



Appeal Decision

Site visit made on 10 October 2023

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2023

Appeal Ref: APP/A2525/W/23/3317157

Fairview, Birds Drove, Surfleet, Spalding PE11 4BE

- 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 Richard Brown against the decision of South Holland District Council.
 - The application Ref H17-0975-22, dated 6 October 2022, was refused by notice dated 16 January 2023.
 - The development proposed is demolition of agricultural building and erection of new dwelling (retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For the avoidance of doubt, I have used the description on the appeal form and decision notice as this is more accurate than that given on the original application form.

Main Issues

3. The main issues are (a) whether the development is in a suitable location for residential development, having regard to local planning policies on development in the countryside, and (b) the effect of the development on the character and appearance of the area.

Reasons

Suitable location

4. The appeal site lies outside any defined settlement boundary and is thus considered to be in the open countryside in local policy terms. Policy 1 of the South East Lincolnshire Local Plan (LP) 2019 states that development will only be permitted in such locations where it can be demonstrated it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.
5. Planning permission was previously granted for the conversion and alteration of existing agricultural and nursery buildings on the site to a dwelling. However, these buildings have since been demolished and thus the permission can no longer be implemented. As such, this cannot be considered as a 'fallback' position. While the appellant argues that residential development has already been accepted in principle, this was under a different policy. LP Policy 23 specifically supports the principle of conversions of agricultural buildings in certain circumstances. The policy context and circumstances in which a new

build development in the countryside is considered is different. On this basis, the previous permission does not automatically justify a new build market dwelling.

6. The site is some distance from any defined settlement and there is no indication it is well related to existing public transport routes. The distances involved, and the fact that the site is located along an unlit and unpaved country lane, make it unlikely that walking to these settlements would be a reasonable alternative for most day-to-day trips. It is reasonable to assume, therefore, that occupants would be reliant on private vehicles. While this is not necessarily unusual in rural areas, the site is not in what could be considered a sustainable location.
7. The Council can demonstrate a five-year supply of deliverable housing land as required by the National Planning Policy Framework (the Framework). While an additional market dwelling would add to the supply, there is no evidence to suggest that there is a significant quantitative housing deficit in the area. In addition, it is neither an affordable dwelling or one that would meet the needs of any group or occupation. The development would not therefore meet any particular economic or community need as required by Policy 1.
8. Paragraph 80 of the Framework states that isolated dwellings in the countryside should be avoided unless one or more exceptions are met. One of these is the reuse of redundant buildings, which is relevant to the previous permission and reflected in Policy 23. The appellant has drawn my attention to the Braintree judgement, which considered this issue. This, and the subsequent court of appeal judgement¹, concluded that the wording isolated denotes a dwelling that is physically separate or remote from a settlement. The Framework does not define what a settlement is in this context and thus when considering whether a dwelling is isolated, it is a matter of planning judgement.
9. Irrespective of whether the development is 'isolated' in the context of paragraph 80 or not, the judgement does not serve to set-aside the requirements of the development plan. Paragraph 80 is only concerned with the circumstances in which an 'isolated' dwelling *can* be permitted. It does not follow that 'non-isolated' dwellings in the countryside are always acceptable in principle or that paragraph 80 is the only way in which development in the countryside can be restricted. Policy 1 applies to all development in the countryside and does not differentiate between isolated and non-isolated locations. Therefore, whether isolated or not, neither paragraph 80 nor the Braintree judgement provide support for the development.
10. Paragraph 79 of the Framework is also relevant in this case. This states that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. It states that policies should identify opportunities for villages to grow and that where there are groups of smaller settlements, development in one village may support services in another. By directing development to defined settlements, the approach set out in Policy 1 is consistent with national policy. The development would support services in nearby villages and towns to a small degree. However, this could be said of any development anywhere. Importantly, this is not a village location and thus this is not a case of development in one village supporting the vitality of another.

¹ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

Rather, it is expanding a small cluster of sporadically located housing in the countryside, which is not advocated in the Framework.

11. In conclusion, the development would not meet any defined sustainable development need of an area in terms of economic, community or environmental benefits and thus it conflicts with the provisions of LP Policy 1. This seeks to direct development into defined settlements.

Character and appearance

12. The appeal relates to a cleared site between two existing dwellings. It is a relatively large, roughly rectangular plot which is bounded by close-boarded fencing and hedgerow. The character of the immediate area is that of open agricultural countryside. The site would be accessed by a long country road with sporadic development scattered along its length. The dwellings in the area are generally traditional in appearance but have no particular homogeneity in terms of age, scale or design. No one material palette dominates in the immediate vicinity of the site, with a mixture of brick or rendered walls and either slate or tile roofs.
13. The dwelling would ostensibly sit on the footprint of the demolished buildings. However, it would appear somewhat larger than what was there previously owing to the increased height and massing. The dwelling would also have several distinct elements, resulting in numerous changes in orientation, height and materials across the building.
14. Whether or not this was the intention, the development would not reflect the character of a group of converted agricultural buildings or farmstead. The two storey elements are clearly domestic in nature, not only in terms of their height but also the fenestration and use of large catslide dormers. The concept of a tall 'barn' with subservient outbuildings is not carried through to the design, not least as the majority of the building is more than single storey. The different elements and significant articulation, changes in height and orientation across the building and some of the detailing, such as the dormers, would result in a somewhat incoherent design and appearance.
15. This would be exacerbated by the mix and use of materials. The development would include a mixture of both Welsh slate and terracotta pantile roofing materials. The walls would also include a mix of red brick with substantial amounts of charcoal coloured cladding across different parts of the building. The dormers would be lead clad. Other buildings in the vicinity have either all tile or all slate roofs, as opposed to the proposal which includes a mix of materials across the four separate roofs of the dwelling. The presence of such materials may not therefore be unusual, but the way in which they would be used would not complement the character or appearance of nearby buildings.
16. Similarly, while red brick may be commonplace, I saw no dwellings in the immediate area which used charcoal board cladding. While some agricultural buildings may be constructed with timber boards, the design and detailing of the proposal would not reflect that particular character. As such, the mix of brick and cladding would also fail to complement the character of existing housing in the area. The fact the neighbouring dwellings are two-storey in height, or that 'Mala Wala' is large in its own right, do not alter my conclusions in this regard.

