
Appeal Decision

Site visit made on 8 October 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th of November 2024

Appeal Ref: APP/Y2003/W/24/3345742

Land to the rear of 26-52 Chesswick Crescent, Keadby, North Lincolnshire

- 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 Liam Dexter against the decision of North Lincolnshire Council.
 - The application Ref is PA/2023/428.
 - The development proposed is outline planning permission with all matters reserved for a residential development of up to 5 dwellings (re-submission of PA/2021/479).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought with all matters reserved for subsequent approval. A drawing has been submitted that includes details of layout and access, matters that are reserved for future consideration. I have therefore treated the drawing as illustrative in this regard.
3. I have been advised the Council withdrew their emerging Local Plan from examination and is no longer a material consideration in this appeal. It is mandatory for me to take account of the most relevant and up-to-date information in reaching a decision, therefore I have dealt with the appeal on this basis. Both parties have had an opportunity to comment on this matter.
4. This appeal follows two previous appeals for housing that encompassed the appeal site. I have been provided with a copy of the second appeal decision¹. While I have had regard to this appeal decision, I have determined the proposal on its own merits.
5. Since the determination of the planning application the Council can now demonstrate a housing land supply of deliverable sites equivalent to 6 years, 10 months. This has not been disputed by the appellant and I have nothing before me to take a different view.

Main Issues

6. The main issues are:
 - (a) whether the appeal site is in a suitable location for the proposal; and
 - (b) the effect of the proposal on flood risk with particular reference to the Exception Test ("ET").

¹ Appeal Ref APP/Y2003/W/22/3293028

Reasons

Suitable Location?

7. The appeal site comprises part of a wider area of scrubland that is to the rear of a terrace of two-storey dwellings fronting Chesswick Crescent, and is bounded by the Three Rivers to the north. The appeal site falls outside the settlement boundary of Keadby and therefore is within the countryside.
8. Policies CS2, CS3 and CS8 of the North Lincolnshire Local Development Framework Core Strategy, adopted 2011 ("CS") resist development outside the defined development limits of settlements to that which is essential to the functioning of the countryside. Saved Policy RD2 of the North Lincolnshire Local Plan, adopted 2003 ("LP") includes a closed list of developments that would be acceptable in the countryside if criteria are met.
9. The proposal is for up to five open market dwellings and therefore, it would not comply with any of the developments listed within LP Policy RD2. The proposal would therefore conflict with the development plan's spatial strategy.
10. In reference to the first main issue, the appeal site would not be in a suitable location for the proposal. It would conflict with CS Policies CS2, CS3 and CS8 and LP Policy RD2 insofar as they direct new housing development to locations within the development limits of existing settlements.

Flood Risk

11. The appeal site is within Flood Zones 2 and 3a and therefore is at a high risk of flooding. The proposal is for a "more vulnerable" type of development according to Annex 3 of the National Planning Policy Framework ("the Framework"). A "more vulnerable" development within Flood Zone 3a can be appropriate subject to passing the Sequential Test ("ST") and the ET².
12. The main parties agree that the requirements of the ST have been satisfied. From the information before me, I have no reason to come to a different view.
13. The ET will be passed if the development would (a) provide wider sustainability benefits to the community that outweigh flood risk, and (b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall³. Both elements of the ET should be satisfied for developments to be permitted⁴.
14. In respect of part (a), the appeal site would be within walking distance of some services, facilities and public transport links in Keadby. The appellant asserts that the proposal would increase the population of Keadby, and would in turn, support its services, facilities and public transport.
15. Three public houses in Keadby closed in 1991, 2011 and on an unknown date. However, no evidence has been provided of any losses of existing services and facilities in recent years. Furthermore, I do not have any substantive evidence before me to support the appellant's assertion that the closure of these public houses was due to a low population.

² Planning Policy Guidance, Flood Risk and Coastal Change, paragraph 079 Reference ID: 7-079-20220825

