



Appeal Decision

Site visit made on 12 September 2023

by J Downs BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2023

Appeal Ref: APP/Z2505/W/23/3316532

**Land adjacent to The Old Whitehouse, Lade Bank, Old Leake, Boston
PE22 9RL**

- 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 Halton Pigs Ltd against the decision of Boston Borough Council.
 - The application Ref B/22/0287, dated 11 July 2022, was refused by notice dated 21 November 2022.
 - The development proposed is outline application with all matters (Access, Appearance, Landscaping, Layout and Scale) reserved for later approval for erection of one dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is made in outline with all matters reserved for later consideration. Notwithstanding, access to the site would be taken from Lade Bank.

Main Issues

3. The main issues are:
 - whether the site is a suitable location for development with regard to the spatial strategy, access to services and the effect on the character and appearance of the area; and
 - whether the proposed development would be at an unacceptable risk of flooding.

Reasons

Suitable Location

4. South East Lincolnshire Local Plan 2011-2036 (2019) (LP) Policy 1 sets out areas to where development is to be directed. It is not in dispute that the site lies outwith any settlement boundary and so is in the countryside for the purposes of development plan policy. The Council's reason for refusal is sufficiently clear as to why it considers the proposal did not accord with LP Policy 1.
5. In such locations, LP Policy 1 provides that development that is necessary or where it can be demonstrated that it meets the sustainable development needs of the area will be allowed. It has not been put forward that the development would be necessary in this location.

6. There would be a benefit from the delivery of an additional dwelling. There would be associated economic benefits during both the construction and occupation stages, and from financial receipts to the Council. Biodiversity enhancements are proposed, as is the construction of the dwelling to a high environmental standard.
7. However, these are inherent attributes and benefits of the scheme. There is no substantive evidence before me which demonstrates how the proposed development would be meeting the sustainable development needs of the area. The appellant has not challenged that the Council can demonstrate a five year supply of deliverable housing land. The housing delivery test has been met. I therefore have no reason to consider that the housing needs of the area are not being met.
8. The site is in a rural location. There is no substantive evidence before me of the reasonably convenient access to public transport or safe travel routes. Future occupiers of the site would therefore have a high degree of reliance on the private car. The provision of an electric vehicle charging point would not ensure that future occupiers would have electric or hybrid vehicles. Opportunities to maximise sustainable transport opportunities do vary between urban and rural areas, however no opportunities have been identified in support of the appeal location. That existing occupiers are dependent on the private car would not justify allowing further development.
9. There is also no substantive evidence before me of how this site would support the vitality of a rural community. The site is not within a settlement. LP Policy 1, which establishes the settlement hierarchy and criteria for allowing development in the countryside must have been supported by robust evidence otherwise the development plan would not have been found sound.
10. The site lies between two dwellings in a short row along Lade Bank and as such would not be isolated for the purposes of paragraph 80 of the National Planning Policy Framework (the Framework). The row of dwellings is bounded by Lade Bank and an agricultural field and occupies a clearly defined area distinct of the surrounding field layout. The site itself is a maintained plot in a central position in the row. I am satisfied that it would constitute infilling and, while the detailed design of the proposal would be considered at the reserved matters stage, I have no reason to think that a scheme could not be designed that would integrate into its surroundings. However, this would amount to a lack of harm and would therefore be neutral.
11. I have been referred to other decisions¹ of the Council, and the appellant has submitted considerable supporting evidence as to how the Council reached its decision on one in particular. However, for the reasons given above, I find that the proposal would conflict with the policies of the development plan. I do not find the Council's reasoning in reaching that decision sufficiently compelling to depart from the conclusion I have reached.
12. While I have not found any harm with respect to character and appearance, the proposed development would not be a suitable location for development with respect to the spatial strategy and access to services. It would therefore be contrary to LP Policy 1 which requires development in the countryside to be necessary in such a location or to demonstrate that it meets the sustainable

¹ B/21/0499; B/21/0188

development needs of the area. It would also be contrary to sections 2 and 5 of the Framework which, amongst other things, confirm that planning decisions should take an active role in guiding development towards sustainable solutions and that in rural areas housing should be located where it will enhance or maintain the vitality of rural communities.

Flood Risk

13. The appeal site is within Flood Zone 3. LP Policy 4 sets out that the area of search for the sequential approach is a borough wide search of alternative sites within defined settlement boundaries unless the catchment area for the development justifies a reduced search area.
14. The appellant's case states a formal sequential test is considered inappropriate, and sets out 4 factors in consideration of this. However, none of these justify the failure to carry out a sequential test. The high flood risk within the district was taken into account in the formulation of the development plan. The evidence before me is that the Council can demonstrate a five year supply of deliverable housing land and has met the requirements of the housing delivery test. There is no substantive evidence before me to suggest that the sequential test has been routinely disapplied to allow the Council to achieve this. The site is not within any defined settlement boundary. The planning merits of a scheme are not considerations in the sequential test and mitigation is part of the exceptions test.
15. Notwithstanding, the evidence accompanying the appeal uses the parish as the area of search. The appellant has directed me to the Strategic Flood Risk Assessment to justify this, however the cited paragraph was in relation to the application of the sequential test at the plan making stage. No reason for using this approach, rather than LP Policy 4 or the advice contained within the SFRA as to the sequential test for planning applications, has been put forward. I see no reason to depart from the approach set out in the adopted development plan. As such, I am not satisfied there are no sequentially preferable sites available for development.
16. As the proposal fails the sequential test, I am under no obligation to carry out the exceptions test. However, were I to apply it, the Planning Practice Guidance² provides advice on how it can be demonstrated that wider sustainability benefits to the community outweigh flood risk and is clear that this goes beyond the inherent attributes and benefits of a development. The delivery of a single dwelling, where the Council can demonstrate in excess of a five year supply of housing land, would not provide a wider sustainability benefit to the community that would outweigh the risk of flooding. Although the development could be made safe for its lifetime, the proposed development would nonetheless fail the exceptions test.
17. I have been directed to another decision of the Council where the sequential test has been applied in a different manner to this proposal. However, I cannot allow previous decisions to lead me to misapply the policies of the development plan.
18. The proposed development would therefore be at an unacceptable risk of flooding. It would be contrary to LP Policy 4 which requires it to be

² Flood Risk and Coastal Change Paragraph: 036 Reference ID: 7-036-20220825 Revision date: 25 08 2022

demonstrated there are no alternative sites within defined settlement boundaries.

Other Matters

19. There are no objections from statutory consultees. The appearance of the proposed development, suitable access and its effect on the living conditions of existing and future occupiers would be considered at the reserved matters stage, however I have no reason to think an acceptable scheme could not be designed. Nonetheless, development is expected to be well designed therefore these factors amount to a lack of harm and would be neutral.

Conclusion

20. The proposed development would conflict with the development plan as a whole and there are no material considerations before me of sufficient weight that would indicate a decision otherwise. The appeal should therefore be dismissed.

J Downs

INSPECTOR