



Appeal Decisions

Hearing held on 15 December 2020

Site visit made on 16 December 2020

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2021

Appeal A: APP/N2535/W/20/3244904 33 West Bank, Saxilby, Lincoln LN1 2LU

- 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 Robert Sykes against the decision of West Lindsey District Council.
 - The application Ref: 139500, dated 24 May 2019, was refused by notice dated 16 July 2019.
 - The development proposed is demolition of outbuilding, construction of one dwelling and associated garage/tack room/stable, construction of a new access to highway for approved replacement dwelling and formation of a footway.
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Appeal B: APP/N2535/W/20/3252319 Land between 27 and 33 West Bank, Saxilby, Lincoln LN1 2LU

- 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 Robert Sykes against the decision of West Lindsey District Council.
 - The application Ref: 140179, dated 16 October 2019, was refused by notice dated 7 January 2020.
 - The development proposed is erection of two dwellings and associated garage/tack room/stables, new accesses to highway and formation of a footway.
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Decisions

1. The appeals are dismissed.

Application for costs

2. An application for costs was made by Mr Robert Sykes against West Lindsey District Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are:
 - a) whether the proposed development would be in an appropriate location with respect to matters of flood risk;
 - b) whether the proposed development would be acceptable with reference to the spatial strategy for housing in the development plan; and

- c) the effect of the proposed development on the character and appearance of the area.

Reasons

Flood risk

4. Sites A and B adjoin each other. They are located close to the north bank of the Fossdyke Navigation Canal, which connects to the River Trent. The sites are unallocated in the development plan.
5. Policy LP14 of the Central Lincolnshire Local Plan (2017) (LP) requires development proposals to be considered against the National Planning Policy Framework (the Framework), including application of the sequential and, if necessary, the exception test. Policy LP14 of the LP also requires development, among other things, to be safe during its lifetime. The Framework aims to steer new development to areas with the lowest risk of flooding. Planning Practice Guidance (PPG) sets out that the aim should be to keep development out of medium and high flood risk areas (Flood Zones 2 and 3).
6. Correspondence between the Environment Agency (EA) and the appellant indicates that the sites do not have a previous record of flooding, including during the 1947 floods. Nevertheless, the sites are within an area located towards and beyond the south-western edge of the core part of Saxilby, which is categorised by the EA as within Flood Zone 2¹. Notwithstanding the apparent lack of past flooding, this categorisation and the EA's correspondence together indicate that, informed by assessment of future risk should the river system's flood defences fail, the sites have a medium probability of flooding.
7. As the sites fall within Flood Zone 2, the Framework requires assessment of whether, taking into account wider sustainable development objectives, reasonably available alternative sites appropriate for the proposed development exist in lower risk Flood Zone 1 (the sequential test).
8. The extent of the area across which the sequential test should be applied in the appeal cases is a matter of dispute between the main parties. The Council considers this area should be West Lindsey district. In the appellant's view it should be the appeal sites.
9. The appellant considers that the appeal sites would help meet a need for equestrian stabling towards the edge of Saxilby, such that it would be justifiable to contain the flood risk sequential test catchment area to the sites. However, the reported lack of such facilities does not amount to a substantive contemporary need and supply assessment of equestrian facilities in the district. Even if there were such a need, it is not decisively shown that it could only be satisfied in combination with four bedroom detached houses of the type proposed.
10. Neither LP Policy LP2 or Housing Mix Policy 1 of the Saxilby with Ingleby Neighbourhood Development Plan (2017) (NP) identifies a specific need within Saxilby for large detached houses with stables. By contrast, supporting text paragraphs 24 and 25 of the NP together indicate a need to diversify the housing supply in the parish, which is relatively dominated by a substantially above average proportion of detached houses. Furthermore, Policy 1 and

¹ As per the UK government's Flood map for planning.

