



Appeal Decision

Site visit made on 17 December 2024

by **R Bartlett PGDip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 January 2025

Appeal Ref: APP/Z2505/W/24/3345156

Ashcombe House, Low Road, Wyberton, Boston, Lincolnshire, PE21 7AP

- 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 Mr and Mrs J Kruger against the decision of Boston Borough Council.
- The application Ref is B/24/0063.
- The development proposed is erection of a single dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline form with all matters reserved. I have therefore treated the submitted drawings as being indicative only.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 12 December 2024. Any reference to the Framework in this decision is to the most recent version and its new paragraph numbers.

Main Issues

4. The main issues are whether the site is an appropriate location for new residential development, having regard to i) the spatial strategy and the accessibility of services and facilities for future occupiers; and ii) its risk of flooding.

Reasons

Access to services and facilities

5. The appeal site is in an area of countryside, which separates the main built-up area of Boston (the sub-regional centre) from the much smaller built-up area of Wyberton Church End (other service centre and settlement). Policy 1 of the South East Lincolnshire Local Plan 2011-2036 (adopted 2019) (the local plan) sets out the spatial strategy for the area. It states that outside of defined settlement boundaries, development will be permitted where it necessitates such a location, and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.
6. The site forms part of a frontage gap within a row of six dwellings and as such the proposed new dwelling would not be isolated. It is also only a short distance away from the settlements of Boston and Wyberton Church End. However, the road between the site and the nearest two settlements is subject to the national speed limit of 60mph and does not benefit from any footpaths or street lighting. Furthermore, due to the alignment of the road, which is bound by narrow verges

and drainage ditches, intervisibility between drivers, cyclists and pedestrians using the carriageway is poor. At the time of my visit, which was around midday, traffic was frequently travelling along this route. Consequently, whilst I am advised that the road forms part of a designated cycling route, walking or cycling along the roadside between the site and the nearby settlements would not be safe or desirable for most people, particularly during the hours of dusk or darkness.

7. I am advised that there is a large employment site nearby that could be accessed by bicycle and that there is a school within walking distance. For the reasons already given above, walking and cycling to and from the site are unlikely to be safe or desirable options for most, especially for children going to and from school. I did not see any nearby shops to meet the day to day needs of future occupiers and I have not been advised where the nearest bus stops to these are. Furthermore, the appellants accept that public transport serving the area is poor. It is therefore likely that future occupiers of the proposed dwelling would be heavily reliant upon private motor vehicles to access services and facilities.
8. It is undisputed that the proposed dwelling does not require a countryside location and that there is currently an adequate supply of housing land available on allocated sites, and on windfall sites within defined settlement limits, to meet the identified housing needs of the borough.
9. I therefore conclude that the proposal does not require a countryside location, and in the absence of safe pedestrian access between the site and local services, the site is not an appropriate location for new residential development, having regard to the spatial strategy and the accessibility of services and facilities for future occupiers. Consequently, the proposal would not meet the sustainable development needs of the area and would be contrary to Policy 1 of the local plan.

Flood risk

10. The submitted Flood Risk Assessment (FRA) identifies the site and wider surrounding area as falling within flood zone 3 (high probability) on the Environment Agency flood map. The site also has a flood hazard rating of 'danger for all' having regard to potential flood depths.
11. Regardless of the likelihood of the site flooding, of flood defences failing, or of any mitigation measures that could be incorporated into the development to reduce the risk of flooding to future occupiers of it, the starting point is always to direct new development to areas at the lowest risk of flooding, i.e. to flood zone 1 first and where this is not possible to flood zone 2. The onus is on the applicant to demonstrate that there are no reasonably available sites on which the development could be located in lower risk flood zones. This is otherwise known as the sequential test.
12. The starting point for the sequential test is generally borough wide, with smaller search areas being applied to those areas where it can be justified, for example in large towns or regeneration areas, where it is important to allow development to support other wider sustainability objectives or where there is evidence of need for a development within a specific catchment area.
13. There are no circumstances before me in this case which would justify a reduced search area and it is not unusual for a district or borough wide sequential test

search area to be applied to housing development on unallocated sites outside of settlement boundaries.

