



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/23/3319014

The Barn, Station Road, Sutterton, Boston, Lincolnshire PE20 2JX

- 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 & Mrs Holmes against the decision of Boston Borough Council.
 - The application Ref B/22/0405, dated 4 October 2022, was refused by notice dated 6 February 2023.
 - The development proposed is outline application for residential development (up to 8 dwellings) with all matters reserved for later approval.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is made outline, with all matters reserved. I have therefore treated the site layout plan as indicative. Notwithstanding, access to the site would be taken from Station Road.

Main Issues

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

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 outside the settlement boundary for Sutterton. The site is therefore in the countryside for the purposes of development plan policy. It is not within the scope of this appeal to find otherwise.
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. There is no substantive evidence before me to demonstrate that housing would be necessary in this location.

6. There would be economic benefits during the construction and occupation stages of the development and social benefits from the delivery of additional housing. An increased population would support the services and facilities within Sutterton. The site would allow for ready access to Sutterton by pedestrians and cyclists given the short distance to the settlement, straight wide road and the illuminated footpath on the opposite side of Station Road. Environmental benefits in the form of biodiversity enhancements and higher environmental standards for the proposed dwellings could also be secured.
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. Annual completion targets were met, as well as the delivery of dwellings within Sutterton itself. I therefore have no reason to consider that the housing needs of the area are not being met.
8. There is development along Station Road on the approach to Sutterton which the Council confirms was purposefully excluded from the settlement boundary. The appellant has directed me to case law¹ as to what constitutes a settlement. Although the appellant contends the surrounding development is predominantly residential in nature, I do not find their evidence compelling. My observations at my site visit indicate the surrounding development consists of a mixture of residential and employment-type uses. While these are set in large plots, they essentially form a small ribbon of development along Station Road. Given the very limited amount of development, it does not constitute a rural settlement whose vitality would be supported by the proposal.
9. I have been referred to other decisions² of the Council, however I do not have full details of the circumstances that led to those permissions being granted. I do not know the circumstances that led to the cluster of dwellings at Stone Lane and Waterbelly Lane. I have also been referred to other appeal decisions³. However, the physical and visual relationship of a proposed development to the surrounding land uses is inevitably specific to that location. Additionally, none of the appeals are within the administrative area of the Council, or an area covered by the LP. They were therefore assessed against different development plan policies. Furthermore, two of the decisions were for permission in principle which distinguishes them from the appeal before me. None of these examples would lead me to reach a different conclusion in this appeal, which I have considered on its planning merits against the policies of the development plan.
10. I therefore conclude the site is not a suitable location for development with regard to the spatial strategy. It is therefore 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 development needs of the area.

Flood Risk

11. The appeal site is in flood zone 3 where both local and national policy are clear that proposals such as this must be supported by a sequential test. The supporting text to LP Policy 4 confirms that much of the land within the LP area

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

² B/21/0467 & B/21/0188

³ APP/C3105/W/21/3285306; APP/Q3305/W/21/3274855; and APP/D0840/W/21/3275410

is at significant risk of flooding and sets out that the sequential test should be based on a borough wide area of search within defined settlement boundaries.

12. No sequential test has been submitted. I have been directed to other decisions⁴ of the Council where a sequential test has not been required or it is suggested it was applied in a different manner to justify this. I do not have full details of those cases before me. However, even if I did, I cannot allow previous decisions to lead me to misapply the policies of the development plan. Furthermore, the Council accepts there have been historic inconsistencies in its approach to LP Policy 4. These considerations do not amount to a robust justification for departing from the policies of the development plan in respect of this issue. I am therefore not satisfied it has been demonstrated that there are no sequentially preferable sites available.
13. 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. The delivery of eight dwellings, 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. There is also no substantive evidence before me to allow me to conclude that the measures proposed in the flood risk assessment would ensure the proposed development would be safe for its lifetime. The proposed development would therefore also fail the exceptions test.
14. 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 demonstrated there are no alternative sites within defined settlement boundaries.

Character and Appearance

15. The site is at present an undeveloped area of land, and its development would inevitably extend the built form into the countryside. The limited residential development along Station Road is characterised by large plots fronting onto the road. Although the application is in outline, the indicative plans show the site could be developed in a cluster accessed from a central point. This would introduce a suburban layout which would be wholly uncharacteristic of the surrounding area.
16. Even if the site were developed with dwellings fronting onto Station Road, the proposed quantum of development could be such that the plots would be narrow, which would be equally uncharacteristic of the surrounding pattern of development. While layout is a reserved matter, I cannot be certain that it would be possible to develop the site in a way which would not be incongruous in this location.
17. While the site is bounded by landscaping, this is not unusual in the countryside. It does not sever the site from the surrounding open countryside in a manner that would support the proposed development.

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

18. There is not an agreed position as to the lawful use of the appeal site. However, even if I were to agree that the appeal site does form part of the domestic garden of The Barn, this would not change my findings in relation to the effects of the proposed development, which would be different to those of domestic outbuildings.
19. The density of the site would be low and it would be possible to retain the existing landscaping around the site. The need for further landscaping would be assessed at the reserved matters stage. However, this would not alter the fact that development would be uncharacteristic of the area. As such it would not be appropriate innovation or change, and would therefore not benefit from support from paragraph 130(c) of the Framework.
20. The proposed development would therefore have an unacceptable effect on the character and appearance of the area. It would therefore be contrary to LP policies 2 and 3 which require development to respond to the local area.

Other Matters

21. I have not been directed to any definition of infill in the LP, so its ordinary meaning should be used. This is development that takes place between other buildings. There is only development to one side of the plot, with remaining boundaries comprising open countryside. Even if I were to take the development on the opposite site of the road into account, the clear majority of the built form of that site does not lie opposite the appeal site. The proposed development cannot be considered as infill.
22. Two dwellings are shown on the indicative plans as being affordable. There is no substantive evidence before me as to whether this would comply with relevant policies of the development plan. Furthermore, there is no mechanism before me to secure any of the units as affordable housing. I therefore attach limited weight to this.
23. The speed limit along Station Road is not a determinative factor and could be amended if required. It has not been alleged that the proposed would result in the development of isolated dwellings for the purposes of (now) paragraph 80 of the Framework. I have no reason to think surface and foul water drainage could not be adequately addressed by condition, however this would be expected of any development and would therefore be neutral.
24. Paragraph 69 of the Framework acknowledges the benefits of windfall sites. However, great weight is to be given to the benefits where sites are within settlements which this site is not. Furthermore, the ability of the Council to demonstrate a five year supply of housing land would further reduce the weight I would ascribe to this.
25. The decision taken on an allocated site within the settlement boundary would not justify any particular approach being taken on this unallocated site in the countryside with no visual and spatial relationship to the allocated site.

Conclusion

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

J Downs

INSPECTOR