



Appeal Decision

Site visit made on 14 February 2024

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2024

Appeal Ref: APP/B2002/W/23/3321293

The Barns, Killingholme Road, Habrough, DN40 3BA

- 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 Paul Whetton against the decision of North East Lincolnshire Council.
 - The application Ref DM/0795/22/FUL, dated 5 September 2022, was refused by notice dated 31 October 2022.
 - The development proposed is Change of use from barn and stable buildings to four residential dwellings with associated works.
-

Decision

1. The appeal is dismissed.

Background and Main Issues

2. The site falls partially within an allocated traveller site which also includes land to the east bounding Killingholme Road. Furthermore, the site benefits from consent¹ for the siting of 4 residential caravan/mobile home pitches, I note this is a personal permission for the appellant's family. It is not at dispute between the parties that the appeal scheme would not be a significant impact on Gypsy Traveller accommodation provision and this is not a reason for refusal of the application and based on the evidence before me I find no substantive reason to conclude otherwise.
3. I note that the stables and barn subject of this appeal was granted planning permission subject to a condition restricting their use to "private and domestic purposes".
4. At the time of determining the planning application to which this appeal relates, the Council acknowledged that it could not demonstrate a 5-year supply of housing land. However, the Council now states that their housing land supply position has changed, such that the council can now demonstrate² 13.1 years of housing land and based on the evidence before me I find no substantive reason to conclude otherwise.
5. The appellant has submitted amended plans with the appeal, detailing the addition of roof windows to serve two bedrooms in response to comments in the planning officer's report and a landscaping plan. I am satisfied that no party would be disadvantaged by my consideration of these plans.

¹ DM/0362/15/FUL

² North East Lincolnshire Five Year Housing Land Supply Assessment 2023 (April 2023)

6. A new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. The parts of the Framework most relevant to the appeal have not substantively changed from the previous iteration. 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. References hereafter in the decision to the Framework are to the December 2023 version.
7. The main issues are:
- i. Whether or not the appeal site is a suitable location for the proposed development with regards the Council's spatial development strategy.
 - ii. The effect of the appeal scheme on the character and appearance of the area.
 - iii. Whether or not the appeal scheme would provide acceptable living conditions for the future occupiers.
 - iv. Whether or not the appeal scheme would harm highway safety with particular regards to the visibility splays and the number of vehicles accessing the site.

Reasons

Location

8. The relevant development plan is the North East Lincolnshire Local Plan 2013-2032 (adopted 2018) (NEL LP). Policies 3, 4 and 5 are referred to in the first reason for refusal. Policy 3 refers to the hierarchy of settlements and, policy 4 to the distribution of new housing, seeking to focus development to existing settlements. The appeal site is located outside of the development boundaries, as detailed on the proposals map, is not located within an existing settlement and as such does not accord with Policies 3 and 4.
9. Policy 5 details that outside of the boundaries, development will be considered with regard to suitability and sustainability and furthermore details that, in the open countryside development will be supported where it meets various considerations. However, I have no substantive evidence before me to suggest that the appeal scheme meets any of the relevant considerations of policy 5.
10. The appellant refers to the Framework, paragraph 84, which relates to the acceptability of the development of isolated homes in the countryside and states that the appeal scheme meets "c) the development would re-use redundant or disused buildings and enhance its immediate setting".
11. The buildings, while completed relatively recently and only in use for their intended purpose for a short period of time are currently not in equestrian use and are described by the appellant as being disused. The appellant has also detailed that, for the families' purposes, the buildings are redundant as they no longer have a need for the equestrian use. At the site visit I saw that some informal storage was in evidence in the buildings.
12. Nonetheless, the buildings could still be used for their intended purpose, by others if not the appellant. While the use of the buildings may be redundant to the appellant as a result of a change in the family's circumstances, I have no substantive evidence before me to suggest that they have been rendered

redundant or disused through any other change such as time, animal husbandry standards, changes to machinery or changes in the wider equestrian sphere.

13. As such, on the basis of the evidence before me, I am not satisfied that it has been demonstrated that the buildings subject of this appeal are redundant or disused buildings for the purpose of paragraph 84 of the Framework. I will address the matter of whether or not the appeal scheme would enhance its immediate setting in the following main issue.
14. With regards the Council's spatial strategy I find that that the appeal scheme, being in the open countryside outside of a recognised settlement and outside of the development boundary and not meeting an exemption of a relevant policy, is not in accordance with policies 3, 4 and 5 of the NEL LP.

