



Appeal Decision

Site visit made on 17 October 2023

by **M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26th October 2023

Appeal Ref: APP/Y2003/W/23/3320270

Cotswold Farm, Cadney Road, Howsham, North Lincolnshire LN7 6LA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Douglas Partnership against the decision of North Lincolnshire Council.
- The application Ref PA/2022/2197, dated 19 December 2022, was refused by notice dated 20 March 2023.
- The development proposed is described as 'erect 29 mixed houses on a brownfield site as shown on indicative layout plan.'

Decision

1. The appeal is dismissed.

Procedural Matters

2. The proposal is made in outline with all matters reserved for future consideration. I have determined the appeal on this basis, treating the submitted plans and details provided as illustrative.
3. The description of development in the banner heading above is taken from the planning application form, as there is no evidence before me that the appellant agreed to that included on the Council's decision notice.
4. In September 2023 the Government published a revised National Planning Policy Framework (the Framework). The revisions relate to national planning policy for onshore wind development, rather than anything relevant to the main issues in this appeal. Consequently, I have not sought the views of the parties.
5. When the Council determined the planning application, it was unable to identify a 5-year housing land supply (HLS). During the course of the appeal, the Council provided an updated HLS position statement demonstrating a 6-year and 10 months supply of deliverable housing land¹. The appellant has had opportunity to comment and I have determined the appeal accordingly.

Main Issues

6. The main issues in relation to this appeal are;
 - Whether the appeal site is a suitable location for residential development having regard to the development plan and access to shops, services/facilities and employment opportunities.
 - The effect of the proposed development on the character and appearance of the area;
 - The adequacy of provisions for surface water drainage;

¹ North Lincolnshire Council 5 Year Housing Land Supply Statement July 2023.

- The effect of the proposed development upon protected species and biodiversity; and
- The effect of the proposed development on the living conditions of future occupiers, with particular regard to noise and disturbance.

Reasons

Suitable Location

7. The North Lincolnshire Local Development Framework; Core Strategy (CS) 2011, sets out the Council's spatial strategy through Policies CS1, CS2, CS3 and CS8 working together, to direct new housing development to the principal towns and settlements of the area where services and facilities are more readily available, as well as protecting the countryside.
8. Policy RD2 of the North Lincolnshire Local Plan (NLLP) 2003, seeks to strictly control development within the countryside to schemes which are essential to the rural economy or social well-being of the area. These include but are not limited to, those that are needed for the purposes of agriculture or forestry, affordable housing to meet a proven local need or recreational developments appropriate to a rural area. Whilst the scheme proposes some affordable homes, it does not propose a rural exception site for 100% affordable housing to meet an identified community need. In essence, it is a scheme for market housing, a matter I will return to later in this decision.
9. From my observations and the evidence before me, the majority of the appeal site was last in use as a pig farm for the purpose of the keeping and breeding of livestock. It cannot therefore be considered as previously developed land, given the specific exclusion of agricultural land from the definition within the Framework². Although advice was given to the contrary by the Council at the pre-application stage, the PPG is clear that pre-application advice is not binding in relation to a particular outcome in respect of a formal application³. In any event, the eastern-most portion of the appeal site consists of part of an undeveloped field.
10. It is common ground that the appeal site lies outside of the settlement of Howsham and is therefore within the countryside⁴. Policy CS3 of the CS advises that the development limits of a settlement will be drawn around the main built-up area of the settlement, and that scattered development or buildings separated from the main body of the settlement by areas of undeveloped land will not be included. Thus, the presence of a small number of dwellings nearby, does not indicate that the appeal site is part of the settlement of Howsham, which is separated by fields and other parcels of undeveloped land.
11. Policy CS2 of the CS states that proposals should, amongst other things, be located to minimise the need to travel and to encourage any journeys that remain necessary to be possible by walking, cycling and public transport. This objective is shared by paragraph 112 of the Framework but with the distinction that public transport is a secondary matter to be pursued as far as possible.
12. The evidence before me and my own observations indicate that there are no facilities such as a shop, school or public house in proximity to the appeal site, that the future occupants of the proposed dwellings would support the vitality

² Annex 2 of the Framework.

