



Appeal Decision

Site visit made on 23 April 2024

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 25 June 2024

Appeal Ref: APP/A2525/W/23/3319481

Land Off Draw Dyke, Sutton St James, Spalding, Lincolnshire

- 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 Michael Peace against the decision of South Holland District Council.
 - The application Ref H20-0790-22, dated 9 August 2022, was refused by notice dated 10 November 2022.
 - The development proposed is described as new power generation, zero carbon self-build experimental home.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues raised by this appeal are: whether or not the dwelling would be in an appropriate location, having regard to i) flood risk, ii) the development plan's spatial strategy and the self-build type of home; iii) whether or not the quality of the proposed design would be sufficiently high as to outweigh any presumption against new homes in this location, and; the development's effect on iv) the character and appearance of the area, and v) pedestrian safety.

Reasons

Flood risk

3. The site lies within Flood Zone 3, an area at highest risk of flooding. The National Planning Policy Framework (the Framework) requires that inappropriate development in areas at risk of flooding should be avoided by steering development away from areas at highest risk. It resists development if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. This is assessed by a sequential test.
4. The Planning Practice Guidance (PPG) points out that the area to apply the sequential test will be defined by local circumstances relating to the catchment area for the type of development proposed. In this case South East Lincolnshire Local Plan, 2019 (SELLP) Policy 4 requires that the sequential test is based on a District wide search of alternative sites that are within settlement boundaries. However, it makes a concession for a reduced search area where there is a specific need for the development in that location.

5. The appellant has not undertaken a detailed exploration of whether or not there are reasonably available sites elsewhere appropriate for the proposed dwelling. They contend that they need to live in this location to be close to dependant relatives with medical needs.
6. However, only very limited information has been provided expanding why it would be essential for the appellant to live in the proposed location, particularly given that their preferred solution would be for the relatives to move into the new house. It is quite understandable that the appellant would want to live in an area close to family and their roots, particularly if they are actively involved in their family's care. However, in the absence of any substantive or convincing evidence, such personal circumstances can only carry very limited weight and are insufficient to warrant no area of search, or a very limited one, such that it would meet the local circumstances concession in SELLP Policy 4.
7. The SELLP¹ anticipates that numerous opportunities for self-build and custom housing would be available within the defined settlement boundaries. It does not go on to differentiate or identify those suitable for self-build or custom housing. Rather SELLP Policy 17 takes the approach of meeting the needs of custom and self-builders as they may come forward.
8. The Council's Housing Land Supply Assessment² report identifies a number of single plot and small sites, again not identified for a particular type or sector. However, that is not to say that some may not be suitable, particularly given the straightforward requirements for such sites to be considered as a *serviced plot of land* as defined in the Self-build and Custom Housebuilding Act 2015 (SCHA) and explained in the PPG³. It would be unlikely that at least some of those sites could not be considered as being suitable for that type of housing. On the contrary, the appellant has not conducted any exercise that establishes that there would not be any sequentially preferable sites suitable for the housing type.
9. The evidence does not show that the Council have granted planning permission for sufficient self-build and custom housing plots to meet demand within the periods set out in the SCHA, and this is a matter to which I return below. However, the sequential test is a separate consideration to that of whether the Council has met its duty to grant planning permissions with regard to self-build and custom housing. These circumstances are therefore not the same as convincingly demonstrating that there are no sequentially preferable sites available for the development.
10. The development would be contrary to SELLP Policies 2 and 4 as the sequential test has not been passed and consequently, as sustainable development considerations in relation to flood risk would not be met.
11. As the sequential test would not be met, it is not necessary or appropriate to go on to consider the exception test.
12. Although only limited information has been provided, even if the development at Crowland referred to by the appellant was considered acceptable without passing the sequential test, those circumstances were particular to that

¹ Paragraph 5.3.5.

² South Holland District Council 5-year Housing Land Supply Assessment (as at 31st March 2023).

³ Paragraph: 026, Reference ID: 57-026-20210508.

development and cannot indicate that the appeal proposal would otherwise be acceptable in terms of flooding.

