The Planning Inspectorate

Appeal Decision

Site visit made on 29 January 2018

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 27th February 2018

Appeal Ref: APP/A2525/W/17/3185663
Land east of Greenacres, Northgate, West Pinchbeck, Spalding PE11 3TB

- 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 R Longstaff & Co against the decision of South Holland District Council.
- The application Ref H14-0650-17, dated 11 July 2017, was refused by notice dated 1 September 2017.
- The development proposed is described as outline residential development.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all matters reserved for consideration at a future date. The appellant states at Q9 of the planning application form that six dwellings would be provided, with the indicative block plan 102-05-LBP01 showing three pairs of semi-detached houses. However, given the description of development as set out above, which is taken from the application form, I have taken the indicative plan into account only insofar as it is relevant to my consideration of the principle of the development on the appeal site.

3. The Decision Notice contains a single reason for refusal relating essentially to the countryside location of the appeal site, the principles of sustainable development and the character and appearance of the countryside. The Council's Statement also refers to the reliance of future occupants on the use of public and private motor vehicles, which relates to accessibility. The submitted site specific Flood Risk Assessment (FRA) states that the appeal site lies partly within Flood Zones 2 and 3. The National Planning Policy Framework (the Framework) makes it clear that inappropriate development in areas at risk of flooding should be avoided. In relation to planning applications the Framework, together with the Planning Practice Guidance (the Guidance), requires that a FRA be carried out to the appropriate degree, together with the application of a risk-based Sequential Test. The Sequential Test was not addressed in the evidence of the parties, who were given the opportunity to provide further comment on this matter. I have taken the comments received into account in determining this appeal and address them further below.

4. The Council is currently preparing the Draft South East Lincolnshire Local Plan (the emerging Local Plan). This plan is still at an early stage and has not yet

been examined. Accordingly, its policies carry little weight in the context of this appeal.

Main Issues

5. In light of the above, the main issues in this case relate to:

    - whether the principle of residential development on this site is appropriate in terms of the settlement hierarchy for the District;
    - the effect of the proposed development on the character and appearance of the countryside;
    - the accessibility of services and facilities for future occupants; and
    - whether the development would be at risk from flooding

Reasons

Settlement Hierarchy

6. Planning applications and appeals should be determined in accordance with the development plan unless material considerations indicate otherwise[1]. The Framework is an important material consideration. One of the core planning principles of the Framework is that decision taking should be plan led. The development plan for the area includes the South Holland Local Plan which was adopted in 2006 (the LP).

7. In order to further sustainability objectives and in the interests of protecting the countryside, Policies SG1, SG2 and SG3 together set a development strategy for South Holland. They emphasise that new development is to be directed towards the towns and villages of the District. I am mindful that the emerging Local Plan also sets out a settlement hierarchy, directing new development towards the most sustainable locations.

8. In Policy SG3 of the LP Northgate, together with West Pinchbeck, is identified as an 'Other Rural Settlement' for the purposes of Policy SG2.This is the lowest of the four tiers of the settlement hierarchy. Under the adopted LP, these are described as settlements which do not have the services or ability to accommodate further growth. They do not have defined settlement limits.

9. Policy SG2 specifies a sequential approach giving priority to the use of previously developed land within defined settlement limits, then to greenfield land within defined settlement limits and finally to land adjacent to defined settlement limits. The appeal site is not previously developed land and is not within or adjacent to any settlement limit as defined in the current development plan and thus is in the open countryside for the purposes of planning policy and development would be contrary to policy SG2. Even in the emerging Local Plan, the appeal site would be adjacent to but outside the settlement limits proposed for Northgate and West Pinchbeck. Policy SG4 of the LP sets out that development in the open countryside will only be permitted where it is essential in the proposed location and cannot reasonably be accommodated within the defined settlement limits. There is nothing before me to suggest that the appeal scheme is 'essential' in the terms of the policy. Accordingly I conclude there would be conflict with Policy SG4.

[1] Section 38 of the Planning and Compulsory Purchase Act 2004

10. Policy HS7 strictly controls new housing in the countryside other than for specified exceptions, including for small scale rural exception affordable housing. The appellant suggests that the proposed dwellings would be three bed properties of an "affordable nature" as starter homes to attract young families. However, there is no indication of a specific need for the type of accommodation proposed in this particular location and no mechanism for ensuring the dwellings would be affordable is before me. Accordingly I conclude that the proposal would not amount to an exception for the purposes of LP Policy HS7.

