
Appeal Decision

Site visit made on 2 June 2025

by **T Bennett BA(Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 June 2025

Appeal Ref: APP/D0515/W/25/3361673

Land South West Of The Orchards, Gull Road, Guyhirn, Wisbech PE13 4ER

- 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 Heval Sevhat against the decision of Fenland District Council.
 - The application Ref is F/YR24/0968/O.
 - The development proposed is residential development of 4 dwellings including formation of footpath.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. My attention has been drawn to the draft Fenland Local Plan (2022) (DLP). However, this is only at consultation stage, and has not yet been subject to an examination process to determine its soundness. As such, the policies in the DLP carry limited weight.
3. The application seeks outline planning permission with all matters reserved. The drawing showing the proposed layout of the development has therefore been assessed as being for indicative purposes only.

Main Issues

4. The main issues are:
 - whether the site is a suitable location for the development having regard to the development plan,
 - the effect of the proposal on the character and appearance of the area; and,
 - the effect of the proposal on ecology, with particular regard to great crested newts.

Reasons

Location

5. Policy LP3 of the Fenland Local Plan (2014) (FLP) sets out a spatial hierarchy to manage sustainable growth and ranks settlements according to their size and range of services and facilities, with growth being directed to settlements higher up the hierarchy than those lower down, it also seeks to make the most effective use of previously developed land.

6. Guyhirn is defined within Policy LP3 of the FLP as a 'small village', towards the bottom of the settlement hierarchy, it has no defined settlement boundary. Policy LP3 sets out that within such villages, residential development will be considered on its merits but will normally be of a very limited nature, and normally limited in scale to residential infilling or a small business opportunity.
7. The FLP defines infill as development of a site between existing buildings. The appeal site is a grassed parcel of land in a 'D' shaped footprint. It is separated by Gull Drove from the linear form of residential development located to the south of the site. To the north of the site is another grassed parcel of land. Whilst residential properties are located to the rear of the site, these are separated from the appeal site by Gull Drove. Opposite the appeal site is a leisure park, set back from the road behind substantial vegetation. Considering the above, the appeal site cannot therefore be considered an infill plot for the purposes of Policy LP3.
8. The appellant has drawn my attention to two appeal decisions¹ where the Inspectors definition on infill varied to that above. I have limited information on these decisions and cannot be certain that the site and surroundings are comparable to the appeal scheme, as such these carry limited weight in the determination of the appeal.
9. The supporting text to Policy LP3 sets out that it aims to steer most new development to the larger places that offer the best access to services and facilities, helping to reduce the need to travel.
10. On my visit, I observed a bus stop a short distance from the site, however I have limited information on the frequency of service and where it connects to. I cannot therefore be sure it offers a sustainable alternative to a private car. The site would be accessed via a footway enabling future occupiers to walk to local services and facilities. However, whilst noting playing fields, a primary school, farm shop and restaurant on High Road, overall, I observed a limited range of services and facilities within Guyhirn. Taking these points together, I consider any future occupiers would need to travel to access services and facilities in the nearer larger settlements, contrary to the aims of Policy LP3.
11. As the appeal scheme does not accord with Policy LP3 in respect of infill, the development also fails to accord with Policy LP12 of the FLP. This, amongst other matters, supports development in villages where it does not harm the open character of the countryside and where it accords with the settlement hierarchy set out in Policy LP3.
12. For the reasons above, I conclude that the appeal site is not in a suitable location for residential development having regard to the spatial strategy of the FLP in conflict with Policies LP3 and LP12.

Character and appearance

13. The appeal site is an open, grassed parcel of land towards the edge of the village of Guyhirn, to the west of Gull Road. The land is located just past the Guyhirn village sign as you enter the village from the north. Where the appeal site borders Gull Road it is bound by a mix of low level fencing and intermittent hedgerows and trees. A long row of residential properties are located south of the appeal site. On

¹ Ref: APP/D0515/W/19/3230686 & APP/D0515/W/18/3202467

the opposite side of Gull Road to the appeal site is a wide grassed verge, behind which a leisure park is located, concealed by mature vegetation. To the north is undeveloped land.