Location and self-build

13. SELLP Policy 1 sets out a Spatial Strategy for the District which directs new development to identified settlements. It classifies those areas outside of defined settlement boundaries, such as the appeal site, as being within the Countryside. In the Countryside the Policy permits development which is necessary to the location and meets the area's sustainable development needs. The development would not fall into any of the categories that the supporting text to SELLP Policy 1 gives as examples of types of development that require a Countryside location.
14. For the reasons mentioned above, the personal circumstances of the appellant can only carry very limited weight. These could not reasonably be considered to convincingly demonstrate the necessity for the dwelling to be in such a location to accord with the requirements of SELLP Policy 1, even with the community benefits it may attract by way of assisting with the care of relatives.
15. A completed planning obligation that would ensure that the dwelling would accord with the legal definition of self-build and custom housebuilding. The development would help to provide a home in a sector whose contribution to housing requirements and mix is recognised by the Framework. Nevertheless, the proposed location would not accord with the SELLP's approach of locating such housing within defined settlement boundaries.
16. Based on the figures that are available from early in 2021, planning permissions which were for explicitly self-build or custom homes did not meet the demand shown by the Council's Custom and Self-Build Housing Register. I have not been presented with any evidence to suggest that the situation has materially improved since then. Given this situation, the self-build nature of the proposal is a consideration that weighs in support of the development in these circumstances.
17. Nevertheless, as explored above, there has not been any demonstration that there are no alternative sites suitable for self-build homes which would accord with the spatial strategy set out in the SELLP. The evidence therefore falls short of convincingly demonstrating that the lack of permissions for self-build and custom housing would mean that a Countryside location would be the only recourse to address the situation, including meeting the area's sustainable development needs.
18. The development would therefore be contrary to SELLP Policy 1.

Design quality

19. The Framework⁴ seeks to avoid the development of isolated homes in the countryside except, amongst other situations, where the design would be of exceptional quality.
20. The Council acknowledge that the proposal would demonstrate a relatively high standard of architectural design. The shape of the building with its low-pitched roof and appearance with metal cladding extending over the roof and partially

⁴ Paragraph 84 e).

down gable walls would be suggestive of the large portal frame agricultural buildings which can be seen on some farms in the area and which the Design and Access Statement identifies as a design influence. This would give a nod to some of the character of the area's built environment.

21. However, these agricultural sheds are not so ubiquitous in the vicinity of the site to form a defining characteristic of the local area. Also, they are of a basic and utilitarian design and appearance rather than displaying any particular quality. From my observations, the surrounding area has a built character more extensively defined by smaller and more traditionally built dwellings as well. In any event, the house's size, shape and prominent situation would fall short of being sensitive to the defining characteristics of the area.
22. Some visual interest would be added to the composition by the separation of the games room and gym by a gap with beams set at the same pitch as the roof linking that element to the main house. However, the absence of fenestration on this element would give it a bland exterior, a characteristic that would be shared with the detached garage block. The buildings would, to a large extent, share the basic and utilitarian appearance of the sheds it is partly inspired by, and any more refined detailing and fenestration only lifting this to a limited extent. Overall, the external appearance and configuration of buildings and spaces within the plot would be unremarkable. There is nothing to suggest that the interiors would demonstrate any particular qualities of space or light, particularly given the expansive reception spaces at ground floor.
23. The site presently has the appearance of many of the surrounding fields which, although level and largely featureless in their topography, nevertheless make up the distinctive pastoral character and appearance of the area. The introduction of substantial buildings and associated hardstanding for access, circulation and amenity would appear intrusive not enhance the area in terms of its appearance or rural character.
24. The proposed wildflower meadow element of the landscaping, along with some new trees, has the potential to enhance the biodiversity of the site and introduce a more natural appearance. However, this would be limited in their extent and, overall, the approach to landscape design would be unimaginative even considered within the context of the regularly laid out agricultural landscape in which it would be set. Given that the site possesses some quality through its undeveloped and open appearance, the development would not enhance its setting, let alone do so significantly.
25. The evidence does not demonstrate that the highest standards in architecture would be attained. For example, there is no evidence that the design team have any particular track record or recognition for design excellence for buildings of this type. Nor is there any evidence that the scheme's design has been recognised through any critical appraisal or peer review of its design that might help to demonstrate its quality.
26. The development could not be considered as truly outstanding and reflecting the highest standards in architecture. There is little in the proposed composition that would help to raise standards of design in rural areas more generally. The development would not result in a design of exceptional quality and therefore not benefit from the Framework's concession for such homes in locations such as this.

27. The development would generate its own electricity, and the planning obligation makes provisions that would seek to maximise the likelihood of occupiers using electric vehicles rather than conventional ones. The development would be geared to limiting carbon emissions, would include high levels of insulation and be served by a solar array that would have the potential to generate more energy than the development would use. However, the carbon and energy saving elements have not been shown to be outstanding or innovative, using as they would established approaches in conventional ways. Despite the description of the development, there is nothing to suggest that there would be anything experimental about the approaches to sustainability in the proposal.
28. The development would not result in an outstanding or innovative design which would promote high levels of sustainability, nor help raise the standard of design more generally in the area. Consequently, the development would not benefit from the significant weight the Framework⁵ recommends be given to such designs.

