The Planning Inspectorate

Appeal Decision

Site visit made on 22 May 2017

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

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

Decision date: 26th May 2017

Appeal Ref: APP/A2525/W/17/3168531
Adjacent 434 Broadgate Road, Weston Hills, Spalding, PE12 6DB

- 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 Mrs D Atkin against the decision of South Holland District Council.
- The application Ref H22-0618-16, dated 31 May 2016, was refused by notice dated 9 August 2016.
- The development proposed is residential development.
- The application is in outline with all matters reserved.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the whether the site is a suitable location for residential development having regard to (a) the accessibility of services and facilities and (b) flood risk.

Reasons

Location of Development

3. Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. However, it is agreed that the policies within the LP relating to housing are considered to be out of date. Therefore paragraph 14 of the National Planning Policy Framework (the Framework) applies. This requires permission to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole or specific policies in the Framework indicate development should be restricted.

4. To promote sustainable development in rural areas, paragraph 55 of the Framework is clear that new housing should be located where it will enhance or maintain the vitality of rural communities, and isolated new homes in the countryside should be avoided unless there are special circumstances. One of the core planning principles of the Framework is also to actively manage patterns of growth to make fullest possible use of public transport, walking and cycling (Paragraph 17). Consequently, new residential development should not be detached from being part of a viable and vibrant rural community, where there would be access to day to day facilities without the need to travel.

5. Saved Policy HS7 of the South Holland Local Plan 2006 (LP) relates to the provision of housing in the open countryside, restricting this to meet the needs for agricultural, forestry or other workers or to provide for small scale rural exception affordable housing. Accordingly, I consider that Policy HS7 is broadly consistent with the Framework and, as part of the adopted development plan, and carries some weight, in accordance with paragraph 215 of the Framework.

6. The appeal site forms part of an open area of garden land, associated with No 434 Broadgate. The wider area comprises of some ribbon development along Broadgate which is sporadic, with some farmsteads and rural dwellings. The proposals would comprise of infill development between Nos 434 and 440. I therefore accept that the addition of a further residential property in this location would not be isolated in this respect.

7. However, the appeal site is located some distance from Weston Hills, which is a small settlement with only limited services and facilities. Access to into Weston Hills would be via Broadgate which is a rural road which is unlit and has no footpaths running along its length. Thus, I consider that occupants would not readily walk or cycle between the appeal site and the village centre.

8. Spalding is located around 5km away. This is a large settlement with a wide variety of services relating to retail, leisure, education and employment. The appellant makes reference to the appeal site being located on a bus route and would be a 10 minute journey into Spalding.

9. Nonetheless, I have no information regarding the frequency of this service, nor where there is a bus stop. At my site visit I saw that there was no bus stop in any proximity to the appeal site. Consequently, I find that it would be highly likely that the private car would serve as the most regular and convenient means to reach services to meet the everyday needs of the residents. I also find that the use of the private car would be necessary to access to other public transport options, including Spalding Railway Station.

10. The Framework is clear that isolated new homes should be avoided and on the basis of the above, I consider that the appeal site would be isolated as it would be remote from basic services and facilities required for everyday living and would necessitate reliance on unsustainable transport.

11. Recently the courts have held that residential gardens which are not in 'built-up areas' are not excluded from the general definition of previously developed land.[1] However, the reuse of brownfield land does not constitute a special circumstance as set out in paragraph 55 of the Framework as an exception where such development would be considered acceptable. Indeed, on the basis of the information before me, the development would not meet with any of the special circumstances as set out in paragraph 55, or any of the criteria outlined in LP Policy HS7.

12. The appellant contends that the site is a comparable distance from the centre of Spalding to future development sites allocated for Spalding. However, no details are before me in relation to such sites nor has any information regarding accessibility been provided. In any case, I have determined the appeal on its own merits.

[1] Dartford BC v SSCLG [2017] EWCA Civ 141

13. Overall I conclude on this matter that the proposed residential development would not be in a suitable location and would be in clear conflict with the social and environmental objectives which underpin the Framework in respect of transport (paragraph 17) and accessibility (paragraph 55). The proposal would also conflict with saved LP Policy HS7 which seeks to restrict development in the open countryside.

Flood Risk

14. Relevant policies in respect of flood risk in the LP have not been saved and therefore the Framework applies. Paragraph 100 states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas of highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. A sequential, risk based approach is advocated.

15. Paragraph 101 states that development should not be permitted if the Sequential Test demonstrates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. Following application of the Sequential Test, if it is not possible for development to be located in areas with lower risk, the Exception Test can be applied (paragraph 102).

16. The appellant has submitted a Flood Risk Assessment (FRA) which identifies that the actual risk of flooding is very low and that part of the site is within Flood Zone 1 based upon the Council's Strategic Flood Risk Assessment Maps (2010). On this basis, it is submitted that the Sequential Test is met.

17. However, it is clear that the appeal site is an area at a high risk of flooding, located within Flood Zones 2 and 3, as defined by the Environment Agency (EA) mapping. It is therefore a requirement of the Framework that the Sequential Test should be applied. I therefore consider that the FRA is inadequate in this regard and without such information, and given the seriousness of the consequences of flooding identified above, it cannot be demonstrated that the development of the appeal site for housing would be acceptable, or in accordance with the Framework.

18. Furthermore, I also note the objections of the Environment Agency, which is given without prejudice to the conclusions made in relation to the Sequential Test. Notwithstanding my findings relating to the need for the Sequential test, were the Exceptions Test to be applicable, I agree that the FRA does not identify appropriate mitigation and as such it is not demonstrated that the development is appropriately flood resilient and resistant, in accordance with paragraph 103 of the Framework.

19. Measures to overcome this concern could, in practice, be conditioned and dealt with at a later stage. However as the development has failed to demonstrate that the Sequential Test is met and in light of the severe consequences of flooding, it would be wholly inappropriate to impose of a condition to update the FRA, as the Sequential Test is required in order to identify whether the principle of such development would be appropriate in this location.

20. I therefore conclude that, in the absence of any robust evidence in respect of flood risk and any assessment of whether the dwelling could not be located in an area with a lower risk of flooding, the proposal would not provide a suitable

site for housing. As a consequence, it would be contrary to paragraphs 100 and 101 of the Framework which seeks to direct development away from areas of highest flood risk.

Conclusion

21. In order to achieve sustainable development, the Framework identifies that economic, social and environmental gains must be sought jointly and simultaneously.

22. The dwelling could be appropriately designed to complement the local character of the area and I note the appellant's intention to ensure that this would be energy efficient, making use of sustainable technologies. The dwelling would contribute to housing supply in an area where there is a shortage. However, such environmental, social and economic benefits would be limited given that the proposal would be for a single dwelling.

23. However, I have found that the development would be in clear conflict with the social and environmental objectives which underpin the Framework in respect of rural housing and flood risk. I have also found conflict with the adopted development plan in respect of rural housing.

24. I consider that the harm arising from the location of development significantly and demonstrably outweighs the modest benefits of the development. Moreover, footnote 9 to Paragraph 14 makes clear that policies concerning flood risk are policies indicating that development should be restricted.

25. Given the conflict with those policies of the Framework identified above, the proposals cannot therefore be considered sustainable development for which the Framework presumes in favour.

26. For the reasons given above, taking into account all other matters raised, I therefore conclude that the appeal should be dismissed.

C Searson
INSPECTOR