14. Whilst the land may once have been landfill, there is minimal indication of its former use. I have assessed the contribution of the site to the appearance of the area in its current state. The current undeveloped and open character of the site, irrespective of it not being formerly designated as greenfield or open space, with a lack of visible built form to the east of the appeal site, contributes positively to the rural, open, and verdant character currently experienced at this location. As such, even though it is not public land, I consider it is an important open space within the village, acting as a pleasant transition between the open countryside to the north and the residential properties to the south. Moreover, the open character of the site allows for views across it, which adds to that sense of spaciousness, with only glimpsed views of housing located on Gull Drove.
15. Policy LP12 of the FLP stipulates that development should be in a location that is in keeping with the form of the settlement and will not adversely harm its character and appearance. Whilst the layout and design are reserved matters, I recognise from the indicative site plan that the appellant has sought to maintain the existing linear pattern of development that is south of the appeal site. I also recognise the inclusion of two paddocks providing an additional visual break between the properties at the rear of the site on Gull Drove. Nevertheless, it would introduce built form on an otherwise currently open and undeveloped site, which would be readily visible from Gull Road and Gull Drove, despite the boundary vegetation. This would result in an urbanisation of the site, harmfully eroding the existing rural character which would be of detriment to the character and appearance of this part of the village.
16. The proposal would therefore be contrary to Policy LP16 of the FLP insofar as it requires development to respect and contribute positively to the character of the area and the built environment. There would also be conflict with Policy LP12 of the FLP as it would result in the loss of an important space within the village, which part h) of Policy LP12 seeks to retain.

Ecology

17. A preliminary ecological appraisal (PEA) was submitted with the application. The PEA identifies the appeal site as an optimum foraging habitat for great crested newts due to the close proximity of the site to waterbodies, with the appeal site falling within an amber risk zone for great crested newts.
18. Great crested newts are a European Protected Species (EPS). Under the provisions of the Conservation of Habitats and Species Regulations 2017 (as amended) I am required to consider whether any EPS, such as great crested newts, would be affected by the proposed development. Also, I am required to consider whether any measures would be effective in mitigating any harm.
19. The PEA highlights that none of the waterbodies were accessible at the time of the survey. A rapid risk assessment was thus undertaken, and due to the size of the site, it was identified that there could be potential significant ecological impact should great crested newts be found in the ponds if unmitigated. The PEA recommends further surveys of the waterbodies to identify if they are suitable to support great crested newts. As I have no details of such surveys or whether they

have been undertaken, I cannot be satisfied that great crested newts are not present in the area and I am unable to make an informed decision about the effect of the proposal on the protected species, including assessing whether any mitigation measures would adequately safeguard against any harm.

20. Consequently, on this issue, I conclude that insufficient evidence has been submitted to demonstrate that the proposal would not have an adverse impact on ecology, specifically great crested newts. The proposal thus conflicts with Policy LP19 of the FLP which seeks to conserve, enhance and promote biodiversity.

Other Matters

21. Natural England have raised an objection to the development on the basis that insufficient information has been submitted to fully assess the impacts of the development on nearby designated sites, in this case, the Nene Wash. The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on (a) European site(s) (either alone or in combination with other plans or projects), the competent authority must, before any grant of planning permission, make an appropriate assessment (AA) of the project's implications in view of the relevant conservation objectives. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to undertake an AA, or consider this matter further.
22. Although the Council have not raised any further points in relation to the appellants appeal statement, this does not mean the Council accept the arguments the appellant makes in their appeal statement. I have nothing before me to indicate that the Council have withdrawn their reasons for refusal, therefore the reasons for refusing the proposed development in the original officer report and on the decision notice are still valid.
23. As the application is in outline form, matters relating to the scale, appearance of the properties, landscaping and access have not formed part of my considerations. These would be considered under future reserved matters applications should I have been minded to allow the appeal.
24. Whilst there have been no objections from the Parish Council this does not automatically render the proposal acceptable, which I have determined on its planning merits.
25. Arguments made in relation to the Council's handling of the case are noted. However, this is not a matter that I can consider under a Section 78 planning appeal and does not alter my findings, in which I have had regard solely to the planning merits of the proposal.
26. Reference has been made in the appellants statement of case to appeal reference APP/E0535/W/23/3331431, but limited details have been supplied. This has therefore had no bearing on my decision.
27. The appellant has drawn my attention to three further appeals² which they consider bear similarities to the appeal scheme. Aside from excerpts from the appeal letters, limited information has been submitted on these appeals, making it difficult to assess any similarities. In appeal 3192582, reference is made to

² Ref: APP/D0515/W/18/3192582, APP/A0665/W/18/3203413, APP/Z3635/W/23/3319062

dwellings being permitted further north of the appeal site and opposite. In appeal 3203413, it appears this relates to land within the Green Belt, with the Inspector finding that the land did not add to the wider character of the area. Finally, in appeal 3319062, the land again appears to relate to the Green Belt, with the Inspector finding the site was not readily visible. The site circumstances in these cases do not appear comparable, and as such, they do not alter my conclusions.