Character and appearance

29. The site is located within the level pastoral open countryside where long distance views of fields and extensive sky contribute to its distinctive character. Those buildings that there are outside settlements are largely in scattered in a dispersed pattern such that even larger groups appear and feel incidental to the expansive landscape that they are situated in.
30. The subdivision of the existing field with a boundary and ditch would only have a limited effect in terms of this landscape character and effectively preserve it. From longer distances, the development would appear as an addition to the sporadic, scattered buildings that typify the area. Considered at such a scale its shape and materials would render it similar to an isolated agricultural shed and not appear out of place in that respect. Again, at a landscape level this would effectively preserve the appearance of the area where buildings, although visible for a considerable distance due to the lack of intervening features, nevertheless comprise relatively small components of views across the landscape, as concluded by the appellant's Landscape and Visual Appraisal.
31. However, experienced at closer quarters, the substantial buildings would intrude on the open character and appearance of the site and its immediate surroundings as a result of its considerable bulk and extent. Whilst the patio and lawn would be situated to the rear of the complex away from Draw Dyke, those extensive outside domestic areas with their likely garden paraphernalia would nonetheless introduce a harmful contrast to the undeveloped character of the site and its environs.
32. Even though the effects at a wider landscape scale may be neutral, considered overall the development's effect on the character and appearance of the area would be harmful, contrary to the design, character and appearance requirements of SELLP Policies 2 and 3.

Pedestrian safety

33. Its distance from many services and facilities would be such that most journeys for most day-to-day needs would be likely to be by private motor vehicle.

⁵ Paragraph 139 b).

However, there are some facilities in the closest villages which occupiers might seek to access on foot. The only access for all modes would be via Draw Dyke.

34. In the vicinity of the appeal site this road has a straight alignment for a considerable distance in either direction. Although this geometry would enable visibility of any pedestrians walking along it for some distance during daylight hours, it has the drawback of enabling vehicles to drive along at considerable speed in a 50mph limit area.
35. There are no footways, and the road is largely closely flanked by ditches separated by a narrow and often sloping verge. There is consequently little space for pedestrians to take refuge from passing vehicles, and a risk of injury should they stray from the metalled surface. In hours of darkness along the unlit road the risk of pedestrians being hit by vehicles or suffering injury by falling into ditches to avoid them would be greater. This would not only be an unpleasant route for pedestrians to use but one where their safety would not be guaranteed.
36. The situation would be less daunting for cycling, such that some more sustainable modes may be attractive and safer. However, overall the development could not ensure safe and suitable access for all users, would not be able to give priority first to pedestrians, not address the needs of people with disabilities and reduced mobility in relation to modes of transport other than motor vehicles, and would not minimise the scope for conflicts between pedestrians and vehicles, contrary to the Framework⁶.
37. Whilst occupiers of many existing dwellings along Draw Dyke, or indeed other rural roads in the locality without footways and lighting, would find themselves in a similar situation, that does provide a convincing justification for a new dwelling with compromised pedestrian accessibility and safety.
38. The development would be harmful to, and have an unacceptable effect on, pedestrian and therefore highway safety, contrary to the Framework's sustainable transport policies.

Planning balance

39. The provision of a self-build type of home attracts moderate weight in light of the limited number of permissions the Council has granted relative to demand. The surplus zero carbon energy supplied to the grid would be a benefit, along with the biodiversity enhancements, as would the economic and social benefits of the new house through its construction and subsequent occupancy, including any community benefit from the care of relatives. However, those would be limited in light of the single dwelling scale of development proposed.
40. These would be outweighed by the considerable harm the development would cause in respect of flood risk, unsuitable location, detriment to character and appearance, harm to pedestrian safety and by virtue of its conflict with the development plan and its spatial strategy.
41. Even if the appellant were correct that the policies which are most important for determining the application are out of date, the Framework's presumption in favour of sustainable development would not be engaged because the

⁶ Paragraphs 114 b) and 116 a), b) and c).

application of the Framework's flood policies⁷ provides a clear reason for refusing the development.

Other Matters

42. The appellant has made reference to a number of appeal decisions⁸. There may be apparent similarities with those Councils' performance with regard to granting planning permissions for self-build and custom housing, and that Inspectors found those circumstances a consideration in favour of the proposals. Nevertheless, they are in different districts, with different development plans and spatial strategies, such that direct comparisons cannot be made with the circumstance of the appeal before me.
43. I only have limited details about the West Pinchbeck proposal where the minutes recorded that its zero-carbon and self-build credentials were a factor in its acceptability. However, I cannot be certain that the circumstances were identical to that of the appeal proposal, including in respect of flood risk.
44. These other permissions do not, therefore, lead me to reach a different conclusion on this appeal which I have dealt with on its own merits.

Conclusion

45. For the above reasons, the development would not be in an appropriate location for a new dwelling, would harm the character and appearance of the area and pedestrian safety. It would be contrary to the development plan considered as a whole and there are no other considerations, including the Framework, that would outweigh this conflict. The appeal is therefore dismissed.

Geoff Underwood

INSPECTOR

⁷ Paragraph 11 d) and footnote 7.

⁸ APP/H1840/W/21/3283391, APP/G2435/W/18/3214451, APP/W0530/W/19/3230103, APP/W0530/W/23/3322754 and APP/W3520/W/23/3316136.