Character and appearance

15. The Council describes the existing buildings on the site as being "well maintained modern interpretations of traditional rural structures and sit comfortably within the rural landscape and its setting." My observations at the site visit confirmed that this is a fair description of the buildings subject of this appeal. The interior of the site appears largely as rough grass with little in the way of formal landscaping and little delineation between the appeal site and adjacent land.
16. The appeal scheme would result in the conversion of the properties to residential use with few significant alterations to the exterior of the buildings. However, the use and activity at the site would fundamentally change from domestic equestrian use, a use well related to the rural setting of the appeal site, to multiple domestic residential dwellings and the introduction of domestic paraphernalia such as garden furniture, bins and cars.
17. The site also has a personal permission for four traveller caravans to accommodate the applicant's family. I understand that this permission remains extant. On the basis of the evidence before me it appears that the implementation of the remaining three plots would conflict with the proposed landscaping scheme, likely subject of a condition. The implementation of this extant permission in combination with the appeal scheme would increase the development on the site and erode the rural character of the area.
18. The landscaping plan submitted by the appellant shows a pleasant site with screen planting to the western boundary, trees and wildflower rich grass to much of the site. Hedgerows are shown as creating and dividing domestic garden spaces for the proposed dwellings.
19. The character and appearance of the site is therefore changed from typically rural, if modern, rural structures undivided from the surrounding open grassland to a small residential enclave, subdivided and separated from the surrounding area. I find that this would harm the character and appearance of the area.
20. To the rear of the site there is an area used for the storage and construction of modular buildings. In support of the appeal proposals the appellant's Statement of Case details that the appellant is "content to agree to the removal of the storage of construction site office/ containers and related items, either

by condition, or a legal agreement, if required, which will substantially improve the character and appearance of the area.”

21. This land is outside of the appeal site as detailed on the submitted plans and no suggested condition or legal agreement to achieve this commitment is before me. Furthermore, it is apparent that, as stated by the Council, the use does not benefit from planning permission and I have no substantive evidence to the contrary. Accordingly, I afford this proposed undertaking no weight.
22. Returning to paragraph 84 of the Framework and the requirement for an enhancement of the immediate setting in the second part of criterion c). As detailed above, the appeal buildings, as they currently stand, are broadly in keeping with the character and appearance of the area and the appeal scheme, through the changes referred to above, would have a negative impact on the character and appearance of the area and thus would fail to enhance the immediate setting of the appeal scheme. Thus, the appeal scheme is not supported by the provisions of paragraph 84 of the Framework.
23. For these reasons I find that the appeal scheme would harm the character and appearance of the area contrary to policies 5 and 22 of the NEL LP that, amongst other matters, seek to ensure good design in keeping with the area.

Living conditions

24. The appeal site and adjacent land accommodate a variety of uses including Gypsy Traveller accommodation, both adjacent and within the site, the storage and construction of modular buildings and the proposed residential dwellings.
25. The Gypsy Traveller and proposed residential dwellings are fundamentally compatible uses given that their primary function is to provide living accommodation. Combined the resulting site would appear as a dense enclave but I have no substantive evidence before me to persuade me that the density or proximity of these uses would harm the living conditions of existing or future residents.
26. The construction of modular buildings takes place adjacent to the site, albeit seemingly without the benefit of planning permission. I have limited evidence as to the operation of the site and the likely effects on the living conditions of future occupiers. Nonetheless on the basis of the proximity of the uses and the vehicle movements detailed by the appellant it is reasonable to conclude that there will be some noise and disturbance resulting from the work and this would harm the living conditions of future occupiers of the barns.
27. Turning to the proposed conversion of the hay barn. The submitted plans show one bedroom entirely dependent upon a rooflight for all outlook and natural light and other bedrooms being served by a combination of small traditional windows and roof lights. Many of the windows shown on the submitted elevations are small and would afford future residents limited outlook and access to natural light. This would result in poor living conditions for the future occupiers.
28. The proposed conversion of the barn is shown on the submitted plans as being a dense block with living areas and dining rooms of different dwellings being located in close proximity to each other with future residents likely being afforded views into each other's properties, in particular through the ground

floor windows. This would result in a loss of privacy for residents and consequently poor living conditions.