³ Paragraph: 011 Reference ID: 20-011-20140306.

⁴ Page 12 of the appellant's Statement of Case.

- and viability of. Whilst there is a village hall and playground within Howsham, that may be an equivalent distance from the appeal site as they are to dwellings on Brigg Road and Kelsey Road, that is an existing situation. Such facilities would not meet the everyday needs of the future occupants of the proposed dwellings.
13. Even if they could be considered to meet such needs, the section of Cadney Road immediately adjacent the appeal site and leading to Howsham is a relatively narrow rural road of national speed limit. There are no streetlights or pavement such that the conditions would discourage the future occupants of the proposed dwellings from walking, particularly those with young children or mobility issues, especially after dark.
 14. The proposed dwellings may present opportunities for cycling but this is unlikely to be appealing to families given the nature and speed of Cadney Road and therefore, may be limited to experienced and confident road cyclists, such that it would be of limited benefit overall.
 15. A bus service is said to operate within Howsham to and from the market town of Brigg. However, the appeal site is some distance from the bus stops on Main Street and the service is limited to just 3 days per week⁵. There is no substantive evidence before me as to the frequency, availability or accessibility of the 'on demand' bus service said to operate locally. I note that an interested party advises that this service operates in North Lincolnshire and therefore would not serve the nearby town of Caistor which is within a different administrative area. School buses, if they are accessed from Howsham, may put children living at the proposed dwellings from risk of conflict with vehicles, given the road conditions leading to Howsham referred to above. The existence of bus services is therefore afforded only limited weight, as they would not provide a reliable service for regular commuting nor provide full access to the nearest towns.
 16. Even if some of the future occupiers of the appeal site were to work from home, this cannot be guaranteed in every case. The general conditions of the appeal site as discussed above, are such that future occupiers of the proposed dwellings would be more likely to rely on the private car as a safer and more convenient mode of transport, particularly to access supermarkets and schools, as well as employment in Brigg, Caistor and Market Rasen, or the larger towns of Scunthorpe and Grimsby further afield. Whilst paragraph 85 of the Framework identifies that in rural areas, sites may have to be found adjacent to or beyond existing settlements, in locations that are not well served by public transport, this relates to local business and community needs and not market housing.
 17. The appeal site is not a suitable location for residential development having regard to the development plan and access to shops, services/facilities and employment opportunities. It would conflict with Policies RD2 of the NLLP and CS1, CS2, CS3 and CS8 of the CS as set out above. It would also conflict with the sustainable transport objectives set out in paragraph 112 of the Framework.

Character and Appearance

18. The appeal site is located on the outskirts of Howsham, next to a small number of dwellings and a scrap/storage yard that appear to have developed over time

⁵ Pages 9 and 10 of the appellant's Design & Access Statement.

along the roadside. Nevertheless, it is surrounded by agricultural fields that form the open and bucolic landscape that is evident in views of the expansive rolling countryside. It is physically and visually separated from the built-up area of Howsham which begins some distance and uphill to the east.