14. The sequential test evidence submitted in this case is restricted to an internet search of alternative sites in Wyberton. This is despite the FRA acknowledging that there are areas of flood zone 1 and 2 elsewhere within the district. The FRA states that the Council has agreed to a limited sequential test search area in other similar circumstances. However, I have not been advised what circumstances led to a smaller search area being agreed in the other cases referred to, or whether these also related to single dwellings on garden land in the countryside, as opposed to larger sites within or adjoining settlement boundaries.
15. The screenshot of the two internet search results found in the appellants sequential test, does not identify the search parameters used, the names of websites or other sources of available land searched. Planning Practice Guidance states that reasonably available sites can include land forming part of a larger site. Based upon the evidence before me, I am not convinced that a robust search for sequentially preferable sites has been undertaken.
16. Whilst I am not convinced that the alternative site referred to by the main parties in Wyberton would be sequentially preferable to the appeal site in flood risk terms, given that both would be in flood zone 3 and in the danger for all hazard zone, this does not alter my view on the overall search for alternative sites.
17. It has not been demonstrated that there are no other sites available, for example allocated housing sites or land for sale on the open market in flood zones 1 or 2, or even in a lower hazard rating area of flood zone 3, on which the proposed dwelling could be located. As such the sequential test fails and it is not necessary to go on to consider the exception test. However, the development of a single open market dwelling in this countryside location would not provide any wider sustainability benefits to the community that would outweigh flood risk.
18. I therefore conclude that the site is not a suitable location for new residential development having regard to flood risk. The proposal would therefore be contrary to Policy 4 of the local plan and paragraphs 173 and 174 of the Framework. These policies seek to steer new development away from those areas at the highest risk of flooding, applying a sequential approach to its location.

Other Matters

19. I acknowledge the support of a local Councillor and the reference to other recent cases. Whilst I do not have all the details of these cases, it is apparent that one related to the use of an existing building and the other related to a new housing estate served by new footpaths and street lighting, which would have delivered far greater benefits than a single dwelling. Both cases also pre-date the current development plan and national planning policy.
20. The submitted planning statement also lists several application numbers that apparently relate to other residential developments approved outside of settlement boundaries. I do not have the full details of these cases so cannot consider whether they are comparable in terms of their accessibility to services or whether there were any other different material considerations in those cases that led the Council to grant planning permission other than in accordance with the development plan.

21. I noted that a large housing development has recently been constructed nearby. However, this site directly adjoins the main built-up area of Boston, and has been connected to it by new roads and street lit footways providing safe access to the primary school and employment site along 30mph roads. Although I do not have details of this case, it is also likely that this larger scale development would have delivered greater benefits to the community, such as affordable housing to meet an identified local need, which may have outweighed the risk of flooding.
22. The proposal would result in some benefits in terms of providing a new home that could be delivered relatively quickly and that could incorporate higher standards of energy efficiency than currently required by planning policy or Building Regulations. However, most of the listed environmental and biodiversity benefits would be required to mitigate the effects of developing the site and would not result in any significant benefits or improvements to the wider environment. The provision of an electric vehicle charging point, which is now a Building Regulation requirement for all new dwellings, would not ensure that such vehicles are used and does not address the fact that new development should be located in settlements with good access to services and facilities, not in the countryside. There would also be some short term economic benefits associated with the construction of the dwelling, and future occupiers would contribute to local spending. These modest benefits could be met by other sites and would not outweigh the conflict with the spatial strategy or policies relating to flood risk.
23. My attention is drawn to *Braintree DC v SSCLG, Greyread Ltd & Granville Developments LTD* [2018] EWCA Civ 610. This case law does not imply any general support for residential development in small clusters of housing in the countryside. It simply concludes that whether a proposed new dwelling would be isolated or not, and whether a group of dwellings constitutes a settlement, or a 'village', for the purposes of policy, will be a matter of fact and planning judgement for the decision-maker. In this case it is not claimed by either of the main parties that the dwelling would be isolated, and I concur with that view. The small group of 7 dwellings, surrounded by agricultural land and served by an unlit 60mph road with no footpaths, would not in my view constitute a village in its own right. These houses are not just outside of a settlement boundary drawn on a plan, they are segregated from nearby built-up areas by agricultural land and the absence of footways. The development of the site, which is close to the sub-regional centre of Boston, is not necessary to maintain the vitality of a rural community or to support services in a small group of rural settlements or villages. Consequently, the case law referred to does not alter my view that the proposal would not constitute sustainable development and would conflict with the development plan.

Conclusion

24. The proposal would conflict with the development plan and there are no material considerations before me, including the Framework, that would justify making a decision other than in accordance with it. Accordingly, for the reasons given above and having had regard to all issues raised, the appeal is dismissed.

R Bartlett

INSPECTOR