- paragraphs 24 and 25 of the NP together indicate a need for smaller housing for older residents, first time buyers and those requiring adaptable and wheelchair-accessible dwellings in the village, to help residents remain in their communities at different stages of their lives. The above factors together point to a particular need for dwellings of a more compact type than those proposed.
11. Furthermore, a substantial proportion of West Lindsey district is within Flood Zone 1.
 12. Taking the above together, there is not a locationally-specific functional or regeneration requirement, to meet wider sustainable development objectives, to justify limiting the sequential test search area to the appeal sites or Saxilby village. West Lindsey district would be an appropriate and suitably pragmatic definition of the area across which to apply the sequential test for the proposed dwellings.
 13. The sequential test has been too narrowly applied by the appellant and therefore I cannot be sure that there are not alternative sites elsewhere in the district within Flood Zone 1 where the proposed development could be sited. In the circumstances, the exceptions test is not relevant.
 14. Therefore, the proposals do not pass the sequential test and would fail to achieve the Framework's aim of steering new development to areas with the lowest risk of flooding. In the circumstances, the exceptions test is not relevant.
 15. The Flood Risk Assessment (FRA) of the appeal sites by the appellant's flood risk consultant considers that the level of risk and safeguards available are appropriate to the proposed class of development. Also, the EA has not objected to the proposals, subject to the location of bedroom accommodation on the first floor and raising of the ground floor level of the proposed dwellings. These measures would moderate the risk and magnitude of on-site property damage or injury to occupants should the sites flood. However, these measures would not eliminate the risk of the sites flooding and associated harm to property, person and, potentially, livestock. Also, the EA's consultation responses do not express a view on the sequential test for the proposals. The sequential test comes first and must be passed before consideration is given to on site flood mitigation.
 16. My attention is drawn to other sites on West Bank on which planning permission for residential development was granted between 2015 and 2017. In one case in 2016 this was on the premise that there was not a 'high level' of suitable alternative plots for a dwelling within Flood Zone 1. However, substantive detail of the local housing land supply position in 2016 is not before me. Furthermore, several of the previous West Bank decisions predate the NP and the type of local housing need portrayed within it. Also, in some cases a Council sequential test rationale is not presented. Moreover, some schemes differ from the current appeal proposals in that they were for an extension, or a replacement dwelling and change of use to an existing dwelling.
 17. Other cases involving the grant of planning permission or prior approval between 2013 and 2019 on other sites outside Flood Zone 1, in and around Saxilby, as cited by the appellant, also differ from the current appeal cases in various ways. Either site-specific rejuvenation, environmental enhancement or regeneration was more substantial, a Council sequential test rationale is not

presented, the site had outline planning permission or a combination of some of the above. An appeal decision in Cheshire differs from the current appeal sites in that the Inspector found the sequential test to have been satisfactorily met.

18. The above factors and differences limit the extent to which the other cases are analogous to the current appeal cases, in respect of the sequential test requirement. Moreover, the full details of the other cases are not before me and the current cases have their own circumstances. As such, I assess the appeal proposals on their own merits.
19. In conclusion, the appeal site is not an appropriate location for the proposed development because the sequential test has not been passed and the proposals would fail to steer new development to areas with the lowest risk of flooding. As such the proposals would conflict with Policy 14 of the LP and the Framework. Furthermore, the proposals would undermine the rigour of this combination of policies, in respect of the sequential test, with consequent risk to the wider control of development in higher flood risk zones.

Spatial strategy

20. Saxilby is categorised as a Large Village in Spatial Strategy and Settlement Hierarchy Policy LP2 of the LP. In respect of Large Villages, Policy LP2 seeks to focus most growth within the existing developed footprint, including 'appropriate infill'. Policy LP2 also seeks to create balanced, sustainable and inclusive communities through providing a mix of housing types to meet identified needs, and enabling a larger number of people to access jobs, services and facilities locally.
21. A wedge of development extends from the railway line to the south-western corner of No 33 West Bank, north of the A57 Gainsborough Road. West Bank road and the adjacent canal form the 'spine' of the wedge. The appeal sites are located along the northern edge of the wedge, fronting onto West Bank. The appeal sites are partly overgrown. A single-storey outbuilding straddles the boundary of site A and the rest of No 33's grounds.
22. There is noticeable development in the locality of the appeal sites. A 30mph zone terminates at the western boundary of No 33 West Bank. While the pattern of development is more dispersed towards the apex of the development wedge, the latter has an increasingly suburbanised feel given development under construction on both sides of the canal. Furthermore, the appeal sites read 'on the ground' as land bookended by a row of detached dwellings and a dwelling at No 33, from various viewpoints along West Bank.
23. The above combination of factors gives the appeal sites the appearance of a large infill plot located within the suburban wedge of development. Consequently, the proposals would be infill development within the existing developed footprint of Saxilby.
24. Although the proposals would be infill development they would not satisfy Policy LP2's appropriateness criteria and would be contrary to Policy LP2 as a whole given my findings under the first main issue.

