



Appeal Decision

Site visit made on 26 September 2023

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2023

Appeal Ref: APP/D0515/W/23/3316851

59 March Road, Coates, Cambridgeshire PE7 2BX

- 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 Klimczuk against the decision of Fenland District Council.
 - The application Ref F/YR22/0701/O, dated 6 June 2022, was refused by notice dated 23 September 2022.
 - The development proposed is for 4 No residential dwellings with associated access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with approval sought for access. The matters of appearance, layout, scale, and landscaping are reserved for later and I have determined the appeal on this basis. I have had regard to the indicative site plan (drawing H8257/02E) but only as far as it is an illustrative indication of the layout of the four dwellings proposed.
3. The appellant has advised, on the appeal form, that the proposal is for up to four self/ custom-build dwellings. Although this is a change to the description of development from the application form the Council's evidence shows that they considered the planning application as self-build development. As such all interested parties have had the opportunity to comment and would, therefore, not be prejudiced.
4. Both main parties have referred to the emerging Fenland Local Plan 2021-2040, Draft Local Plan Consultation, 2022 (the Draft LP) which, based on the evidence before me, has been through public consultation and is due to be submitted to the Secretary of State. Given the Draft LP has not yet been submitted, nor been through examination, I cannot be certain when the plan is likely to be adopted or if any policies are to be modified. Moreover, the Council, in their evidence, has provided detail of the objections received to the Draft LP and raised concerns about the allocation of the land adjacent to the appeal site. For these reasons, I attach no weight to the emerging policies, and I will return to this matter later in my decision.
5. The Council has also listed the Whittlesey Draft Neighbourhood Plan 2021-2040 in the list of relevant policies which, from the evidence before me, was subject to 'Regulation 16' consultation at the end of 2022. However, neither party have relied on the Neighbourhood Plan in their evidence, and I have, therefore, not considered this document any further in my decision.

Main Issues

6. The main issues are:

- whether the proposed development would provide a suitable location for housing, having regard to the development strategy and the character and appearance of the area; and
- the effect of the development on the protection of land for sand and gravel extraction.

Reasons

Suitability of location

7. The houses, on the same side of March Road as the appeal site, are detached properties with wide frontages facing the road, accessed off shared driveways, with long strips of land behind the properties. Beyond the appeal site is an agricultural field. There are no other back-land developments, or development at depth, on this side of March Road, in this part of the village. The character of the immediate area is one of an edge of settlement where the housing is transitioning to the countryside beyond and with open views of the countryside behind and beyond the properties.
8. The opposite side of March Road has a contrasting character with a more built-up estate which has been laid out with the side and rear elevations of the houses facing towards March Road. This estate also forms part of the village with other housing beyond. The character on the opposite side of March Road forms part of the settlement.
9. The appeal site comprises part of the parcel of land to the rear of Nos 59 and 61 March Road which, at the time of my visit, was grassed, part mowed and enclosed with post and rail fencing. There is an existing access track leading between No 59 and No 61, which serves as access to the appeal site, and a Public Right of Way (PROW) runs to the side of No 55. There are open views of the appeal site from the approach into the village, from the opposite side of March Road and from the PROW.
10. Coates is defined within Policy LP3 of the Fenland Local Plan, 2014 (LP) as a 'Limited Growth Village' where a small amount of development will be permitted in order to support the continued sustainability of the village, subject to complying with other relevant policies. The aim of the policy is to steer the focus of new development to in and around the four market towns and the larger 'Growth Villages.'
11. Policy LP12 of the LP confirms, at 4.7.3 of the supporting text, that the LP does not fix development boundary areas around the settlements to provide flexibility. The policy reiterates that new development in villages will be supported where it contributes to sustainability and would not harm the open character of the countryside, and where it satisfies all of the criteria listed. Criterion (a) requires the site to be in or adjacent to the existing developed footprint. The footnote to Policy LP12 defines what is considered as the developed footprint as, in summary, the continuous built form of the settlement. However, the definition excludes, amongst other matters, gardens, paddocks, and other undeveloped land within the curtilage of buildings on the

edge of the settlement where the land relates more to the surrounding countryside than to the built-up area of the settlement.

