



Appeal Decision

Site visit made on 24 October 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2024

Appeal Ref: APP/Y2003/W/24/3345616

Nethercop Fish Farm, Sandtoft, DONCASTER, DN8 5SZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Nathan Smith against the decision of North Lincolnshire Council.
 - The application Ref is PA/2023/278.
 - The development proposed is the change of use of 9 of the approved static caravans for holiday use to residential use.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Reference has been made to the emerging North Lincolnshire Council Local Plan 2020-2038, although this was not referred to in the Council's reasons for refusal. Subsequent to the submission of the appeal this emerging plan has been withdrawn and I have therefore not had regard to it.

Main Issues

3. The main issues are:
 - Whether the appeal site would be an appropriate location for the form of development proposed, with due regard to development plan policy;
 - Flood risk; and
 - The living conditions of future residents with regards to privacy, amenity space, noise and disturbance.

Reasons

Location

4. Planning permission has previously been granted for various uses on the site including the siting of static caravans for holiday use. The appellant sets out that the proposal comprises of the replacement of existing static caravans with single storey lodges intended for permanent residential accommodation. Based on the evidence before me, conditions placed on the planning permission allow the site to be occupied for 12 months holiday use but it should not be used as a person's sole place of residence.
5. The appellant refers to the replacement of existing static caravans with single storey lodges intended for permanent residential occupation. The submitted

plans show 9 residential lodges extending along the northern boundary of the site although there were no static caravans in place in this location at the time of my visit. Nevertheless, I have determined this appeal on the basis of the submitted plans.

6. The appeal site is located beyond the settlement boundaries defined in the development plan and is therefore considered to be in the open countryside for planning policy purposes. Policy RD2 of the North Lincolnshire Local Plan 2003 sets out the forms of development which would be permitted in the open countryside, which does not include the type of permanent residential use proposed. The proposal would therefore conflict with Policy RD2.
7. The Council's Core Strategy 2011 seeks to ensure that development occurs in sustainable locations, and that it is located to minimise the need to travel as well as to encourage journeys by sustainable means. Although the site is close to the rural settlement of Sandtoft, this has a very limited range of services and facilities and would not be sufficient to meet the day to day needs of residents. Furthermore, the access route from the site to this settlement is along unlit tracks and roads with no demarcated footway, which would discourage access by foot or bicycle. I have also not been provided with substantive evidence of the availability of public transport in the area. Based on what I have seen and read, residents of the proposal would be reliant on the private vehicle to access employment and services.
8. I am mindful that lodges of the type proposed can contribute to the supply and mix of housing in the area, including providing for an aging population. But given the circumstances of the appeal before me, including the existing restrictions on occupation, the contribution to housing supply is not of sufficient benefit to outweigh the unsustainable location of the site and the conflict with planning policy.
9. The appellant refers to the supply of affordable housing for rural workers, care home workers or those awaiting decisions on their immigration status. However, the evidence in respect of this is anecdotal and it has not been demonstrated that there is an overriding need for this form of accommodation in this location. In any event, it has not been proposed that the occupation of the proposal would be limited to a particular type of resident.
10. The appellant has also referred to an Appeal Decision¹ in Roos where the Inspector acknowledged the contribution that a residential park can make to the supply of housing. However, the Roos proposal was on a site allocated for housing with good access to services and facilities, which is materially different to the appeal before me. Reference is also made to a planning permission in Belton where the Council allowed a condition to be removed thereby enabling mobile homes to be used as permanent accommodation. However, that site could be used as a sole place of residence, albeit limited to 11 months a year. In that instance the Council concluded that, for all intents and purposes, the Belton site represented permanent accommodation, which is not the case in the appeal before me.
11. There has been some variation in the Council's housing land supply position over the course of the application and appeal. However, in its statement of case the Council has confirmed that it can demonstrate a supply of housing

¹ Appeal Ref: APP/E2001/W/20/3261822

sites in excess of five years, and the appellant has not challenged this. I have therefore determined this appeal on the basis that the Council are able to demonstrate a five year supply of deliverable housing sites.

12. I therefore conclude that the proposal would not be an appropriate location for the form of development proposed as it would conflict with Policies CS2, CS3 and CS8 of the Core Strategy and RD2 of the Local Plan with regards to the sustainable location of development in the countryside.