25. The proposed three large detached houses with stables would be in an area where, the NP² indicates, more compact types of housing would diversify local housing stock. Within this context, the proposal would not demonstrably meet identified local need in terms of housing type. In this respect the proposals would not support the aims of the spatial strategy to create balanced and inclusive communities.
26. The sites are a short walk from facilities in the centre of Saxilby, including the railway station. The station provides public transport accessibility to Lincoln and other settlements, and jobs and facilities in those places. As such, the proposals would contribute to housing supply in a location that is relatively accessible to employment, services and facilities. In these ways the proposals would contribute to sustaining the community, on a modest scale.
27. However, the proposed development would fail to demonstrably meet identified local need for particular types of housing. It would also not be appropriately located with respect to flood risk policy. As such, it would not accord with Policy LP2 of the LP. Furthermore, the proposals would undermine the rigour of Policy LP2 of the LP, with consequent risk to the wider achievement of balanced, sustainable and inclusive communities. Therefore, the proposed development would not be acceptable with reference to the spatial strategy of the area.
28. As the proposals would not be in the countryside, Policy LP55 of the LP is not relevant.

Character and appearance

29. Proposals A and B would front onto West Bank and reduce the verdancy and spaciousness of the sites. As such the proposals would be ribbon development with a localised urbanising impact. However, as identified above, the sites would read 'on the ground' as an infill plot which is located within a suburban wedge of development and thus within the village's existing developed footprint. The character and primacy of the village's nucleus would not be diminished. Furthermore, the proposed set-back of dwellings from the street, the relatively spacious layout and retention of most of the sites' front hedging and site B's western side hedge would, together, help assimilate the proposed development within the suburban development wedge. Moreover, established hedging on the appeal sites and within the wider landscape to the west and north would visually soften and screen views of the proposed development from surrounding countryside.
30. The above combination of factors would result in the proposals retaining the settlement's core shape and form. Furthermore, the proposals would not harm the character of the settlement, its rural setting or the surrounding countryside.
31. In conclusion, the proposed development would not harm the character and appearance of the area. As such, it would not conflict with Policy LP26 of the LP as a whole, which seeks to ensure that development complements local character.

² Policy 1, together with paragraphs 24 and 25.

Planning Balance and Conclusion

32. The adequacy of supply of deliverable housing sites is a matter of dispute between the main parties, centring on deliverability. Major allocated sites with outline planning permission make up between around a quarter and a third of Central Lincolnshire's five year land supply. Given the outline status of these planning permissions, it is questionable whether timely delivery of this category of sites can be relied upon in its entirety. Nevertheless, for this category of sites, there is some evidence of progress towards reserved matters and in terms of developers' delivery intentions, anticipated start dates and build-out rates. The longer term effect of Covid-19 is yet to be manifested and so does not significantly influence the housing land supply assessment.
33. Even if I were to accept the appellant's proposition that the Council are currently unable to demonstrate a five year housing land supply and the shortage is at the level indicated, the tilted balance in 11d) would not be relevant because policies in the Framework relating to flood risk indicate the proposal should be refused.
34. The absence of harm to the area's character and appearance is a neutral factor which does not weigh in favour of the proposed development.
35. The proposals would together provide three new four bedroom dwellings. Even if I were to accept the appellant's argument on the Council's five year housing land supply position, this would still only be a moderate benefit to the district's housing supply, with associated socio-economic benefit to the community during and after construction, due to the small number of homes proposed.
36. Benefits in the form of self-build dwelling supply and health through horse riding by future occupants would be limited by the absence of mechanisms to guarantee these things. The benefit to pedestrians of a stretch of footway along the sites' frontage would be limited by its length and West Bank's apparently lightly trafficked character.
37. Overall, the public benefits would be limited by the scale of the proposed developments and would not outweigh the identified harm and conflict with the development plan and the Framework.
38. Accordingly, for the reasons given, appeals A and B fail.

William Cooper

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Peter Emery

Emery Planning

FOR THE LOCAL PLANNING AUTHORITY:

Martin Evans

West Lindsey District Council

INTERESTED PARTIES:

Raymond Scott

Resident