19. As a redundant farm, the appeal site comprises various agricultural silos and generally low-profile buildings of variously muted grey or green materials which enable the majority of the structures to nestle and assimilate well into the landscape, such that the overall impact of the existing built form on the countryside is limited. A former slurry pond referred to as a lake on the submitted plans, exists within the northern section of the appeal site. Despite its rundown appearance, given that the existing structures are typical of those found within farm steadings, the appeal site overall contributes positively to the rural character of its surroundings.
20. Visible in close and medium distance views from Cadney Lane and the road to the west, the appeal site can also be viewed from higher ground across the fields from the public footpath to the east of The Old School. Whilst there is mature landscaping to the southern and western boundaries, the eastern boundary in particular, is largely devoid of landscaping due to the presence of a large agricultural shed. Any landscaping that is present appears to be of native species which would limit its softening and screening qualities when the trees and hedgerows are not in leaf.
21. The proposed dwellings would be sited between the southern boundary of the appeal site and the retained pond to the north, resulting in a large portion of the site appearing undeveloped. Nevertheless, the amount and extent of development proposed would extend considerably back from Cadney Lane and would not be contained by existing development of a similar layout. It would be uncharacteristic of the nearby road frontage dwellings, as well as the linear settlement pattern of Howsham.
22. Despite containing existing buildings, the proposed change from a farm to a residential development including dwellings, gardens, boundary treatments and access roads, would fundamentally change the rural character of the appeal site. Although the removal of dilapidated buildings may in isolation be positive, the contribution of the appeal site to the landscape character of the wider countryside, would be harmfully disrupted in public views by the urbanising effect of the proposed housing. The presence of the existing and potential future landscaping is unlikely to satisfactorily mitigate the divorced nature of the site, given the appeal sites' physical and visual detachment from Howsham. It is therefore unlikely that a well-designed scheme could be achieved at the reserved matters stage, that would result in anything but the appearance of a distinct suburban housing estate. No landscape visual impact assessment has been presented to evidence otherwise.
23. The proposal would result in significant harm to the character and appearance of the area. It would conflict with Policies RD2, H5, H7, H8 and DS1 of the NLLP and Policies CS3, CS5, CS7 and CS8 of the CS. In combination and amongst other things, these policies seek to ensure that new development is well designed and appropriate to its context and would not be detrimental to or adversely affect the character and appearance of the countryside or landscape. Conflict is also found with paragraph 130 of the Framework which seeks to ensure that new development adds to the overall quality of the area, is visually attractive and sympathetic to local character.

Drainage

24. Policies CS18 and CS19 of the CS require the use of Sustainable Urban Drainage Systems (SUDS) where practicable, to manage surface water drainage, as reiterated at paragraph 169 of the Framework in relation to major developments such as that proposed⁶. Policy DS16 of the NLLP further seeks to restrict development that would increase the risk of flooding elsewhere, unless adequate protection or mitigation measures are undertaken.
25. Whilst the appellant suggests that the retained pond to the north of the appeal site will play an important part in the drainage for the development, there is no definitive strategy demonstrating the ground conditions or feasibility of infiltration for the amount and type of development proposed. Consequently, there is no evidence that the pond would adequately manage the surface water drainage requirements of the proposal.
26. Even though the existing site contains buildings and hardstanding's, these would be replaced by dwellings, driveways and access roads. Thus, without any baseline data, I cannot be certain the existing pond would provide a suitable SUDS to prevent an increased risk of surface water flooding on, or off the appeal site.
27. Insufficient information has been provided to demonstrate that the scheme makes adequate provision for surface water drainage. Consequently, the proposal fails to comply with Policies CS18 and CS19 of the CS and DS16 of the NLLP, as well as paragraph 169 of the Framework, as set out above.

Biodiversity and Protected Species

28. Policy LC5 of the NLLP states that planning permission will not be granted for development which would have an adverse impact on protected species, whilst Policy CS17 of the CS seeks to ensure that new development results in a net gain for biodiversity by designing in wildlife and ensuring any unavoidable impacts are appropriately mitigated for.
29. Circular 06/2005⁷ states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted. As an outline permission is 'the planning permission,' it would be necessary to consider this matter at this stage, otherwise all relevant material considerations may not have been addressed in the decision-making process.
30. There is a reasonable likelihood that protected species such as bats may be present on, or utilise the appeal site, given the redundant nature of the buildings, the presence of the pond, trees and adjacent farmland. Without an ecological survey I cannot be certain of the presence of protected species and if so, what mitigation if appropriate, may be required. The circular advises that ecological surveys should only be left to a planning condition in exceptional circumstances, which have not been advanced here. Moreover, Paragraph 180 of the Framework is clear that if significant harm to biodiversity from development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused.