³ Paragraph 170 of the National Planning Policy Framework

⁴ Paragraph 171 of the National Planning Policy Framework

16. The North Lincolnshire Sustainable Settlement Survey ("NLSSS") indicates that Keadby has a lower number of houses and a lower population than other settlements with the same number of key facilities. However, the NLSSS also identifies settlements with less houses and a smaller population than Keadby (such as Winteringham, South Ferriby and South Killingholme) that support the same number of key facilities. Consequently, there does not appear to be a correlation between the number of key facilities within a settlement and the number of people required to support them.
17. The evidence before me indicates that Althorpe and Keadby Primary School is operating under capacity. However, the figures suggest it is likely to be equivalent to a small under capacity per school year and there is nothing before me to demonstrate that the school's viability is affected. I have not been provided with substantive evidence that the doctor's surgery has capacity for additional patients or that its operation is affected by an under capacity. Similarly, I have limited evidence before me to demonstrate there is a need to increase footfall at the local train station.
18. The appellant asserts that there is a local need for new family housing in Keadby and that a lack of housing allocations is affecting the settlement's growth. However, this is not supported by substantive evidence.
19. Consequently, the proposal would provide some social and economic benefits through an increase in population and by future occupiers supporting local facilities, services and public transport in Keadby. However, these benefits would be significantly tempered by the limited number of occupants that would occupy the small number of dwellings proposed. Furthermore, I am not persuaded that an increase in population is required to support Keadby's existing services, facilities and public transport.
20. The appellant asserts that the appeal site comprises brownfield land. At the time of my site visit, it appeared as an area of scrubland providing access to both a sewerage works and the rear of dwellings and their garages. There was no evidence of any buildings or structures. Consequently, I am not persuaded that it comprises brownfield land. Even if the appeal site could be considered brownfield land, the redevelopment of the land would not form part of a local regeneration scheme⁵.
21. I have been directed to a letter from Grice & Hunter dated 17 July 2023 which, amongst other things, states that Keadby has a receding population, sustained growth is needed to support existing facilities, the area has been a source of affordable housing since World War 2, and there is capacity for growth using low quality land for housing. However, limited evidence has been submitted to support these matters; the proposal is not for affordable housing; and while Keadby's population may be declining, there is no suggestion that this has impacted on the viability of the settlement or its facilities.
22. For these reasons, the information before me suggests that there would be limited wider sustainability benefits to the community arising from the proposal that would not outweigh the appeal site's flood risk.
23. The site-specific flood risk assessment sets out mitigation measures to ensure that the development would be safe for its lifetime. There is nothing before me

⁵ National Planning Policy Guidance Paragraph 036 Reference ID: 7-036-20220825

that would lead me to conclude that these measures would not be sufficient. However, both elements of the ET are required to be passed. As I have concluded that the proposal fails with regard to part (a), the proposal would fail the ET overall.

24. While no objection was received from the Environment Agency and the Lead Local Flood Authority, these comments were in respect of the proposed mitigation measures.
25. In reference to the second main issue, the proposal would conflict with CS Policy CS19 and LP Policy DS16 which, amongst other things, seek to ensure that the development provides wider sustainability benefits to the community that outweigh flood risk. It would also conflict with the Framework, the relevant paragraphs of which have been detailed above.

Planning Balance

26. The Council can demonstrate a 5-year housing land supply. Although the development plan is dated, I do not consider it out-of-date simply because it was adopted prior to the publication of the Framework, as the policies most relevant to the determination of this appeal are consistent with it. Consequently, the presumption in favour of sustainable development is not engaged.
27. Paragraph 47 of the Framework requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 38 of the Framework requires decision-makers at every level to seek to approve applications for sustainable development where possible.
28. I have found that the proposal would be contrary to the development plan's spatial strategy for the location of new housing, and it fails the ET. I attach significant weight to the proposal's conflict with these matters.
29. As detailed above, the proposal would provide limited benefits through the construction of up to 5 dwellings, associated short-term economic benefits from their construction, and long-term economic benefits from future occupiers supporting local services, facilities and public transport.
30. The proposal would be within walking distance of services, facilities and public transport links within Keadby. However, there is no secondary school or supermarket, there are limited employment opportunities, and I am unaware of the frequency of buses and trains to determine whether they could be relied upon to access them elsewhere. Consequently, future occupiers would likely be dependent on the private car to meet their day-to-day needs. I attach this limited weight.
31. The appellant contends that the proposal would create visual betterment and provide a softer transition into the countryside. While I accept that the appeal site currently comprises predominantly scrubland and is overgrown in places, I am not persuaded that other less harmful proposals could not offer similar or better visual benefits to the appeal site and surrounding area. I do not have evidence before me to suggest that fly tipping is problematic within the appeal site. Even if it could be demonstrated, I am not persuaded that it could not be controlled in a less harmful way.

32. Limited information has been provided regarding the use of low carbon technologies within the proposal and therefore I am unable to determine whether they would go above and beyond Building Regulation requirements.
33. In my view, these limited material considerations do not outweigh the significant harm to the proposal's conflict with the spatial strategy and the ET. Consequently, the proposal should be determined in accordance with the development plan.

Other Matters

34. I accept the appellant's frustration that the Council do not keep up-to-date housing need figures at ward or settlement level. However, this does not prevent the appellant undertaking their own local needs survey.
35. Other than the Parish Council, no objections have been received from statutory consultees regarding the proposal. Furthermore, the Council has not raised any objection to the proposal's effect on the character and appearance of the surrounding area, the living conditions of the occupiers of neighbouring properties or highway safety. However, these are neutral matters.
36. Information has been provided regarding two earlier planning applications⁶ for housing developments that incorporated the appeal site that were refused for reasons that differ to the appeal proposal. However, the information before me suggests these applications were for a larger number of dwellings, and the 2018 application was determined at a time when the Council were unable to demonstrate a 5-year housing land supply of deliverable sites. Therefore, they are not directly comparable to the appeal proposal. In any event, I must determine each case on its own merits.
37. Concern has been raised regarding the Council's handling of the planning application and the time taken to determine it. However, this has not prevented me from forming a view on the appeal proposal. Furthermore, the appellant had discretion to appeal non-determination of the planning application once the relevant date had expired.

Conclusion

38. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR

⁶ Planning Refs PA/2018/1307 and PA/2019/981