The Planning Inspectorate

Appeal Decision

Site visit made on 28 March 2017

by Helen Heward BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18th April 2017

Appeal Ref: APP/A2525/W/16/3165749
Land off Gedney Road, Long Sutton, Spalding Lincolnshire

- 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 Mr R Williamson against the decision of South Holland District Council.
- The application Ref H06-0669-16, dated 6 July 2016, was refused by notice dated 2 September 2016.
- The development proposed is a residential development of 86 No dwellings.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is in outline with all matters except access reserved for consideration at a later stage.

Main Issues

3. The main issues in this case are whether or not the proposal complies with guidance for development in areas of flood risk, and the effect of the proposal upon the character and appearance of the locality.

Reasons

4. The Council accepts it does not have a 5 year supply of deliverable housing sites and that, taking into account a 20% buffer for persistent under delivery, it can only demonstrate a 3.1 year supply. The appellant argues the supply is only 2.9 years as of March 2016. There is little difference and the parties agree there is a significant and persistent under supply of housing.

5. The National Planning Policy Framework (Framework) seeks to significantly boost the supply of housing and advises that applications should be considered in the context of the presumption in favour of sustainable development. Having regard to advice at paragraph 49 the Council accepts that the Local Plan Policies relevant to the supply of housing are to be considered out of date. Given the scale of the shortfall I agree.

6. Paragraph 14 explains that the presumption in favour of sustainable development running through the Framework means that where relevant policies of the development plan are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework

taken as a whole, or where specific policies in the Framework indicate that development should be restricted. Examples of specific policies in Footnote 9 include locations at risk of flooding.

Flood Risk

7. The Planning Practice Guidance (PPG) advises that the Framework sets strict tests to protect people and property from river and sea flooding and, where these tests are not met, new development should not be allowed. Paragraph 100 of the Framework advises that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Paragraph 101 adds that the aim of the Sequential Test is to steer development to land with the lowest probability of flooding and that the Strategic Flood Risk Assessment (SFRA) will provide the basis for applying the Sequential Test.

8. The appeal site and most of Long Sutton is within Environment Agency (EA) Flood Zone 3a – assessed as land at a high risk of flooding having a 1 in 100 or greater annual probability of river flooding, or a 1 in 200 or greater annual probability of flooding from the sea in any year.

9. The appellant's Flood Risk Assessment (FRA) argues that the site satisfies the Sequential Test because the site is protected against the 1 in 200 year return period tidal event and the 1 in 100 year return period fluvial event and is shown to fall within Flood Zone 1 on the Council's SFRA Hazard Maps for 2115 and no other land can be considered sequentially preferable. Although the EA did not object it is for the Council to consider the extent to which the Sequential Test is satisfied.

10. The modelling parameters used for the SFRA only included breaches of primary defences along the coastline. The results of amalgamated modelling of primary and secondary defences are shown in EA Flood Hazard and Depth Mapping, November 2011, 200 year event for 2115. This shows the appeal site and most of Long Sutton to be within Flood Zone 3a, classified as 'danger for most'. Additionally, because large areas of Long Sutton have the same probability of flooding the Council and EA agreed that more refined information about the consequences of flooding should be used to identify sequentially preferable sites in terms of flood risk.

11. Therefore the Council submits that the EA Flood Hazard and Depth Mapping, November 2011, 200 year event for 2115 data should have been used in the appellant's FRA Sequential Test Assessment. Although not part of the SFRA the Council advise that the EA mapping is consistent with draft outputs for an updated SFRA. The appellant understands the rationale of the Council's approach for the Local Plan process but argues that it is not detailed or advocated in the PPG or Framework and should not be used for this proposal.

12. "Flood risk" is a combination of the probability and the potential consequences of flooding from all sources[1]. The PPG directs the reader to Department for Environment, Food & Rural Affairs and Environment Agency for more advice on SFRA's. This includes that where a level 2 SFRA is required, such as where land outside of flood risk areas cannot appropriately accommodate all the necessary development (as the appellant accepts is the case here[2]) it should

[1]Planning Practice Guidance Paragraph: 002 Reference ID: 7-002-20140306
[2] Paragraph 5.2.7 Statement of Case

include consideration of the detailed nature of the flood characteristics within a flood zone including flood depth… and … that this assessment should form part of the evidence to inform planning decisions[3].

13. The Council's approach in this situation does not follow a prescribed methodology in the Framework or PPG but that is not to say it is unreasonable. I also find the Council's approach to be consistent with seeking to ensure that inappropriate development in areas at risk of flooding should be avoided.

14. The South East Lincolnshire Local Plan Site Allocations Flood Risk Sequential Test Interim Report, July 2016 uses the EA Flood Hazard and Depth Mapping, November 2011, 200 year event for 2115. Appendix 3 indicates that approximately 94% of the appeal site would have a flood depth of 1-2m, which is greater than that for four preferred sites.

15. The Council inform me that the results have been agreed with the EA and that the preferred sites are all identified in the South East Lincolnshire Strategic Housing Land Availability Assessment July 2016 as developable in the next five years of the plan period. There is scant evidence to say otherwise or to say that general flood mitigation measures could not be achieved. In any event Appendix 3 indicates several other sequentially preferable sites to the appeal site in the Long Sutton area. Therefore in the Long Sutton Area it may not be possible for development to be located in zones with a lower probability of flooding to the appeal site, but development could be located in areas where the consequences would be less severe.