11. I am in no doubt therefore, that the principal of residential development on this site would conflict with the development plan policies referred to and would not accord with the settlement hierarchy for the District.

Character and appearance

12. Northgate comprises a small settlement of predominantly linear development stretched along Northgate and Six House Bank. Near to the crossing point of these two roads are some small cul-de-sac developments. The appeal site adjoins the established garden hedge of Greenacres, a bungalow at the far end of one of the well-established ribbons of development. South of this stretch of Northgate are fields, although there are sporadic dwellings along Small Drove Lane opposite Greenacres including Anfield Barns on the corner. The appeal site is part of a larger open field and adjoins Northgate Farm. Beyond Northgate Farm to the east are sporadic houses interspersed with field gaps. The edge of Pinchbeck, which offers localised services and facilities, is some 3km to the east.

13. The proposal would introduce built development into an expanse of open agricultural land and would have a suburbanising effect on an undeveloped site, extending built development into the countryside. The FRA, taking into account the location of the site within Flood Zones 2 and 3, a matter to which I return later, states floor levels would need to be raised at least 300mm above the existing land level, with two floors of accommodation. As a consequence, any dwellings on this site would be seen as unduly prominent in the local landscape, including in views from the junction of Small Drove Lane and many points along Northgate, as the whole site is significantly forward of the existing group of buildings at Northgate Farm.

14. The erection of two storey properties here, adjacent to the existing bungalow, would result in a significant intensification of built development which would interrupt the gradual transition between the edge of the settlement and the fields beyond. Development on the site would narrow the gap between existing buildings, would expand and consolidate ribbon and sporadic development, and would detract from the open countryside landscape.

15. Some local residents indicate that they would have fewer objections to a smaller proposal, such as two bungalows, on the appeal site. However, as already noted, the flood risk mitigation requires two floors of accommodation and the raising of floor levels, so low height single storey bungalows would not be appropriate. I am firmly of the view that any dwellings on this site would have an adverse effect on the open character and appearance of the countryside. Accordingly, whilst recognising that appearance is a matter reserved for future consideration, I conclude the proposal would have an adverse effect on the open character and appearance of the countryside.

16. I acknowledge that the appeal site would not be isolated from other buildings. However, I do not consider that the proposal could be regarded as a suitable infill plot. I concur with a colleague Inspector[2] in that in my experience, infilling is normally taken to involve the development of a relatively small gap in an otherwise built up frontage or on land that is substantially surrounded on at least two sides by existing development. In this case, the site is quite large and does not appear as a gap as such. There is a bungalow on one side and there is a dwelling on the other side of the road. However, Northgate Farm buildings are well set back behind the rear boundary of the appeal site, and there is open field and access around most of the appeal site boundary. Accordingly I do not consider the site to be substantially surrounded by existing development.

17. I conclude the proposal would result in demonstrable harm to the character and appearance of the countryside and the pattern of development in the locality. There would be conflict, in this regard, with Policy SG1 of the LP which among other things seeks to protect the essential character and environmental assets of the District. There would also be conflict with Policy SG4 which advises that development proposals that would result in an unacceptable impact upon the landscape character of the area will only be permitted where the need for that development outweighs its impact and no other site or solution exists to accommodate the proposed development. Finally, the proposal would also be contrary to a core planning principle of the Framework, which seeks to conserve and enhance the natural environment.

Accessibility of services and facilities

18. The reason for refusal refers to concerns in relation to the principles of sustainable development, with the Council's statement referring to the accessibility of the site in relation to services and facilities. The appeal site adjoins a ribbon of development that extends to the crossroads with Six House Bank and then along Six House Bank towards Pinchbeck West, and also northwards along Beck Bank and westwards along Star Lode Drove. Northgate is straight with a wide verge on the appeal site side of the road. There is a hard surfaced footpath along most of Northgate towards Six House Bank and a footpath could be provided along the frontage of the appeal site.

