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## Appeal Decision

Site visit made on 28 August 2024

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3 December 2024

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**Appeal Ref: APP/E2001/W/24/3344950**

**Former Humber Growers site, Common Lane, Welton**

- 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 Robert Sayer, Catherine Sayer, John Calvert and the Trustees of Poolbank Land against the decision of East Riding of Yorkshire Council.
  - The application Ref is 22/03465/STOUT.
  - The development proposed is described as "outline - erection of up to 120 dwellings with landscaping, access and associated works following demolition and clearance of existing structures and ground remodelling (access to be considered)".
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The description of development in the banner heading above differs from that contained within the planning application form. However, the amended description was suggested by the Council at the validation stage, and I am not aware of any objection raised to it by the appellant. Consequently, I have used the amended description of development.
3. Outline planning permission is sought with all matters reserved for subsequent approval except "access" which is considered at this stage. A drawing has been submitted that includes details of layout and landscaping, matters that are reserved for future consideration. I have therefore treated this drawing as illustrative in this regard and determined the appeal on this basis.
4. Since the appeal was submitted, I have received a completed and signed legal agreement for not less than 25% of the total number of dwellings to be built on the appeal site to be affordable housing. I have therefore taken this into consideration when determining the appeal.

### Main Issues

5. 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 the character and appearance of the surrounding area.

## Reasons

### *Suitable Location?*

6. The appeal site is mainly adjacent to, but outside the development limits of, Elloughton-cum-Brough, a town defined by Policy S5 of the East Riding Local Plan 2012-2029 Strategy Document, adopted 2016 ("LP"). It is therefore, within the countryside.
7. Policy S4 of the LP restricts development in the countryside to a closed list of exceptions. The proposal is for 75% open market housing and 25% affordable housing. Consequently, the proposal would not comply with any of the exceptions detailed within Part C of LP Policy S4.
8. The appeal site was last in use for horticultural purposes. The National Planning Policy Framework ("the Framework") defines previously developed land and specifically excludes, amongst other things, land that is or was last occupied by agricultural or forestry buildings<sup>1</sup>. Section 336 of the Town and Country Planning Act 1990 defines "agriculture" as including horticulture. The appeal site is therefore not previously developed land. Consequently, it would also fail to comply with Part A (2) of LP Policy S4.
9. In reference to the first main issue, the appeal site is not in a suitable location for the proposal. It would conflict with Policies S1, S3, S4 and S5 of the LP, which set out the spatial strategy for the area.

### *Character and Appearance*

10. The appeal site contains greenhouses, associated structures, and areas of hardstanding. Contrary to the appellant's assertions, at the time of my site visit, the greenhouses were in good condition and did not detract from the character and appearance of the surrounding area. To the north of the greenhouses was an area that had formerly been used to grow plants and was open in its character and appearance. The land to the south of the greenhouses comprised part of a larger field and a smaller parcel of overgrown land, both of which had an open character and appearance.
11. The northernmost limit of the site was being used as a compound for an adjacent housing development that was under construction. However, there is nothing before me to suggest that this land would not return to its former horticultural use on completion of the development.
12. The proposal seeks to construct up to 120 dwellings which would include associated internal access roads, parking areas, and gardens containing domestic paraphernalia. The appeal site is located to the rear of a ribbon of dwellings that front onto Common Lane and form part of the settlement of Elloughton-cum-Brough. These dwellings form the rural edge to the settlement.
13. I accept that parts of the appeal site currently contain greenhouses, structures, and areas of hardstanding. However, the buildings/structures are limited in height and have an agricultural appearance that is not uncommon with the countryside. In contrast, the proposal would have an urbanising effect with a suburban character and appearance and would encroach into the countryside.