12. In my judgement, the appeal site, and the other strips of land to the rear of the houses on this side of March Road relate more to the surrounding countryside than the built-up areas of the village. Other than being behind No 61 the appeal site would not be adjacent to a continuous built form and not adjoin any other existing housing development in the village. Consequently, the development would not be on land that is adjacent to the existing developed footprint, when considered against the definition set out in Policy LP12. The proposal would result in built development on a parcel of land which is part of the countryside beyond the settlement.
13. Although the layout of the proposed development is a reserved matter, the shape and position of the site, would result in the proposed dwellings being sited in-line with the existing ditch along the boundary of the site, as shown on the indicative plan. The appeal proposal would not reflect the character and settlement pattern of Coates and would not be informed by the layout, density, orientation and features of the existing settlement, as required by Policy DM3 of the Fenland District Council Delivering and Protecting High Quality Environments in Fenland, Supplementary Planning Document, 2014 (the SPD).
14. Consequently, the proposal, would not make a positive contribution to the local distinctiveness and would adversely affect the settlement pattern and the character and appearance of the surrounding area.
15. The appellant has drawn my attention to two other approved planning applications in Coates¹. The site at 63 Coates Road has development at depth on one side and I also saw at my visit that this site is previously developed land. The site at 208 Coates Road is set between parts of the village which already have development at depth and is within an area of the village with greater density of development around it. Neither 63 nor 208 Coates Road would project out into the countryside in the same form as the appeal before me and, as such, these two decisions are materially different to the appeal proposal.
16. The appellant also contends that the appeal site would be closer to the village and not be any further back from March Road than the adjacent land, which is proposed to be allocated for housing development in the Draft LP (site LP51.01).
17. However, as detailed in the evidence provided by the Council, there are unresolved objections to the amount of growth proposed in Coates and objections specifically to the allocation of site LP51.01. Furthermore, the Council, in their statement, has commented that site LP51.01, as a significant addition to a village with few services, may not be fully consistent with the policies in the National Planning Policy Framework (the Framework) nor promote a sustainable pattern of development. Moreover, the Council contend that LP51.01 is on agricultural land and would, therefore, result in the loss of Grade 2 land and development which may not fully recognise the intrinsic beauty of the countryside.

¹ F/YR21/0582/O & F/FYR22/0701/O

18. Given the unresolved objections I cannot be certain that LP51.01 would continue to be a proposed allocated site, in the form that it is currently proposed, and whether it remains in the Draft LP is not a matter that is before me to determine.
19. Consequently, it would not be reasonable or appropriate to condition the development of the appeal site so that it did not proceed ahead of the adoption of LP51.01 in the LP, as suggested by the appellant. Such a condition would not be related to the development proposed in the appeal before me and would rely on a development outside the control of the appellant to overcome the harm. Such a condition would, therefore, fail the tests in the Framework.
20. For the above reasons I find that the proposed development would not provide a suitable location for housing, having regard to the development strategy and the character and appearance of the area and would, therefore, be contrary to Policies LP2, LP12 and LP16 of the LP which, taken together, seek to ensure that new development provides the right mix of homes in the right location, in or adjacent to the existing developed footprint of the settlement, whilst making a positive contribution to the local distinctiveness and character of the area, without adversely affecting the settlement pattern or the surrounding area, and while avoiding adverse impact and harm.
21. For the same reasons, the proposal fails to comply with Policy DM3 of the DMP which advises, amongst other design matters, that the character and pattern of the existing settlement should inform the layout, density, proportions, and orientation of any proposed development.
22. The proposal would also be contrary to the advice in paragraphs 130 and 174 of the Framework which seek to achieve well-designed places which are visually attractive as a result of, amongst other matters, good layout that is sympathetic to local character and the surrounding built environment, uses the existing arrangement of streets and spaces and recognises the intrinsic character and beauty of the countryside.
23. The proposal would also fail to comply with Chapters C1, I1 and I2 of the Ministry of Housing, Communities & Local Government National Design Guide 2021 which, taken together, advise that development should understand and relate well to the site, its local and wider context, including the patterns of built form, respond to existing local character, and provide well-designed, high quality places.

Extraction of sand and gravel

24. The appeal site lies within an area identified as a Sand and Gravel Mineral Safeguarding Area (MSA) in Policy 5 of the Cambridgeshire and Peterborough Minerals and Waste Local Plan, adopted 2021 (M&WLP). The aim of the policy is to identify the location of mineral resources and ensure that these are not needlessly sterilised by non-mineral development. The MSA is not intended to preclude other forms of development, but to identify the presence of important minerals.
25. The appeal proposal is not for a type of development listed at a) to h) in Policy 5 of the M&WLP and therefore needs to comply with the criterion at i) to l). The appellant has not provided any substantive evidence to meet any of these four criteria and, consequently, the proposal would not comply with Policy 5.

26. The Minerals and Waste Planning Authority (MWPA) have advised that, due to the size of the site and the proximity of dwellings, complete prior extraction is unlikely to be feasible. This is not, as the appellant contends, that extraction is not feasible at all. The MWPA advise that extraction is not feasible prior to the proposed development, based on its scale and the proximity of houses.
27. The land is enclosed by existing houses, protected trees, a bridleway, and a ditch. However, I have no compelling evidence that the land could not be accessed for the extraction of sand and gravel and the ditch to the side would not be an insurmountable barrier. Moreover, the proximity of the houses would not prevent a meaningful extraction and the appellant has not detailed what legislation they contend would prevent it.
28. That the owners of the land are not interested in extracting the sand and gravel would also not prevent the future extraction. The land would need to be secured for this purpose separate to the planning process and the minerals could be extracted as part of a larger extraction scheme.
29. The proposed development would, therefore, prejudice the future extraction of the mineral and I have not been provided with any compelling evidence that there is an overriding need for the development. The development would have an adverse effect on the protection of land for sand and gravel and would be contrary to Policy 5 of the M&WLP which seeks to safeguard the location of mineral resources and resist non-mineral development.

Other Matters

30. From the evidence before me the appeal site lies within a Zone of Influence for the Nene Wash Site of Special Scientific Interest, RAMSAR, Special Protection Area and Special Area of Conservation. In these circumstances, the Conservation of Habitats and Species Regulations 2017 (as amended) requires that, where a project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, the competent authority must, before any grant of planning permission, make an appropriate assessment of the project's implications in view of the relevant conservation objectives.
31. Natural England advise that the development would require a proportionate assessment of the effects of recreational pressure on the European protected sites and would require measures to mitigate any adverse impacts. Nevertheless, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to undertake the Appropriate Assessment, nor to consider this matter further.
32. The development would provide four additional houses which would add to the housing supply in the area, the appellant contends that the site is deliverable, and the houses would be built with energy efficiencies. The proposal would also have associated social and economic benefits, both during and post construction. However, given the small scale of the development these benefits are limited.
33. That there are no refusal reasons, based on the detail submitted at outline, relating to access, parking, refuse collection, flooding, drainage, air quality or contamination matters are neutral factors. The development of the site could

also be achieved without unacceptable impact on the living conditions of the existing or future occupants, but this is also a neutral matter.

34. Although, as the appellant asserts, the land is not farmed, it is maintained as grass fields. Some of the long strips of land to the rear of the properties along this side of March Road are in use for horse paddocks and that the appellant has not sought to use their land does not make the land redundant.
35. As noted above the appeal form proposes the development of up to four self/custom-build dwellings. The Housing and Planning Act 2016 sets out that local planning authorities have a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period.
36. The Council state that the number of permissions given for self/custom-builds exceeds the identified demand and the appellant has not provided any evidence to the contrary. However, the provision is not a maximum. There is little evidence that the number of permissions will be built out or that they are appropriately secured as self/custom build. The provision of four additional units of this type would accord with Paragraph 62 of the Framework through providing housing for different groups in the community and would comply with Part C of Policy LP5 of the LP. However, I have no means, such as a completed S106 agreement, to secure the development as self/custom-build. I am, therefore, not able to give this benefit any weight in the decision.
37. I have had regard to the letters of objection and the letters of support submitted to the Council. For the reasons given above, I have come to a different conclusion to the letters of support on the appropriateness of the site for development and the effect of the proposal on the character and appearance of the area. There is a need for additional housing and a good balance of house types and affordability, including self-build, however this need would not outweigh the harm identified.
38. There would be adverse environmental impacts on the character and appearance of the area and on the ability to extract sand and gravel from the site. The conflict with the development plan and the adverse impacts are afforded significant weight and would not be outweighed by the limited benefits of the scheme.

Conclusion

39. For the reasons given above I have found that the proposal would be contrary to the development plan as a whole, including the Framework. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

K Townsend

INSPECTOR