19. For the purposes of the current development plan, Northgate and Pinchbeck West are linked. As noted above, these lie within the fourth and final tier of the sequentially preferred locations set out in Policy SG2 of the LP. An assessment of settlements for the purposes of the emerging Local Plan confirmed some services and facilities locally, including a place of worship, a community hall and a school on Six House Bank, some 1.8km from the site. However, Northgate is somewhat distant from Pinchbeck West, which is where the most of the facilities are located. Both settlements are elongated and the appeal site is at the furthest point of one of the elongated ribbons of development.

20. At a distance of some 1.8km, the school is further than the acceptable walking distance suggested in the IHT Guidelines[3]. It is nearer the preferred maximum of 2km to schools and, I consider, at the upper end of a comfortable walking distance for small children. The proposed village store[4] is further away, being

[2] APP/F1040/A/13/2199414
[3] Table 3.2 column "Elsewhere" Institute of Highways and Transportation "Guidelines for Providing for Journeys on Foot"
[4] H14-0291-17

some 2.5km from the appeal site. Such facilities would not be within a reasonable walking distance of the site. There are no dedicated cycle routes and during my visit I observed a significant amount of traffic, including large vehicles, on the relatively narrow roads, which circumstances combine to make cycling a less attractive option for future residents. There are some bus services, albeit relatively limited, and at some 750m from the appeal site would be just about within acceptable walking distance, given the level footway along straight roads.

21. Paragraph 29 of the Framework identifies that the opportunities to maximise sustainable transport solutions varies from urban to rural areas. Taking all these matters into account I conclude that, whilst there is at least some prospect of some services and facilities being accessed by means other than the private vehicle, future occupants of the proposed dwellings would be likely to rely quite substantially on private vehicles for day to day needs. The appeal site is therefore in a less than ideal location in relation to access to services and facilities. Accordingly I conclude that the proposed development would conflict with Policy SG2 of the LP which seeks to ensure, among other things that, where possible, development is served by a choice of transport modes.

Flood Risk

22. The site specific FRA states the appeal site is located partly in Flood Zones 2 and 3 as shown on the Environment Agency Flood Map for Planning and within a defended area of South Holland District Council's Updated Strategic Flood Risk assessment Map 2016 (2016 SFRA). Flood Zone 2 has a medium probability and Flood Zone 3 has a high probability of flooding, ignoring the presence of defences. Housing development is classed as a 'More Vulnerable' use. Where such development is proposed within Zone 3, a Sequential Test needs to be carried out to demonstrate whether there are reasonably available sites appropriate for the proposal in areas with a lower risk of flooding.

23. There is conflicting information before me in relation to the Flood Zone relevant to the appeal site. Paragraph 3.4 of the site specific FRA submitted by the appellant in support of the planning application, states that "….*the Sequential Test and the Exception Test will require to be applied ….*" However, the view of the appellant, as set out in the letter dated 19 February 2018, is that the appeal site is within Flood Zone 1 of the 2016 SFRA.

24. The site specific FRA indicates that the likelihood of the overtopping or failure of a flood defence is considered to be low and states that the proposed accommodation would be two storey. The Environment Agency raises no objections subject to compliance with the FRA; finished floor levels being raised 300mm above existing ground level and flood resilient construction of 300mm above finished floor level. I recognise that these matters could be secured by condition, were the appeal to succeed. However, these are considerations that relate to the Exception Test. The Exception Test is only to be applied *after* the Sequential Test has been met.

25. Although no detailed information is before me, the Council advises that, in terms of flood risk, there are sequentially more preferable locations in the area that could accommodate residential development and that both the Sequential Test and the Exceptions Test are failed. On this basis I consider 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. Thus the proposed development would not be acceptable in terms of flood risk, since it would place residential properties within a high risk area where, on the basis of the evidence before me, it would seem that there are safer locations for such purposes. The proposal therefore fails to comply with Paragraphs 100 and 101 of the Framework, which seek to minimise flood risk by directing development to areas at lowest risk.

26. In the event that the site is in Flood Zone 1, as implied in the appellant's later correspondence, the Sequential Test would be passed and the Exceptions Test would not be required. In those circumstances, I would conclude that the proposal would not conflict with Paragraphs 100 and 101 of the Framework, which seek to minimise flood risk by directing development to areas at lowest risk.