16. I conclude that it has not been demonstrated that the proposal would steer development to land with the lowest flood risk taking into account both the probability and the potential consequences of flooding. The proposal therefore fails to comply with advice at paragraphs 100 and 101 of the Framework that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk and I attach considerable weight to this failing.

17. Having regard to advice on the PPG and at paragraph 102 of the Framework, I do not consider it necessary or appropriate to consider the Exception Test in these circumstances.

18. In light of the conflict with specific policies of the Framework for locations at risk of flooding, the proposal does not amount to sustainable development and paragraph 14 of the Framework is not engaged.

Character and Appearance

19. Saved Policy SG14 of the South Holland Local Plan 2006 (Local Plan) requires, amongst other things, that new development should be designed to ensure it makes a positive contribution to the architectural and visual quality of the surroundings, and requires that the design and layout of new development takes account of local distinctiveness, the historic pattern of development in the locality, the relationship of the development to the character form and scale of existing buildings nearby and the scale form and height of the proposed development. It states that development that would have an adverse effect on the character and appearance of the locality will not be permitted.

[3] https://www.gov.uk/guidance/local-planning-authorities-strategic-flood-risk-assessment accessed 5 April 2017

20. The site is located within a relatively flat open landscape and in some views the site is visible from some distance. Surrounding development is of a modest scale and includes a number of single storey dwellings and buildings set relatively low in the landscape.

21. The site is not subject of any landscape or conservation designations. There is nothing to say the quality of the design and construction would not be high. However, one of the EA's proposed planning conditions to make development on the appeal site safe from flooding would require that the dwellings be two storey and have finished ground floor levels of 3.80mAOD (1.5m above existing ground levels). Therefore I am not persuaded by the appellant's suggestion of providing a mix of single storey bungalows set closest to existing residential property, and one and half and two storey dwellings further into the site.

22. It is without doubt that tall dwellings would be a consequence of the EA's requirements. They would be noticeably taller than most existing dwellings in the locality and the design and construction of the lower sections, to create the elevated floor levels, would result in buildings of a markedly different character and appearance. Provision of 86 dwellings constructed to these requirements would cumulatively result in a significant mass of built form. The illustrative site layout plan suggests that space for structural landscaping to mitigate effects would be limited and there is scant other evidence to say how potential impacts could be compensated or mitigated.

23. Although the application is in outline, with all matters except access reserved, I am not persuaded that in these circumstances there is sufficient evidence to demonstrate that 86 dwellings constructed to satisfy the EA's requirements would sit comfortably within the existing built and natural environment.

24. I conclude that there is insufficient information to demonstrate that the proposal would not result in significant harm to the character and appearance of the surrounding landscape. As such I find that the proposal fails to satisfy the requirement of Local Plan Policy SG14 to ensure development makes a positive contribution to the architectural and visual quality of the surroundings. This is not a policy for the supply of housing and is consistent with advice in Section 7 of the Framework for requiring good design and I attach substantial weight to this harm.

Other Matters

25. The site is outside of the settlement boundary for Long Sutton in the Local Plan, in an area defined as open countryside where Local Plan Policy HS7 provides that new housing will only be permitted for certain essential needs or where it is for a small scale rural exception affordable housing scheme. The proposal does not satisfy either requirement and is therefore contrary to this Policy. However Policy HS7 has the effect of constraining housing supply, therefore, the weight I attach to this conflict, in this case, is very limited.

26. The proposal would deliver 86 new homes on the edge of Long Sutton which is defined as an Area Centre in the Local Plan. The development would bring a range of economic benefits from construction to the contributions of the future occupants to the local economy such as support to local shops and services. There would be social benefits from the support the additional households would give to helping maintain a strong and vibrant community. I attach significant weight to the delivery of housing that would be enabled and the

social and economic benefits to Long Sutton as an Area Centre, and to the District as a whole.

27. There would be provision of affordable housing and contributions to education, landscaping and green infrastructure but these are not benefits, rather they are neutral in effect.

28. I am informed that only 97 houses were completed within the settlement boundary between April 2011 and July 2016, 160 permissions remain extant and there is a residual requirement of 303 dwellings. However it is not for the S78 appeal process to try to resolve the issues of the emerging South East Lincolnshire Local Plan (Draft for Public Consultation, January 2016).

Conclusions

29. The Proposal would be contrary to Local Plan Policy HS7. Nevertheless because of the housing land supply position this Policy should be regarded as out of date and I attribute limited weight to this harm.

30. The proposal fails to satisfy the requirement of Local Plan Policy SG14 to ensure development makes a positive contribution to the architectural and visual quality of the surroundings. As this is not a policy for the supply of housing and is consistent with advice in the Framework I attach considerable weight to this failure to comply with a requirement of the Development Plan.

31. The evidence does not demonstrate that the proposal would steer development to land with the lowest flood risk taking into account both the probability and the potential consequences of flooding, and fails to comply with advice at paragraphs 100 and 101 of the Framework that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. I attach significant weight to this failing.

32. In light of the conflict with specific policies of the Framework for locations at risk of flooding, the proposal does not amount to sustainable development and paragraph 14 of the Framework is not engaged.

33. Set against these harms are the significant contribution that the proposal would make to the under supply of housing and the social and economic benefits that the development would bring. I therefore attach substantial weight in favour to the delivery of 86 homes, including affordable housing.

34. Overall I conclude that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Accordingly and having taken all other matters raised into consideration, the appeal is dismissed.

Helen Heward

PLANNING INSPECTOR