Flood Risk

13. The Council's Officer report specifies that the proposed development is classed as 'More Vulnerable' in terms of flood risk, although the National Planning Policy Framework (the Framework) and the appellant's Flood Risk Assessment (FRA) includes "...mobile homes and park homes intended for permanent residential use" as being in the 'Highly Vulnerable' classification.
14. The appeal site is located within Flood Zones 2/3a. The Council's development plan seeks to direct new development to areas at lower risk of flooding using a risk-based sequential approach. This reflects the Framework which uses a Sequential Test to steer new development to areas with the lowest risk of flooding from any source.
15. The appellant submits that there are no reasonably available sites similar to the appeal site elsewhere in the district, let alone at a lower risk of flooding. However, the evidence consists of anecdotal responses from land/estate agents and searches of property websites. The search criteria are also not clearly set out. Based on the evidence before me, the appellant's application of the Sequential Test is not robust.
16. The appellant considers that the proposed change to full residential use would not significantly increase the dangers to occupants. However, the nature of permanent residential occupation arising from the proposal would be different to the permitted holiday use. During a flood event, a holiday use could be closed and/or evacuated allowing users to return to their permanent place of residence. The use of the site for permanent residential accommodation would require residents to seek alternative accommodation during a flood and probably in the aftermath, and the resilience of the proposal therefore raises different issues compared to the extant use for holiday accommodation.
17. There is also a seasonal element to holiday use, which may therefore not have the same level of occupation as a permanent residential use.
18. Reference is also made to the Belton site, but in that case there was no restriction on the nature of occupancy for 11 months of the year meaning that there was no certainty that residents could rely on accommodation elsewhere. The appellant also refers to their role as an on-site manager which could be lost if a residential park was located elsewhere. However, it has not been demonstrated that the permitted holiday use and associated site management role would cease if this appeal is dismissed.
19. The Lead Local Flood Authority has raised no objections to the proposal subject to the mitigation measures as outlined in the FRA. However, this does not negate the need for a robust Sequential Test. Similarly, the Exceptions Test may only be applied once the Sequential Test has been undertaken.

20. I conclude that a robust Sequential Test with regards to flood risk has not been undertaken. The proposal would therefore be contrary to Policy DS16 of the Local Plan and Policy CS19 of the Core Strategy which require a sequential approach to determine the suitability of land for development. The proposal would also be contrary to the Framework in respect of flood risk.

Living Conditions

21. The proposed residential lodges would be located in relatively close proximity, with the windows of side elevations facing towards each other. This would enable an unacceptable degree of intervisibility between the internal areas of the lodges, with resultant harm to the privacy of residents.
22. The extent of amenity space around the lodges would also be very limited, and due to the degree of overlooking would not provide suitable areas of private space for future residents.
23. The lodges would also share the wider site with other uses, including static caravans for holiday use. Due to the turnover of occupants and the nature of activities associated with the holiday use, this would be likely to lead to unacceptable levels of noise and disturbance for residents of the lodges. The appellant submits that the holiday use would fall away in favour of the residential use, but there is no certainty that this would be the case.
24. The appellant also submits that the lodges and caravans could be rearranged to provide amenity space and standards acceptable on other residential caravan parks. However, it has not been demonstrated that this would address the amenity considerations, particularly in respect of the proximity to other uses on the site. In any event, I have determined this appeal on the basis of the submitted plans.
25. I conclude that the proposal would lead to significant harm to the living conditions of future residents in respect of privacy, amenity space, noise and disturbance. The proposal would therefore be contrary to the amenity requirements of Policy DS1 of the Local Plan.
26. Policy DS5 of the Local Plan is not relevant as this relates to residential extensions rather than the type of development proposed.

Other Matters

27. On 30 July 2024 the Government published a consultation on proposed reforms to the Framework and other changes to the planning system. A direction of travel has been outlined within the Written Ministerial Statement (WMS) 'Building the homes we need', which carries significant weight as a material consideration.
28. However, even allowing for the WMS, the number of permanent dwellings proposed is of a small scale, and given the Council's housing land supply position, the benefits arising to the supply and mix of housing would be limited.
29. The adverse impacts of the development would significantly and demonstrably outweigh the benefits, when assessed against the policies in both the extant and draft revised Framework. The WMS and the proposed revisions to the Framework do not therefore negate my conclusions on this appeal.

30. The appellant emphasises that the Local Plan dates from 2003 and considers that it is out of date. However, in respect of the circumstances and issues particular to this appeal, the most important policies of the Local Plan reflect the policies of the Framework. Furthermore, even if I was to conclude that the policies which are most important for determining the application are out-of-date, the policies of the Framework that protect areas at risk of flooding provide a clear reason for refusing the development proposed. Therefore, the tilted balance of paragraph 11(d) of the Framework is not engaged.

Conclusion

31. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

David Cross

INSPECTOR