
Appeal Decision

Site visit made on 27 June 2017

by Andrew McCormack BSc (Hons) MRTPI

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

Decision date: 7 August 2017

Appeal Ref: APP/A2525/W/17/3172839

Land off Highstock Lane, Gedney Hill, Spalding PE12 0QG

- 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 D Brown (Building Contractors) Ltd against the decision of South Holland District Council.
 - The application Ref H07-0729-16, dated 20 July 2016, was refused by notice dated 29 November 2016.
 - The development proposed is residential development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline, with all detailed matters reserved. I have dealt with the appeal on that basis, treating relevant plans as illustrative.
3. The Council does not currently have a five-year supply of deliverable housing sites. As such, relevant housing supply policies are considered to be out of date and the presumption in favour of sustainable development, as set out in Paragraph 14 of the National Planning Policy Framework (the Framework), must be considered. Accordingly, I have assessed the appeal in this context and on that basis.

Main Issues

4. The main issues are whether the proposed development would:
 - constitute sustainable development, with particular regard to its effect on the character and appearance of the open countryside; and
 - comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

Sustainable development: character and appearance

5. The appeal site is in agricultural use and located to the south of Highstock Lane. Residential development lies to the north and west of the site with properties running along and facing road frontages. There is a single dwelling to the east of the site which is adjacent to Highstock Drain. Notwithstanding its proximity to existing development, the site is outside the settlement development boundary, as defined in the South Holland Local Plan 2006 (SHLP) and is therefore considered to be in the open countryside. Policy HS7 of the SHLP states that new housing is

normally only granted in such locations if it is essential to meet the needs of rural workers or if it was for small scale rural exception affordable housing. I note that neither is applicable in this case. However, as the Council is unable to demonstrate a five year supply of housing land, Policy HS7 is considered to be out of date and therefore has reduced weight in the determination of this appeal.

6. Notwithstanding this, from what I have seen and read, the proposal would constitute a form of development that extends out into the open countryside. Although in outline, with all matters reserved, given the size, shape and extent of the appeal site and the illustrative plans submitted, I find that the proposed development would be incongruous with the prevailing ribbon development nearby and would be at odds with the existing historic pattern of development in its immediate vicinity. As a result, it would have a harmful effect upon the character and appearance of the rural location.
7. Consequently, I conclude that the proposed development would have a significantly adverse impact on the character and appearance of the surrounding area. Therefore, it would be contrary to Policy SG14 of the SHLP and the relevant guidance in the Framework, such as Paragraph 58. Amongst other matters, this policy and guidance seeks to ensure that development respects and responds to the character and appearance of its surroundings.

Flood risk

8. As the Council does not currently have a five-year supply of deliverable housing sites, relevant policies for the supply of housing should not be considered up to date. Furthermore, Paragraph 14 of the National Planning Policy Framework (the Framework) states that, in the absence of a five year supply, housing proposals should be considered in the context of a presumption in favour of sustainable development. Accordingly, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole.
9. With regard to flood risk, Paragraphs 101-103 of the Framework state that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. As such, development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.
10. Furthermore, I note that The South East Lincolnshire Local Plan 2011-2036 (SELLP) is currently in production. The Council has stated that the SELLP aims to provide a five year supply of deliverable housing sites, once adopted. However, at the time of this decision, the SELLP is not adopted. As a result, having regard to its stage of production, I have given it moderate weight in determining this appeal.
11. Notwithstanding this, the Council argues that as there are sequentially preferential sites available in Gedney Hill in terms of flood risk, the presumption in favour of sustainable development should not apply in this case.
12. The majority of the appeal site lies within Flood Zone 3a of the Environment Agency's Flood Maps. As a result, the site should only be considered for development where there are no reasonable alternative sites in areas of a lower flood risk available. I acknowledge that much of the local authority area falls within Flood Zones 2 and 3 and note the guidance provided by the Environment Agency (EA) that, as such, the Sequential Test for site selection should be applied by settlement area. Accordingly, this is the approach taken by the local planning authority in identifying suitable sites in Gedney Hill.

