referred to the emerging North Lincolnshire Local Plan as being at publication stage. The Council has not referred to the emerging Local Plan. I have therefore determined this appeal in accordance with the adopted development plan.

Main Issues

5. The main issues are:
 - Whether the site is a suitable location for development having regard to the Council's policies for the spatial distribution of housing and access to services, facilities and sustainable transport options; and
 - The effect on the character and appearance of the surrounding area.

Reasons

Suitable location

6. North Lincolnshire Local Development Framework Core Strategy (June 2011) (CS) Policies CS2, CS3 and CS8 consistently set out that development outside defined boundaries will be restricted to that which is essential to the

functioning of the countryside. Market housing is not identified as such a use. North Lincolnshire Local Plan (adopted May 2003) (LP) Saved Policy RD2 sets out that development in the open countryside will be strictly controlled. It specifies the types of development for which planning permission will be granted. This also does not include market housing.

7. The appeal site is an area of open land in use as a paddock. There is a small land drain along the northern boundary of the site, beyond which are dwellings at Ransome Court. The development limit for Kirmington is the boundary of these dwellings. It is not in dispute between the parties that the site is outside the development limit and is therefore in the countryside.
8. The site has a clearly rural character given its open nature and is therefore well related to the surrounding countryside. While the appellant has put forward that Habrough Lane should form the development limit, the factors the appellant has highlighted, such as the change in speed limit and footpath with streetlights do not alter the rural nature of the site or justify development further extending into the open countryside.
9. CS Policy CS8 does not attribute any of the planned housing growth to rural settlements. It supports small scale infill development that maintains the viability of the settlement and meets identified local needs without increasing the need to travel. Notwithstanding the presence of Habrough Lane to the south, the site would not constitute infill development, given there is open countryside to three sides of the site. There is no evidence of a specific local need for housing in Kirmington.
10. It is not in dispute that Kirmington is identified in the Settlement Survey 2019 as a smaller rural settlement which is capable of taking residential infill development of an appropriate scale to the settlement either within or adjoining the settlement. However, the parties are in dispute as to the extent to which the services and facilities, alongside the increase in home working and availability of delivery services, would reduce the need to travel.
11. The evidence before me indicates there is a bus service serving Kirmington. However, this is limited with the final service serving it departing Scunthorpe at 16.00 and Brigg at 16.30. It is unlikely that this would be a satisfactory service for people working in those settlements, nor is it likely to be a realistic option for people travelling further afield by train from Barnetby station given the last service departs there at 16.50.
12. The Council has also drawn my attention to the findings of a previous appeal on this site¹ where it was assessed that the services and facilities within the village would not be sufficient to meet the day to day needs of future occupiers and that it would be likely there would be a reliance on the private car to meet these needs. While I acknowledge there have been changes to working and shopping patterns since this decision was taken, there is no evidence before me which would lead me to a different conclusion that for at least some day to day activities, there would still be a reliance on the private car.
13. In relation to this main issue, I therefore conclude that the site is not a suitable location for development having regard to the Council's policies for the spatial distribution of housing and access to services, facilities and sustainable

¹ APP/Y2003/W/20/3248192 dismissed 4 September 2020

transport options. It would be contrary to CS Policies CS2, CS3 and CS8 and LP Policy RD2 which seek to restrict development in the countryside to that which is essential to its functioning and to locate development in the most sustainable locations.

Character and appearance

14. The dwellings at Ransome Court are visible in views along Limber Road and, along with the boundary planting and watercourse, provide a strong edge to this part of Kirmington. This distinguishes the built form of the settlement from the surrounding open countryside.
15. I acknowledge the appeal is made in outline with all matters reserved and the site plan is indicative. However, the site's location is such that development would extend along Limber Road. While Kirmington does have a distinctive and somewhat dispersed form, the appeal proposal would clearly extend the built form into an area with an open rural character. This would inevitably have an urbanising effect which would harm this rural character. This harm would not be mitigated by the fact that other development would be visible as the proposed dwellings would not be integrated with the form and layout of the existing settlement.
16. I therefore conclude that the proposed development would have an unacceptable effect on the character and appearance of the surrounding area. It would extend the built form into the countryside and would not reflect or enhance the character and appearance of the surrounding area contrary to LP Policies DS1 and H5 and CS Policies CS3 and CS8.
17. The Council has referred to LP Policy RD2 in its reason for refusal. However as the proposal does not meet any of criteria i to viii in any case, the contingent character and appearance criteria of that policy would not be engaged.

Other Matters

18. I note the appellant's calculations regarding the number of permissions which have been granted outside development limits between 2016 and 2021, and the potential contribution of such sites to the current five year supply. The Council has not commented on, or disputed, these calculations. However, each of those decisions would have been taken on their own merits and the fact that such permissions exist does not provide compelling evidence as to how this appeal should be determined.
19. Landscaping is reserved for later determination and there is nothing in the current proposals to demonstrate that it would provide a particular benefit of the scheme.
20. While the site may not be viable for farming, this would not justify allowing a site in the open countryside to be developed.

Planning Balance

21. The Council has confirmed that it cannot demonstrate a five year supply of deliverable housing sites. It has not set out what it considers the shortfall to be, nor indicated how this shortfall will be addressed. Both parties have referred to a previous appeal decision² which sets out the shortfall is likely to

² APP/Y2003/W/21/3278257 allowed 20 July 2022

- be between 3.2 and 4.8 years. Paragraph 11d of the National Planning Policy Framework (the Framework) is therefore engaged and the policies related to the delivery of housing are deemed to be out-of-date.
22. I have not been made aware that the proposed development would harm any areas or assets of particular importance, therefore paragraph 11(d)(i) of the Framework is not engaged.
23. The proposal conflicts with the policies for the spatial distribution of housing which seek to direct housing growth to higher tier settlements, accommodate development within defined settlement boundaries, reduce the need to travel and limit the types of development that are acceptable outside these boundaries. Although these policies are broadly consistent with the Framework, they are not delivering housing to meet the Council's identified requirement and a rigid application of the Council's strategy would further frustrate housing supply. I therefore attach moderate weight to the proposal's conflict with the Council's spatial distribution policies.
24. LP Policies DS1 and H5 and CS Policies CS3 and CS8 are consistent with the Framework in how they recognise the importance of the intrinsic character and beauty of the countryside. The proposal would be harmful to the character and appearance of the area for the reasons given above and I consider this harm would be significant.
25. Taken together, the adverse impacts of the development would be significant.
26. The appeal proposal would deliver an additional three dwellings in the short term and would contribute to identified housing need. However, it would only make a small contribution to the overall shortfall and as such there would only be limited benefits from this provision. There would be the associated economic benefits of development from both construction and during occupation. The appellant has indicated there would be benefits from biodiversity enhancements and the intended use of sustainable energy in the proposed dwellings. However, these benefits would be limited given that the proposal would only be for three dwellings. Thus, the overall benefits of the scheme would be limited.
27. I find that the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. I therefore find that the proposal does not benefit from the presumption in favour of sustainable development.

Conclusion

28. The appeal proposal would conflict with the development plan when read as a whole. There are no material considerations of sufficient weight, including the Framework, which indicate that a decision should be taken other than in accordance with the development plan.
29. Therefore, for the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR