



Appeal Decision

Site visit made on 16 April 2024

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 24th April 2024

Appeal Ref: APP/Y2003/W/23/3331893

Land South of Butterwick Road, Messingham DN17 3PL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Mike Smith against the decision of North Lincolnshire Council.
 - The application Ref is PA/2023/1208.
 - The development proposed is 1no. new dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development above from the application form, removing wording that does not represent an act of development, in the interests of clarity.
3. The application was submitted in outline form with all matters reserved and I have determined the appeal on that basis. I have regarded all detailed elements of the submitted drawings as indicative only.
4. The Government published a revised National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been significantly amended. Therefore, I am satisfied that there is no requirement to seek further submissions on the revised Framework and that no party's interests have been prejudiced by my taking this approach.

Main Issues

5. The main issues are:
 - whether the site would be a suitable location for this proposal, having regard to the development plan and the effect on the character and appearance of the area; and
 - whether the proposal would provide satisfactory living conditions for future occupiers with regard to noise.

Reasons

Location

6. Policies CS1, CS2 and CS8 of the North Lincolnshire Local Development Framework Core Strategy Adopted June 2011 (CS) set out the spatial strategy for the area and seek, amongst other things, that a sequential approach to the delivery of new development is followed with the focus being within the existing

urban areas. Policy CS3 sets out the use of development limits as a tool to support the delivery of new development in the more sustainable locations. Policy H5 of the North Lincolnshire Local Plan Adopted Plan May 2003 (LP) also focuses the delivery of new development in the urban areas or on infill sites within medium and minimum growth settlements.

7. Policies CS2, CS3 and CS8 of the CS restrict development outside the defined development limits to that which is essential to the functioning of the countryside, including for agriculture, forestry or other uses that require a countryside location, or a proposal that will contribute to the sustainable development of the tourist industry. Policy RD2 of the LP states that development in the open countryside will be strictly controlled, and permission will only be granted for a number of different types of development, none of which include new build market housing. I find that the development plan policies are broadly consistent with the aims of the Framework which state that housing should be located where it will enhance and maintain the vitality of rural communities.
8. There is no dispute between the parties that the appeal site sits outside of any identified development limit. It is therefore within open countryside for the purposes of the development plan. The proposal is for market housing and therefore conflicts with the requirements of the policies set out above.
9. The appellant asserts that services and facilities in the nearby settlements of Messingham, Scotter and Scunthorpe can be easily accessed from the appeal site and that there is a public bus route close by.
10. There is a pavement in close proximity to the frontage of the appeal site, on the opposite side of Butterwick Road, which provides a route east into the settlement of Messingham where there are a number of services and facilities. During my site visit it took me approximately 25 minutes to walk to the Primary School and slightly less than that to reach the shop located at the garage. However, only part of that route has street lighting and whilst some people would walk or cycle that distance, not all would find it an attractive option, particularly those that struggle with mobility or those with young children. I have not been provided with any information on the location of the nearest bus stops or the frequency and accessibility of any bus services.
11. I am referred to paragraph 84 of the Framework (previously paragraph 80) that states that the development of isolated homes in the countryside should be avoided unless one of five criteria are met. Criteria e) which the appellant refers to, states that one exception would be that the design is of exceptional quality, in that it is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.
12. The appellant asserts that the proposal would use materials reflective of the local area sourced from local suppliers where possible, be designed to retain a simple and traditional form suitable for a rural location, be innovative in concept and that it would meet the paragraph 84 requirements, providing a flagship development with sustainable living being a key output. Given the outline nature of the proposal, there is no evidence before me that sets out how the design of the proposed dwelling would achieve the required level of design quality.

13. In any case, whilst the appeal site is located within open countryside for the purposes of the development plan, it is not isolated in terms of the Framework test, given the limited distance to nearby dwellings. Criteria e) of paragraph 84 of the Framework is therefore not complied with in this case.
14. The appeal site comprises part of a larger agricultural field located on the southern side of Butterwick Road. It is relatively flat with mature planting along the northern, eastern and southern boundaries of the wider field. A post and rail fence runs along the western boundary separating the wider field from the adjacent outdoor nursery. A Public Right of Way (PRoW) is located within the appeal site along the eastern boundary.
15. A row of dwellings run along the northern side of Butterwick Road from the crossroads to the east to opposite the frontage of the appeal site. To the south of Butterwick Road, in the vicinity of the appeal site, is more open and rural in character. The side and rear boundaries of two dwellings to the east which have frontage onto North Moor Road are visible through gaps in boundary vegetation, from the appeal site. Removed from the appeal site further west, beyond the adjacent outdoor nursery, are a zoo, fishery and golf course. The appeal site is not within a conservation area.
16. The appeal site, given its undeveloped characteristics, contributes positively to the rural character and appearance of the area to the south of Butterwick Road.
17. The provision of a dwelling on the appeal site would not represent infill development, given open agricultural land would sit to either side and to the rear. The proposal would result in sporadic development that would alter the open and spacious character and appearance of the area through the introduction of built form, landscaping and domestic paraphernalia. The proposal would be viewed from Butterwick Road through gaps in the vegetation and from the PRoW which would run alongside the eastern boundary. It would permanently erode the positive contribution that the appeal site makes to the rural character of the area and would as a result be harmful to it.
18. I note the intention to retain existing hedgerows and trees where possible, the replacement of any vegetation that would require removal to facilitate the proposal and that good quality hard and soft landscaping would be utilised in the external spaces. However, these factors would not mitigate the harm I have identified above. Whilst I note that other examples of sporadic development in the surrounding area do exist, I do not have any information on when any of these were built out and under what policy context they were considered.
19. I therefore find that the site would not be a suitable location for the proposal having regard to the development plan and it would result in harm to the character and appearance of the area. The proposal would be contrary to policies CS1, CS2, CS3, CS8 and CS25 of the CS and policies RD2 and H5 of the LP. These policies seek, amongst other things, to guide development to the most sustainable and accessible locations and protect the character and appearance of the countryside from harm. The proposal would also be contrary to the relevant paragraphs of the Framework.

Noise

20. The Council has concerns that there is insufficient information to establish whether noise from the adjacent outdoor nursery would be harmful to the living conditions of future occupiers of the proposed dwelling. It is confirmed by the Council that the outdoor nursery operates between 8am and 5pm from Monday to Friday. At the time of my site visit, the noise levels in the surrounding area were very low, with only noise from vehicles moving along Butterwick Road noticeable. I have not been provided with any evidence that complaints have been made about noise issues from the outdoor nursery use, by occupiers of the existing properties along Butterwick Road, some of which would be in similar proximity to the outdoor nursery when compared with the appeal site.
21. Whilst stood on the PRow within the appeal site, I perceived no noise arising from the outdoor nursery to the west. I acknowledge that this represented a short moment in time, however, given it was at a time that the outdoor nursery use was operational, I have no reason to think this is not generally the case. There would be reasonable separation between the outdoor nursery and the appeal site with clear opportunities to provide boundary treatments and landscaping along both the wider field boundary and around the plot identified for the proposed dwelling. In combination these features would be likely to provide further protection to the living conditions of any future occupiers, with regard to noise.
22. I find that the proposal would be likely to provide satisfactory living conditions for future occupiers with regard to noise. The proposal would therefore comply with Policies DS1 and H5 of the LP and Policy CS5 of the CS. These policies seek, amongst other things, that consideration is given to the relationship between any buildings and the spaces around them and that adjacent land uses will not result in annoyance or detract from residential amenity, including in relation to noise. The proposal would also comply with paragraph 193 (previously paragraph 187) of the Framework in this regard.

Other Matters

23. I note that there were a number of letters of support during the Council's assessment of the application stating that the proposal would provide an additional dwelling, that the land is underused and no longer farmed, that there would be no resultant traffic issues, that landscaping would be a benefit and that the community would be enhanced. Comments also suggest the design of the dwelling would be appropriate, although those details are not before me, given the outline nature of the proposal.
24. The proposal is a small site that would contribute a family sized dwelling to the housing supply, which could be built out relatively quickly. Economic benefits during the construction phase and after with future occupants supporting local services and facilities in nearby settlements would also occur. It is proposed that the dwelling would be designed and constructed to be of a high standard of energy efficiency utilising renewable energy sources and a high standard of insulation. It is also asserted that new boundary planting and landscaping would enhance biodiversity. However, given the scale of the proposal these benefits would be limited.

25. Whilst I note that one of the letters of support suggests that the land is no longer farmed, it appeared as an arable field that could be used for the growing of crops at the time of my site visit.
26. The appellant asserts that the proposal would be policy compliant with regard to parking provision, drainage and flood risk and that the proposed dwelling would be designed to be safe and secure. Compliance with these other requirements is a neutral consideration and weighs neither for nor against the proposal.
27. I have been referred to four proposals that have been permitted by the Council or allowed on appeal within the open countryside in the same Council area. I have only very limited information on these cases. Three of the examples relate to a children's nursery, holiday lodges, residential mobile homes and touring caravans which are of a different proposal type to the one before me and are not therefore comparable. The other example does refer to a dwelling, but I have no evidence before me in order to make a comparison with the appeal proposal before me.

Conclusion

28. The proposal conflicts with the development plan as a whole, and there are no material considerations that indicate that I should take a decision other than in accordance with it. The appeal is therefore dismissed.

G Dring
INSPECTOR