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# Appeal Decision

Site visit made on 24 April 2024

**by M Russell BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24<sup>th</sup> May 2024**

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**Appeal Ref: APP/E2530/W/23/3331443**

**3 Milking Nook Drove, Bourne, Lincolnshire PE10 0AX**

**Easting (x) 512277 Northing (y) 320535**

- 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 Samuel Hare – Samuel Hare Architectural Drawing Services against the decision of South Kesteven District Council.
  - The application Ref is S23/0387.
  - The development proposed is the erection of a dwelling and garage.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. I have taken the description of the proposal from the application form. I have removed the words 'Outline Planning Permission with all matters reserved' and 're-submission' for the purposes of my banner heading as they are not a description of development.
3. The proposal is in outline form with all matters for subsequent approval. Therefore, I have considered the details on the 'proposed site plan' on the basis that they are indicative only.
4. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. Consequently, this update to national policy does not fundamentally alter the main parties' cases or prejudice their position at appeal, and it is not necessary to seek further comments.

## Main Issues

5. The main issues are:
  - (i) whether the appeal site is a suitable location for the proposal having regard to local and national policy,
  - (ii) the effect of the proposal on the character and appearance of the area; and
  - (iii) whether the proposal would be acceptable in terms of flood risk.

## Reasons

### *Location*

6. Policy SP1 (Spatial Strategy) of the South Kesteven Local Plan (2020) (SKLP) confirms that the overall strategy of the Plan is to deliver sustainable growth, including new housing and job creation, in order to facilitate growth in the local economy and support local residents. The focus for the majority of growth is in and around the district's four market towns, with Grantham being a particular focal point. It confirms that decisions on the location and scale of new development will be taken on the basis of the Settlement Hierarchy in Policy SP2.
7. Policy SP2 confirms that development which maintains and supports the role of the three market towns of Stamford, Bourne and the Deepings, will be allowed, provided that it does not compromise their nature and character. Priority will be given to the delivery of sustainable sites within the built-up part of the town and appropriate edge of settlement extensions. These strategic objectives are supported by Policy SP5 (Development in the Open Countryside) of the SELLP which limits development outside the existing built form of a settlement to that which has an essential need to be located there.
8. The appeal site is not located within the built-up part of Bourne and is also set well away from its settlement edge. In these respects, the site is evidently in the countryside and not within an area prioritised for development in the SELLP. Furthermore, there is no detailed evidence before me to suggest that there is an essential need to be located outside the existing built form of a settlement. Consequently, development in this location would not encourage sustainable growth in line with the spatial strategy for the area.
9. In addition, there is no footpath or street lighting linking the site to the nearest meaningful provision of services and facilities in Bourne. Together with the distances involved, these factors mean that it is unlikely that occupiers of the proposal would make trips to Bourne by foot or bicycle on more than a very occasional basis and that they would be heavily reliant on the private motor vehicle to meet their day-to-day needs. Consequently, the site also does not have attributes which indicate it would be sustainable from an accessibility perspective.
10. I conclude, the appeal site is not a suitable location for the proposal and would conflict with the strategic and sustainability requirements of Policies SP1, SP2 and SP5 of the SKLP. For the same reasons, it would also conflict with the Framework which promotes sustainable patterns of development and confirms that development should be genuinely plan-led.

### *Character and appearance*

11. Policy DE1 (Promoting Good Quality Design) confirms that all development proposals will be expected to make a positive contribution to the local distinctiveness, vernacular and character of the area.
12. The Framework also requires that developments are sympathetic to local character. In particular, Paragraph 180 of the Framework confirms that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