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<sup>1</sup> Annex 2: Glossary of the National Planning Policy Framework

14. Glimpses of the proposal would be seen from Common Lane in gaps between dwellings and through the existing accesses that are to be retained. It would be highly visible from adjacent dwellings, from Lowfield Lane to the east, and from a track that connects Common Lane with Lowfield Lane that bounds the appeal site to the south. The appellant asserts that the proposal would be viewed from the south and east against the backdrop of existing dwellings. However, the proposal's encroachment into the countryside would be evident from these views and it would erode the rural setting of this part of Common Lane.
15. I acknowledge the partially completed housing development to the north of the appeal site deviates from the character and appearance of the ribbon of development along Common Lane as it extends further eastwards. I also acknowledge the illustrative drawing shows the proposal could form an extension to this housing development, with connecting estate roads. However, the information before me suggests the land to the north previously contained offices, packing/distribution warehouses, greenhouses and associated car parking and the Council considered the redevelopment of the site would have a negligible/no impact on landscape due to the existing buildings<sup>2</sup>. Consequently, it is not directly comparable to the appeal proposal.
16. The proposal would extend a similar distance to the east as the adjacent housing development. However, I do not agree that the proposal would "round off the settlement" as the land to the south of the appeal site comprises open fields devoid of development.
17. In reference to the second main issue, the proposal would have a harmful effect on the character and appearance of the surrounding area. It would conflict with Policies ENV1 and S4 of the LP which, amongst other things, seek to ensure that proposals respect the intrinsic character of their surroundings, and have regard to the specific characteristics of the site's wider context and the character of the surrounding area.

### **Other Matters**

18. The proposal would contribute to the Government's aim of significantly boosting the supply of homes, and I recognise that small and medium sized sites can make an important contribution to meeting the housing requirements of an area and are often built out quickly. The proposal could also deliver a mix of dwellings to meet local needs.
19. However, the Council has a housing land supply of deliverable sites that significantly exceeds five years (it stands at 9.3 years as of April 2023). While I accept the Government's 5-year housing land supply does not impose a cap on housing delivery, the Council assert that the distribution of 1000 dwellings for Elloughton-cum-Brough between 2013-2029<sup>3</sup> can be delivered without a requirement for additional unallocated sites. Furthermore, the Council has scored 184% in the latest Housing Delivery Test results. Accordingly, although the proposal would provide up to 120 dwellings, this is tempered somewhat by the current supply of deliverable housing sites. I therefore afford the proposal moderate weight in this regard.
20. There would be short-term economic benefits from the construction of the proposed dwellings, however, these would be limited due to their duration.

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<sup>2</sup> Planning Ref 13/02582/STOUT Officer Report

<sup>3</sup> Policy S5 of the East Riding Local Plan 2012-2029 Strategy Document, adopted 2016

Long-term economic benefits would be generated from future occupiers supporting local services, facilities, and public transport, and through the management and maintenance of the site following construction. The proposal would be for up to 120 dwellings that would generate a meaningful number of households. Therefore, I afford this moderate weight.

21. It is proposed that 25% of the total dwellings would be affordable, equating to up to 30 dwellings. Furthermore, I have been provided with a complete and signed legal agreement to secure the affordable housing. The Council has not been fulfilling its requirement to deliver 335 new affordable homes per annum. While I do not dispute the Council's assertion that there has been a sharp increase in the delivery of affordable housing in the last 3 years or that it is likely to continue, it does not account for the lack of affordable housing delivery across the plan period. Consequently, I afford this benefit substantial weight.
22. The appeal site abuts the development limits of the town of Elloughton-cum-Brough. Consequently, future occupiers would not be heavily reliant on the private car as the proposal would be within walking and cycling distance of a wide range of services, facilities, and public transport links. However, the appeal site was put forward during a call for sites in the emerging Local Plan and was rejected for more suitable sites to meet the housing requirements of the area. Although the emerging Local Plan is at an early stage in its production and therefore limited weight can be attributed to it, it demonstrates there are other available housing sites in the immediate vicinity that are also in proximity of the services, facilities, and public transport links in Elloughton-cum-Brough. I therefore afford this moderate weight.
23. On 30 July 2024, the Government published a Written Ministerial Statement ("WMS") titled "Building the homes we need" and a draft Framework. The appellant asserts that under the new standard method for calculating housing need, the Council would not be able to demonstrate a 5-year housing land supply of deliverable sites. While a figure of 3.74 years has been provided, this has not been substantiated with evidence. The WMS states that the definition of brownfield land should be expanded to include hardstanding and glasshouses. However, the definition of previously developed land within Annex 2 of the draft Framework does not propose this amendment.
24. While both documents set out the Government's likely policy direction of travel, the draft Framework has been subject to consultation. Therefore, it is unknown at this stage of its preparation whether these matters will be included within the final version. Consequently, I afford them limited weight.
25. I acknowledge there would be operational and sustainability benefits for the business in consolidating on one site. However, planning permission has already been granted to substantially expand the main site. Furthermore, the appeal site was empty at the time of my site visit which suggests the business has already consolidated its operations. Consequently, I am not convinced that the appeal proposal is required for these benefits to be realised.
26. The appellant has raised concern regarding consistency in the Council's decision making and has directed me to the planning history of the land to the north of the appeal site that was outside the development limits of Elloughton-cum-Brough and was approved for housing. I have previously detailed the material differences between the appeal site and the land to the north that led