17. The development would ostensibly have the same footprint as the permitted scheme. Nevertheless, from the information provided, it is clear that the proposal differs significantly in scale and appearance to what was previously approved. The permitted scheme was for a single storey dwelling, with some alterations to accommodate the conversion. That proposal appears to have sought to maintain the scale and broad outline of the existing buildings. The permitted scheme also contained a mix of materials, including some of those to be used in the proposal before me. However, in the main, these appear to have been more sympathetic to the functional character of those buildings.
18. Irrespective of the status of the earlier scheme, I do not consider the development to be an improvement on what was originally permitted. Rather, I find it would be an incongruous addition to the area, that would unacceptably jar with the existing form and character of the area.
19. The development would therefore fail to complement, and be harmful to, the character and appearance of the area. It would conflict with LP policies 2 and 3 which seek, amongst other things, to ensure development creates distinctive places through high-quality design, which considers the character and appearance of an area. It would also conflict with the Framework, which requires development to be sympathetic to local character.

Other Matters and Planning Balance

20. The appellant contends that the relationship of the development to existing settlements is identical to the permitted scheme. Nevertheless, for the reasons given above, that permission cannot be implemented. The proposed development must be considered against the relevant policies of the development plan, which are more restrictive in relation to new build dwellings. It is reasonable to assume that policies supportive of retaining and converting existing agricultural buildings have been drafted cognisant of the potential for them to be in more remote countryside locations. The benefits associated with retaining the buildings no longer exist and thus the overall 'planning balance' is different.
21. I have noted the appellant's assertion that the previous buildings needed to be demolished as they were unsafe. There is no strong evidence of this. I am also mindful that Policy 23 requires buildings to be converted to be structurally sound and capable of conversion. It is reasonable to assume, therefore, that the Council were satisfied of the buildings' structural safety in granting permission for their conversion and alteration.
22. The appellant has drawn my attention to examples of other permissions in the district which are considered comparable to this proposal. All three relate to proposals for dwellings on the sites of agricultural buildings where conversion to dwellings had already been approved under Class Q of the General Permitted Development Order (GPDO). In each case, the Council concluded that the developments would constitute an 'enhancement' to the established Class Q 'fallback' positions, which remained extant.
23. Here there is no established fallback position as the previous permission cannot be implemented. As such, the examples given are not comparable to the situation before me and thus do not add weight in favour of the development. In any event, given my conclusions above, I am not persuaded the

development would be an enhancement to that previously approved and thus this also differs from the examples given.

24. The Council has raised a concern about precedent. While each application and appeal must be treated on its merit, I can appreciate the Council's concern that approval of this proposal could be used in support of schemes in similar situations. This is not necessarily a generalised fear of precedent, but a realistic and specific concern given the prevalence of agricultural buildings across the district. Neither Class Q of the GPDO nor LP policies 1 and 23 envisage situations where demolition and replacement of agricultural buildings for new build dwellings is acceptable in principle in the countryside. Allowing this development in these circumstances may make it more difficult to resist further planning applications in similar situations.
25. I am mindful of the appellant's point that small areas of housing such as this are common in the district. Nevertheless, I must consider the appeal under current development plan policy and what this has to say about development in the countryside. Overall, given the circumstances of the case, neither the previous permission nor the examples given weigh significantly in favour of the proposal.
26. The development would make a small contribution to the housing land supply and make use of a previously developed site. This would provide limited social, economic and environmental benefits. The intention to meet necessary energy efficient or other environmental or building regulation requirements is no more than would be expected.
27. The site is in Flood Zone 3, which is the highest risk of flooding. As I am dismissing the appeal for other matters, there is no need for me to consider this matter further.
28. Similarly, the Council's officer report refers to potential impacts on the living conditions of neighbouring properties, but this is also not referenced in the reason for refusal or expanded on in their appeal statement. Again, as I am dismissing for other reasons, I do not need to consider this matter further. Nevertheless, were I to conclude no harm in this respect, it would be a neutral factor that would weigh neither for nor against the development. A lack of harm in relation to highways or any other planning matter are also neutral factors.
29. I have noted support for the proposal from the Parish Council. However, this does not alter my overall conclusion that the development would conflict with the development plan as a whole or that there are no material considerations that outweigh this conflict.

Conclusion

30. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR