



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/23/3318688

Sandringham, Ralphs Lane, Frampton, Boston, PE20 1QU

- 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 Mrs Louise Fortune against the decision of Boston Borough Council.
- The application Ref B/22/0310, dated 28 July 2022, was refused by notice dated 23 September 2022.
- The development proposed is change of use from residential caravan site to a site for two storey dwellinghouse.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Applications for change of use cannot be made in outline. Notwithstanding the description of development used by the parties, I have considered this appeal as being for the erection of a two storey dwellinghouse, made in outline with all matters reserved. Access to the site would be taken from Ralphs Lane.

Background and Main Issues

3. The appellant considers the site benefits from an existing, unrestricted residential use arising from the previous siting of a caravan and highlights that the site remains on the Licenced Caravan Site Register. Their case relies in part on this fallback position. The Council has not directly commented on this point, other than to set out the planning history of the site.
4. The appellant has directed me to other appeal decisions¹ where the principle of permanent residential use was established by the siting of a caravan. However, in both of those cases, a certificate of lawfulness had been granted, establishing that existing use. I have not been provided with a certificate of lawfulness in relation to this site. I therefore cannot be certain that such a fallback position exists and as such cannot consider the appeal on the basis that it does.
5. The main issues are:
 - whether the site is a suitable location for development with regard to the spatial strategy, access to services and facilities, and the effect on the character and appearance of the area; and

¹ APP/N1350/W/17/3184191 allowed 14 March 2018; APP/H0738/W/19/3242788 allowed 6 March 2020

- whether the proposed development would be at an unacceptable risk of flooding.

Reasons

Suitable Location

6. It is not in dispute that the site lies outside the settlement boundary for Wyberton. The site is therefore in the countryside for the purposes of development plan policy although it would not be considered isolated for the purposes of (now) paragraph 80 of the National Planning Policy Framework (the Framework). The appellant sets out that case law² supports the principle of residential development within a small hamlet of residential properties. I would not characterise the site or the surrounding development as a small hamlet or cluster of dwellings. It is part of the sporadic ribbon development that characterises Ralphs Lane.
7. In the countryside, 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. There is no substantive evidence before me to demonstrate that housing would be necessary in this location.
8. It is not in dispute that there would be economic benefits during the construction and occupation stages of the development, social benefits from the delivery of additional housing and environmental benefits in the form of biodiversity enhancements and higher environmental standards for the proposed dwellings.
9. 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 or that annual completion targets were met. I therefore have no reason to consider that the housing needs of the area are not being met.
10. The appeal site is not served by a pedestrian footpath. While there is a footpath on the opposite side of the road, this does not begin for a distance identified by the appellant as 150m. Future occupiers would therefore have to walk along the relatively narrow road for some distance. While I acknowledge my site visit only represents a short moment in time, Ralph's Lane was well used, including by agricultural traffic. This would not encourage people to walk to the services and facilities within Wyberton and may be off-putting to less confident cyclists or when cycling with children. Furthermore, the footpath is not illuminated for some distance, which would further reduce its attractiveness. While the overall distance to some services and facilities in Wyberton may be reasonable, I do not consider that the options for sustainable transport have been maximised at this location. Although electric vehicle charging points could be provided, this would not ensure that future occupiers would have electric or hybrid vehicles.
11. I have been specifically referred to other decisions³ of the Council, and a number of other decisions were referenced in the planning statement.

² Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

³ B/21/0467 & B/21/0188

However, I do not have full details of the circumstances that led to those permissions being granted. However, the conclusion reached in different locations would not alter my assessment of this proposal against LP Policy 1.

12. At the time of my site visit, the appeal site was somewhat overgrown. It formed a distinct plot, separate from the surrounding agricultural land. It is immediately adjacent to existing development. While it would be visible due to the open nature of the surrounding area, it would be viewed in the immediate context of adjacent development, and in a location where development, some of which is significant in scale, occurs along Ralphs Lane. While the detail of the proposal would be considered at the reserved matters stage, in principle, the development could be assimilated into the landscape without harm to the character and appearance of the area.
13. While I find the development of the site would not harm the character and appearance of the area, it would nonetheless not be a suitable location for development with regard to the spatial strategy and access to services. It is therefore contrary to South East Lincolnshire Local Plan 2011-2036 (2019) (LP) Policy 1 which requires development in the countryside to be necessary in such a location or to demonstrate that it meets the sustainable development needs of the area.

Flood Risk

14. The submitted sequential test puts forward that there are no sequentially preferable sites as the surrounding areas are also in 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. There is no substantive evidence before me that this has been undertaken. As I have found above, the site is not particularly well related to any settlement boundary therefore I consider this to not be a sufficiently robust reason to justify a more limited area of search. In any event, there is no substantive evidence before me of any assessment of sites within the settlement limits of Wyberton or Boston. I am therefore not satisfied it has been demonstrated that there are no sequentially preferable sites available.
15. The appellant has referred to other decisions of the Council⁴ where a sequential test has not been required. I do not have full details of those schemes before me. However, even if I did, I cannot allow previous decisions to lead me to misapply the policies of the development plan.
16. There is no need to apply the exceptions test to proposed development which has not passed the sequential test. However, were I to apply it, the Planning Practice Guidance provides advice⁵ 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 of a development. Given I cannot be certain the fallback position exists and the fact the Council can demonstrate a five year supply of deliverable housing land, the proposed development would also fail the exceptions test, despite being able to demonstrate that it could be made safe for its lifetime.
17. 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

⁴ B/22/0188 & B/21/0011

⁵ 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

18. There is no substantive evidence before me that the site would provide habitation for protected species.
19. While detailed matters of access, appearance and layout fall to be considered at the reserved matters stage, there is no reason the site could not be developed in a manner which would integrate visually with the adjacent development, provide appropriate living conditions for future occupiers, would not have an adverse effect on the living conditions of the neighbouring occupier and would be capable of providing appropriate visibility and parking provision. Appropriate landscaping would also be considered at the reserved matters stage. However, these would be expected of any well designed development 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