- to the 2013 approval<sup>4</sup>. Furthermore, a material planning consideration in the subsequent planning approvals<sup>5</sup> was an extant planning permission and the planning history of the site. Consequently, they are not directly relevant to the appeal proposal. Even if the Council had been inconsistent in its decision making, it has not prevented me from coming to a decision on this appeal.
27. At the time of my site visit, the greenhouses were in a good condition. While there was some growth of vegetation on parts of the appeal site, it did not overly detract from the surrounding area and could easily be maintained. The appellant asserts that the appeal site could become an eyesore over time. However, I have limited evidence before me to indicate there is no demand to utilise the site for horticultural purposes or another use that would be compliant with the development plan.
28. I have been directed to an appeal decision on land outside, but adjoining, the settlement of Brandesburton as the appellant considers it is directly relevant to the appeal proposal. However, it was for a mix of commercial and residential properties, whereby the employment element of the scheme complied with the development plan with reference to the spatial strategy. The site contained two dwellings, a pig-farming unit, a variety of employment uses, a skip-hire business and a caravan storage compound. Therefore, it was not wholly in agricultural use. The site was said to be unkempt and run-down, the buildings were old and dilapidated, and the odour from the pig farm was problematic. As such, it is not directly comparable to the appeal proposal.
29. The appellant asserts that the appeal site has a "brownfield character". I appreciate that it includes greenhouses, areas of hardstanding and other structures associated with its horticultural use. However, as detailed previously, the site does not meet the definition of previously developed land and the site has an agricultural appearance that is not uncommon in the countryside.
30. The proposal would result in the cessation of the existing horticultural use, which the appellant asserts would reduce traffic movements and eliminate odour. However, limited information has been provided to support these assertions. Furthermore, a local resident disputes these matters stating the former use generated infrequent vehicle movements and while there had been an odour issue previously, it had been resolved. Consequently, I afford these benefits limited weight.
31. I accept the proposal would not affect matters such as transport, access, highways, flood risk, drainage, living conditions, trees, ecology, or heritage and, other than the Parish Council, no objection was received from statutory consultees. However, these matters do not carry weight in the consideration of the appeal.

### **Planning Balance and Conclusion**

32. Paragraph 47 of the Framework requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.

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<sup>4</sup> Planning Ref 13/02582/STOUT

<sup>5</sup> Planning Refs 16/02457/STPLF and 18/04165/STOUT

33. I have found that the proposal would be contrary to the development plan's spatial strategy for the location of new housing, and it would harm the character and appearance of the surrounding area. I attach significant weight to the proposal's conflict with these matters.
34. I have attached substantial weight to the proposal's contribution to affordable housing provision and moderate weight to the proposal's contribution to housing supply, economic benefits, and the appeal site's location close to services, facilities and public transport links. While other matters raise limited weight or do not carry any weight in the consideration of the appeal.
35. Accordingly, these material considerations do not outweigh the significant harm to the proposal's conflict with the spatial strategy and the proposal's harmful effect on the character and appearance of the surrounding area. As such, the proposal should be determined in accordance with the development plan.
36. 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