29. For the reasons detailed above I find that the appeal scheme is contrary to policies 5 and 22 NEL LP in so far as they relate to the living conditions of future residents.

Highway safety

30. The appeal site is accessed from Killingholme Road at a single access point, shared with the land to the rear of the appeal site. I saw at the site visit that there are three other accesses on to Killingholme Road in proximity to the appeal site.
31. There is an objection from Council's Highway department, concerned with regards the lack of visibility and the use of the access by four residential dwellings. This objection has been maintained following the submission of additional evidence by the appellant in support of the appeal.
32. The key dispute between the parties is whether or not the standards detailed in the Manual for Streets (MfS) or The Design Manual for Roads and Bridges (DMRB) should be applied to the appeal scheme and therefore whether or not the visibility splays proposed by the appellant are sufficient to ensure that highway safety is achieved.
33. Manual for Streets 2 (MfS 2) sets out examples of how to apply the principles of MfS to existing streets, particularly those that are mixed use and busier than residential streets but are not part of the Strategic Road Network and as such is relevant to the consideration of the appeal scheme. Furthermore, I am aware that DMRB sets out higher and more stringent standards which generally apply to the design, assessment and operation of motorways and all-purpose trunk roads in the UK. In any event, MfS 2 states when referring to DMRB for guidance, it should be applied in a way that respects local context.
34. I note that the scope of MfS 2 is generally limited to 85th percentile speeds of 37mph and in respect of the appeal site that 85th percentile speeds of 53.5mph are detailed by the Council as being recorded. I have little quantitative evidence of traffic type and volume on the road in proximity to the appeal site, though I observed at the site visit that the road appear busy and included heavy goods vehicles.
35. The appellant has submitted a drawing showing visibility splays of 2.4m x 128m to the north and 2.4m x 147m to the south. The drawing also shows visibility splays of 2.4m x 143m to the north and 2.4m x 244m to the south.
36. The Council seeks visibility splays of 2.4m x 165m to the north based on stopping sight distance as set out in the DMRB, as opposed to MfS referred to by the appellant, based on the "recorded 53.5mph 85th percentile southbound approach speed"³.
37. With consideration to the speed of traffic passing the site and the nature of the road that I observed during the site visit, I am satisfied that in this instance the proposal falls outside the scope of MfS and the standards within the DMRB

³ Appendix 5 LPA statement of case

should be applied. As a result, the proposal's visibility splay would be deficient and vehicles leaving the site would represent a clear hazard to highway safety.

38. Furthermore, there is a dispute between the parties as to whether the sight lines are on land within the appellant's control and whether or not the hedgerow could therefore be maintained. The appellant appears to accept that it is outside of the appellant's control and would therefore be reliant on the Local Highway Authority to require the owner to maintain the hedge.
39. With regards to trip generation, the appellant has submitted details of vehicle movements onto and off the site as including 12 two way HGV movements per week, 2 two way LGV movements per day, 10 two-way car and LGV movements per day associated with various activities on site. Latterly the appellant details that, with reference to TRICS data, the appeal scheme is unlikely to result in "any significant net increase in vehicle trip generation"⁴.
40. However, it is apparent that the modular building use does not benefit from planning permission. Accordingly, I afford the vehicle movements associated with this use no weight. As a result, I find that it has not been demonstrated that the appeal scheme would lead to a reduction in vehicle movements onto and off the site, indeed it is possible that the creation of four additional dwellings in lieu of the equestrian activity on the site would lead to an increase in vehicle movements.
41. Overall, I find that it has not been demonstrated that the development would provide safe access to the highway. The appeal scheme would therefore be contrary to Policies 5 and 36 of the NEL LP in so far as they seek to ensure development does not harm highway safety.

Other Matters

42. The appeal scheme would provide four additional dwellings from existing buildings to contribute to housing need in the area and I afford this some weight but it does not outweigh the harm I have previously identified.

Conclusion

43. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should not succeed.

Mr M Brooker

INSPECTOR

⁴ Highways & Transport Technical Note