28. The appellant has drawn my attention to the Stage 1 and Stage 2 Strategic Housing and Economic Land Availability Assessment (SHELAA), with the appeal site included within this. However, the SHELAA scores the site as 'potentially unsuitable' with it stating that development is likely to result in adverse harm to local character and/or sense of place. Notwithstanding this, I am aware that the site has been put forward as an allocated site within the emerging DLP under Policy LP61-01. However, given the early stage of the emerging local plan which appears to still be at Regulation 18 stage, and, that it has not gone through any public examination, I cannot be sure that it will be included in the final local plan. As such, this carries limited weight. Whilst the Inspector in a different appeal case³, gave appreciable weight to the evidence base, that appeal was in a different local authority. I have limited information before me on the assessment that was made on that land and evidence base in that particular case. From the limited information before me, I am not persuaded that the situation is comparable to the site before me and thus it does not alter my findings on the main issues.
29. The appellant has provided detailed information on the site history. This information identifies that the land was formerly a landfill site. The appellant therefore considers that the site can be classified as brownfield land. I acknowledge that the Framework supports the use of *suitable* (my emphasis) brownfield sites for homes and that substantial weight should be given to this unless substantial harm would be caused. Even if I were to consider the land as brownfield, given I have found the proposed scheme significantly conflicts with the development plan with regard to the spatial strategy and character and appearance of the area, the appeal site would not be a suitable site for housing; as such, it would not be suitable brownfield land. This argument therefore does lead me to an alternate view on the main issues.
30. The results of soil tests and possible contamination on the site are noted. However, the Environmental Health team are satisfied that the submitted remediation strategies are appropriate to make the site acceptable for residential development and could be subject to a condition had I been minded to allow the appeal. Therefore, any concerns in relation to the Council's historic handling of licensing of the site in relation to its former use is not a matter for this appeal which I have determined on its planning merits. However, the remediation of the land is a benefit which weighs in favour of the scheme.
31. The appellant states one of the properties would be affordable housing, however the application form indicates all the properties would be market housing. Furthermore, there is no mechanism before me that would secure affordable housing. As such, this carries limited weight.

³ Ref: APP/N1920/W/24/3346928

32. Whilst the development of the site would likely prevent fly-tipping on the site, little substantive evidence has been submitted to indicate that fly-tipping is an issue. As such, this carries limited weight and would not outweigh the harm identified.
33. I note there were no concerns related to residential amenity, highway safety or flood risk. However, an absence of harm on these matters weighs neither for nor against the proposal.
34. There would be some benefits arising from the environmental credentials of the proposed development in terms of the inclusion of energy efficiency measures and biodiversity enhancements. However, as this proposal is outline with all further matters reserved, this currently carries no more than limited weight in favour of the scheme.
35. The Framework recognises that rural housing development in smaller settlements can enhance or maintain the vitality of rural communities. Given the level of services and facilities within the village, limited weight is afforded to the potential economic and social benefits of the appeal scheme supporting these and generating local expenditure and revenues in the longer term. The economic benefit of housing development during the construction period also carries limited weight because of its relatively short duration and limited scale.
36. The four dwellings would also contribute towards the provision of family homes in the village, noting that the Framework is supportive of small and medium sized sites, which can make an important contribution to meeting the housing requirement of an area, and are often built out relatively quickly. However, given the limited scale of development the weight ascribed to this benefit would be limited. Moreover, there is nothing before me to suggest the Council is not meeting its housing need and thus these benefits do not outweigh the identified conflict with the development plan.

Planning Balance and Conclusion

37. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning decisions must be made in accordance with the development plan unless material considerations indicate otherwise.
38. As outlined above, the development would provide some material positive planning benefits. However, for the reasons given, these carry only limited weight. Even in combination, they amount to no more than moderate weight. I have found that the proposal would conflict with the spatial strategy of the development plan and would result in harm to the character and appearance of the area. These are significant factors weighing against the scheme that overall outweighs the benefits.
39. The proposal conflicts with the development plan taken as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

T Bennett

INSPECTOR