⁶ Major development being defined as 10+ houses as set out in the Development Management Procedure (England) Order 2015.

⁷ Biodiversity and Geological Conservation – see footnote 61 of the Framework.

31. Despite the retention of the existing hedgerows and pond, the current ecological value of the appeal site is also unknown. Whilst it is acknowledged that the proposed layout plan is indicative and that landscaping is a reserved matter, in the absence of any baseline data, it is not clear whether biodiversity net gain could be achieved either on or off-site for a development of this size. I am not satisfied that this matter could be reasonably dealt with by way of a planning condition. I further note the consultation response from the Council's Natural Environment Policy Specialist which advises that preliminary ecological information, including a biodiversity metric is required prior to determination.
32. For the above reasons, I cannot be certain that the proposal would not adversely affect protected species or achieve biodiversity net gain. The proposal would therefore conflict with Policies LC5 of the NLLP and CS17 of the CS as set out above. It would also be contrary to paragraph 174(d) of the Framework which amongst other things, seeks to minimise impacts on and provide net gains for biodiversity.

Living Conditions

33. Paragraph 187 of the Framework requires planning decisions to ensure that new development can be integrated effectively with existing businesses, to prevent unreasonable restrictions being placed on them as a result of development permitted after they were established.
34. The Council advises that there are commercial uses close to or adjoining the appeal site. The exact nature of these commercial uses along with their planning status are unknown. However, they appear to relate to scrap and/or storage yards to the east and north of the appeal site. There is therefore, the potential for noise and disturbance to be generated which could be harmful to the proposed noise-sensitive development.
35. The 'agent of change' principle places the responsibility for mitigating and managing the impact of change on existing uses, onto the appellant. The Planning Practice Guide (PPG) advises that the 'agent of change' will need to clearly identify the effects of existing businesses that may cause a nuisance including noise, and the likelihood they could have a significant adverse effect on new occupants⁸.
36. A noise assessment to demonstrate how potential noise and disturbance arising from the commercial uses may affect the future occupiers of the proposed dwellings has not been presented. Neither has the appellant sought to clarify the extent of the existing commercial uses within their statement. This matter would be required to be resolved at this stage, given that the impact of neighbouring uses would contribute to determining whether the appeal site is suitable for residential purposes.
37. In the absence of any evidence to the contrary, I cannot conclude that the proposal would not adversely affect the living conditions of the future occupiers of the proposed dwellings. The proposal would therefore conflict with Policies DS1 and DS11 of the NLLP which seek amongst other things, no unacceptable loss of amenity to neighbouring land uses in terms of noise or other nuisance.

Other Matters

38. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise. The 5-year HLS position

⁸ Paragraph: 009 Reference ID: 30-009-20190722.

statement is a material consideration, the contents of which the appellant does not dispute. Based on the evidence before me at the time of my decision, paragraph 11dii of the Framework is no longer engaged and the development would not benefit from a presumption in favour of sustainable development.