13. I note the EA has confirmed that, taking account of sustainability matters and the agreed approach set out in the Strategic Flood Risk Assessment (SFRA), the local planning authority has identified the most sequentially preferable sites in terms of flood risk predicted on site. I have had regard to Appendix D of the Council's appeal statement which sets out the assessed sites in Gedney Hill against flood risk, with regard to the preferred SELLP Site Allocations. Furthermore, I note that even where sequentially preferable sites became unavailable for development, several of the reasonable alternatives identified could still be considered for allocation in the emerging SELLP or development before the appeal site on flood risk grounds. I note that of the sites identified, the appeal site has one of the highest percentages of its area, 81.5%, within Flood Zone 3.
14. The Framework identifies that if, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in areas with a lower risk of flooding, the Exception Test can be applied, if appropriate.
15. I acknowledge that the appellant's Flood Risk Assessment states that the appeal site is within Flood Zone 1 according to the Framework classification. Notwithstanding this, having regard to the evidence before me, I find that the appeal site is not sequentially preferable in flood risk terms and that there are several other developable sites within Gedney Hill which could provide the development identified. Furthermore, the Framework and Planning Practice Guidance clearly indicate that the Exception Test should not be applied unless the Sequential Test is passed. Accordingly, as the appeal site has not passed the Sequential Test, the Exception Test does not apply in this case.
16. The appellant has directed me to an email, dated 28 July 2017, which was received from the SELLP planning team and refers to EA objections to preferred site allocations at Gedney Hill regarding drainage and sewage matters. Based on the email submitted, I note that whilst there appears to be insufficient mains capacity to accommodate the identified level of development in Gedney Hill, alternative solutions have been identified for investigation. Therefore, in my view, although the EA objections are of some significance, I find that the matters identified do not prevent the preferred sites from being developed and serve to raise awareness of the EAs concerns and undertake further investigation of identified options.
17. I note that the appeal site has access to the South Holland Internal Drainage Board main drain and could therefore be deliverable in the short term. Notwithstanding this, it remains a less preferential site in terms of flood risk to several other alternative sites identified by the Council. Moreover, I note that the site allocations process with regard to the SELLP is ongoing and at a well-advanced stage with an examination in public anticipated in a matter of weeks.
18. I have had regard to the appellant's points regarding the suitability and deliverability of other more preferable sites and given due weight to them in determining this appeal. However, I do not have full details of each of these sites before me. In any event, I must assess the proposal before me on its own merits and within its own circumstances. Therefore, having had due regard to recent matters raised by the appellant, I find that my overall assessment of the appeal proposal with regard to flood risk remains unchanged.
19. The issues surrounding flood risk on the appeal site could be addressed through suitably worded planning conditions. Notwithstanding this, given that there are other nearby sites identified as more preferable, reasonable alternatives in terms of flood risk, I find that development on the appeal site would be inappropriate and would not constitute sustainable development.

20. Consequently, I conclude that the proposed development would not comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding. Therefore, the proposal would be contrary to the relevant policy and guidance on flood risk set out within the Framework. Amongst other matters, the Framework states that development should not be permitted if there are reasonably available and appropriate alternate sites for the proposed development in areas with a lower probability of flooding.

Conclusion

21. I acknowledge that Gedney Hill is identified as a 'Minor Service Centre' within the SHLP with access to a range of services and facilities and development in this settlement would contribute to the Council's supply of housing. However, given the impact of the proposed development on the character and appearance of the locality and the demonstration that other, more preferable sites exist nearby in terms of flood risk, I conclude that the proposal would not be sustainable development and would not comply with national planning policy relating to new development in high flood risk areas. Furthermore, whilst the proposed development would make a contribution to the local economy in terms of construction jobs and assist in the supply of housing required to meet local needs, I find that these benefits would not outweigh the significant harm I have identified.
22. Therefore, for the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Andrew McCormack

INSPECTOR