13. The appellant contends that the appeal site forms part of the garden serving No 3 Milking Nook Drove. The application forms suggest that the site is previously developed land as it once comprised of a dog kennels and amenity space associated with a dog boarding business operated by previous owners of No 3.
14. However, on my site visit I saw that any remains of the business in terms of structures or fixed surface infrastructure associated with that use are not highly perceptible. Even if it is garden land, the site is largely open with patches of grass and a mature tree towards the front boundary. There are no obvious domestic features within it. Furthermore, even accounting for the existing dwelling at No 3, the infrastructure associated with the neighbouring Bourne Rugby Club and any nearby business uses, from my own observations the surrounding landscape is dominated by agricultural land. This gives Milking Nook Drove a prevailing open and natural appearance which is synonymous with the countryside's intrinsic character. Therefore, while I accept the site itself is not agricultural, its openness and the greenery within it positively contribute to the rurality of Milking Nook Drove.
15. I acknowledge that detailed design matters would be considered at the reserved matters stage. Even so a dwelling and garage together with any areas of hardstanding on the site would alter the site to one of a developed character and appearance. Any residential paraphernalia within external areas would be likely to further add to the domestic appearance of the proposal. This would unacceptably erode the rurality of Milking Nook Drove and so to the intrinsic character and beauty of the countryside.
16. I conclude, the proposal would have a harmful effect on the character and appearance of the area. In that regard, it would conflict with the local distinctiveness and character requirements of Policy DE1. For the same reasons it would also conflict with the requirements of Paragraph 180 of the Framework.

#### *Flood risk*

17. Paragraph 165 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Paragraph 168 of the Framework confirms that the aim of a sequential test is to steer new development to areas with the lowest risk of flooding and that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
18. Policy EN5 (Water Environment and Flood Risk Management) of the SELLP also directs development to the lowest areas of flood risk and reflects the sequential and exception test requirements of the Framework.
19. The evidence before me indicates that the appeal site is situated within Flood Zone 3 and is therefore classed as having a high probability of flooding. Dwellings are classified as being of a 'more vulnerable' development in the Planning Practice Guidance (PPG). In these circumstances, the proposal is required to pass the sequential and exception tests. Paragraph 024 of the PPG confirms that only where there are no reasonably available sites in Flood Zones 1 (low-risk) or 2 (medium-risk) should the suitability of sites in Flood Zone 3 (high-risk) be considered.

20. The appellant's Flood Risk Assessment (Revision A 18 February 2023) (FRA) suggests that the appeal site is the only site available for development in the area and so the proposal cannot be located on an alternative site. However, no detailed evidence is before me in terms of the search area considered for me to be able to ascertain whether or not there are reasonably available sites at lower risk of flooding. It is reasonable to expect that this may have included consideration of locations within or at the edge of the built-up area. Therefore, it has not been demonstrated that there are no reasonably available sites in areas at lower risk of flooding in the district.
21. The exception test should only be applied if it is not possible for development to be located in zones with a lower flood risk. Therefore, the flood mitigation recommendations detailed in the FRA do not overcome the fact that the sequential test has not been passed. Even in the absence of objections from flood risk consultees, this does not override the requirements to comply with the flood risk requirements of the development plan and national policy.
22. I conclude that it has not been demonstrated that there are no reasonably available sites in areas at lower risk of flooding. In that regard the development would not be acceptable having regard to the flood risk requirements in Policy EN5 of the SELLP and the Framework. This also further indicates that the appeal site is not a suitable location for the proposal.

### **Other Matters**

23. The appellant's planning statement refers to a development approved on land at No 8 South Fen Road which they contend is similarly located to the appeal proposal. However, I am not aware of the full details of that particular case and I have assessed the appeal proposal on its own merits.
24. Even if I accept that the site constitutes previously developed land for the purposes of applying the Framework, this attracts limited weight in the context of the clear conflict with the other requirements of the development plan and the Framework identified under the main issues. Any biodiversity enhancements incorporated into the proposal would be unlikely to be of a substantial magnitude.

### **Conclusion**

25. The location of the dwelling in the countryside would conflict with the strategic, sustainability and character requirements of the development plan. Paragraph 12 of the Framework confirms that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted.
26. Moreover, the proposal conflicts with the flood risk requirements of the development plan and the Framework and this further indicates the site is not an appropriate location for the proposed development.
27. The other material considerations that have been advanced do not justify a decision other than in accordance with the development plan which, in terms of my conclusions under the main issues, the appeal scheme would clearly conflict. Therefore, for the reasons set out, I conclude that this appeal should be dismissed.

*M Russell*

INSPECTOR