Other Matters

27. The appellant asserts that the site is a small awkward area difficult to farm due to the larger agricultural machinery used in modern farming. However, I have seen no substantive evidence that this is so, and there is a field to the other side of Northgate Farm which appears to be narrower but satisfactorily used. Accordingly I give this matter little weight in the context of this appeal.

28. The Council is concerned that allowing this proposal would encourage applications of a similar nature which might then be hard to resist. On the other hand, the Design and Access Statement and the Final Comments by the appellant refer to a number of instances of planning permissions for new dwellings and extensions to existing properties in the area. However, no details of these have been provided and it would be unusual for the circumstances to be entirely the same. In any case, each application and appeal falls to be considered on its own merits and I have reached my decision based on the evidence relating to the appeal site and proposal before me.

29. A number of appeal decisions are cited in the Grounds of Appeal. I have reached similar conclusions as colleague Inspectors in relation to precedence, the supply of housing land and acceptable walking distances to services and facilities. Accordingly I do not need to consider these further in the context of the appeal before me.

30. In the February 2018 letter, the appellant refers to a recent appeal decision[5] and discussion in that case relating to "*...the EA Flood Hazard Depth Mapping November 2011 200 year event for 2115*" and the findings of the Inspector that this technical data did not form part of the SFRA. Part of Paragraph 13 of that Decision is quoted as "*…the Council's approach in this situation does not follow a prescribed methodology in the Framework or PPG*". However, Paragraph 13 goes on to say that "*…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*." Moreover, the Council's evidence in the appeal before me does not refer to the 2115 data. Accordingly such matters do not lead me to a different conclusion

31. The Council considers that were this appeal to succeed, it would create a precedent for further development in the countryside which would result in the unplanned advance of urbanisation thus eroding the rural character of the

[5] APP/A2525/W/16/3165749 Mr Williamson v South Holland District Council [2017]

locality. However, it is well established that each planning proposal falls to be considered on its own merits. I have reached my decision based on the planning merits of the proposal before me as set out above. Any application for residential development on other sites would fall to be considered on their own merits on the light of relevant considerations at that time.

Planning Balance and Conclusion

32. The Council accepts that, for the purposes of this appeal, a five year supply of deliverable housing land, as required by the Framework, cannot be demonstrated. In such circumstances, Paragraph 49 of the Framework advises that relevant policies for the supply of housing should not be considered to be up-to-date. Paragraph 14 says that where development plan policies 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.

33. Examples of such specific policies in Footnote 9 include locations at risk of flooding. In essence, if specific Framework policies indicate that development should be restricted, that effectively disengages the so called 'tilted' Paragraph 14 balance, leaving the policies to be applied on their own terms on an unweighted basis.

34. Whilst I have found that the development proposed would conflict with the settlement hierarchy for the District as set in both the current development plan and the emerging Local Plan, I afford only limited weight to that conflict given the lack of a five year supply of deliverable housing land. I have, however, also found that there would be significant and demonstrable harm in terms of the impact of the development on the character and appearance of the area. Moreover, the site is not well located in terms of accessibility to the everyday services and facilities that would be required by future residents without undue reliance on the private car.

35. In support of the proposal, the provision of new housing at a time of pressing need is a benefit, although the weight I afford that is tempered to some extent by the small number of dwellings that could be accommodated on this site. The development would also support construction jobs and the spending powers of future residents could assist the vitality of the rural community. Again, however, the benefits to the construction industry would be time limited and there is no substantiated evidence to suggest that local facilities such as they are, are struggling and would thus benefit significantly from increased patronage. Thus, these benefits are of moderate weight.

36. Being mindful of the site specific FRA that has been submitted there is some evidence to indicate the appeal site is in an area at risk of flooding. On this basis and taking all other matters into account I conclude that that the combined benefits in this case, do not outweigh the adverse impacts that I have identified. Consequently, I conclude on balance that the appeal should not succeed.

37. Being mindful of the conflicting evidence before me in relation to the Flood Zone in which the appeal site is located, I have also considered the outcome of this appeal were the site to lie within Flood Zone 1 as asserted in the latest comments from the appellant. In that scenario, the five year housing land

supply means that the so called 'tilted' balance in paragraph 14 of the Framework would be engaged. Even so, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole. As a result, the outcome of the appeal would be the same.

S Harley

INSPECTOR