39. Nonetheless, the proposed dwellings would provide temporary economic benefits during the construction phase, as well as ongoing maintenance employment and spending by future occupants in relation to services and facilities in nearby towns. Environmental benefits through the removal of redundant buildings would also occur, along with social benefits through the provision of eco-friendly homes for families that would help to diversify the local population. However, there is no substantive evidence that the economy or social well-being of the area is suffering due to a lack of housing, and that the proposal is essential to remedy this. Nor is there evidence that the proposed dwellings would be constructed above the building regulations standards or that their occupation would lead to an enhanced market for local bus services. Cumulatively, the suggested benefits would attract no more than limited weight.
40. It is suggested that the proposed development would consist of self-build dwellings, including 3 affordable homes, matters which have the potential to attract positive weight in favour of the proposal. However, there is no substantive evidence before me as to the need for such dwellings in this location, particularly as required by Policy RD2 of the NLLP in respect of affordable housing. In any event, there is no planning obligation before me to secure the dwellings for self-build and/or affordable housing purposes. In the absence of any exceptional circumstances and due to the complexity of these matters, I am not satisfied that planning conditions would meet the 6 tests set out in paragraph 56 of the Framework and the PPG in this instance⁹. Given the uncertainty of these benefits being realised, I attach minimal weight.
41. Reference is made to housing supply occurring in other settlements with a lower settlement ranking than the appeal site. Be that as it may, no background evidence has been provided to demonstrate the circumstances under which such dwellings have been permitted. It may be the case that they were granted in the absence of a 5-year HLS, but this is unknown. Irrespective, the appeal site is not located within a settlement as explained above.
42. Suggestion is made that the additional assessments including ecological surveys, drainage strategy and noise assessment were not requested by the Council. Whether this was the case or not, the relevant consultation responses are clear that additional information was required to satisfy the relevant policy considerations for these matters¹⁰.
43. Financial contributions towards matters including but not limited to, recreation, the maintenance of Howsham Park and local Doctor's surgeries are said to be required for the proposed development. The policy basis for such contributions has not been presented, such that I could be satisfied that they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development¹¹. Even if that was the case, given my findings in relation to the

⁹ Paragraph: 003 Reference ID: 21a-003-20190723.

¹⁰ As set out in the Council's officer report.

¹¹ As set out at Paragraph: 002 Reference ID: 23b-002-20190901 of the PPG and paragraph 57 of the Framework.

main issues and the absence of a planning obligation to secure the suggested contributions, I do not need to consider these matters further.

44. Reference is made to 2 appeals that were allowed for the erection of housing in countryside locations¹². From the evidence before me, both decisions relate to sites within different Council areas, such that they were made in a different development plan context. In the case of the Norfolk appeal¹³ the location was deemed to be sustainable by the parties and in both examples, neither of the relevant Councils could demonstrate a 5-year HLS. This resulted in the benefits of the schemes demonstrably and significantly outweighing the adverse impacts of granting planning permission. The circumstances of these decisions are not comparable to that before me.
45. The location of the appeal site within flood risk zone 1 and a clean air environment, along with being an encourager for existing residents to improve their properties and increase to the parish precept are neutral factors, weighing neither for nor against the proposal. Likewise, a limited number of objections and support for a proposal including encouragement for the redevelopment of the appeal site by a ward councillor, does not equate to a lack of harm.
46. The appeal site is not located within the Green Belt such that paragraph 149 of the Framework does not apply.

Planning Balance and Conclusion

47. The residential development proposed is not supported outside of a settlement within the open countryside and the appeal site does not constitute previously developed land. Even though some travel could occur by bus or by cycle, it would be in relatively limited circumstances. Overall, the proposal would not minimise the need to travel, with services and facilities not readily or safely accessible on foot. This would undermine the Council's plan-led approach to the delivery of housing. Significant harm to landscape character would also occur from the erection of dwellings and associated development. In addition, it has not been demonstrated that the proposal would make adequate provision for surface water drainage or achieve biodiversity net gain, and that it would not adversely affect protected species and the living conditions of the future occupiers of the proposed dwellings. The totality of those impacts would amount to significant harm.
48. In contrast the benefits of the scheme namely the contribution to the local economy during and post construction, removal of dilapidated buildings and provision of eco-friendly family housing, attract no more than limited weight.
49. The Framework makes it clear at paragraph 12, that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. The limited benefits of the scheme would not outweigh the conflict with the development plan and the associated significant harm. Consequently, there are no material considerations in this instance that would lead me to determine the appeal, otherwise than in accordance with the development plan. The appeal is dismissed.

M Clowes

INSPECTOR

¹² Appeal reference APP/L2630/W/15/3003743 and APP/F2065/W/16/3148954.

¹³ Appeal reference APP/L2630/W/15/3003743.