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/17/3186263
Greendale, Roman Bank Crosses, Long Sutton, Spalding PE12 9AT

- 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 Moore against the decision of South Holland District Council.
- The application Ref H11-0458-17, dated 26 February 2017, was refused by notice dated 25 July 2017.
- The development proposed is one detached dwelling.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline. All matters are reserved for future consideration except the point of access which is indicated on the submitted site plan.

3. The Decision Notice reason for refusal relates essentially to the character and appearance of the countryside and the distance of the site from local services and facilities with consequent reliance upon the motor car. However, the appeal site lies within Flood Zone 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 flood risk assessment (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 in to account in determining this appeal.

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. The main issues for the purposes of this appeal are:

   - whether the principle of residential development on this site is appropriate in terms of the countryside location;

- the effect of the proposal on the character and appearance of the countryside;
- the accessibility of services and facilities for future occupants; and
- whether the proposal would comply with planning policy which seeks to steer development away from areas at the highest risk of flooding.

Reasons

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).

Countryside location

7. In order to further sustainability objectives and in the interests of protecting the countryside, Policies SG1, SG2 and SG3 of the LP 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 also mindful that the emerging Local Plan also sets out a settlement hierarchy, directing new development towards the most sustainable locations.

8. The appeal site is located in the open countryside for planning policy purposes. It is some considerable distance from the defined settlement limits for Long Sutton, as shown on the Proposals Map of the LP, and is some distance from the main cluster of houses known as Sutton Crosses. I note that, under the emerging Local Plan, the appeal site would remain in the open countryside.

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 does not fall into any of these categories and I conclude that the proposal would conflict with Policy SG2 of the LP.

10. Policy SG4 of the LP states development in the open countryside will only be permitted where it has been proven to be 'essential' in the proposed location and cannot reasonably be accommodated within settlement limits. Policy HS7 of the LP states new housing development will only be permitted where it is proven to meet the needs of agricultural, forestry or other workers[2] or the proposal is for rural exception affordable housing.

11. A health worker, whilst providing an important service, would not meet the development plan policy requirement of an essential need to have a dwelling outside defined settlement limits. As the appellant's work takes place in many locations across South and South West Lincolnshire, the special circumstance of the essential need for a rural worker to live at or near their place would not be met; nor does occupation as a health worker justify a need to live on the

[1] Section 38 of the Planning and Compulsory Purchase Act 2004
[2] Policy HS12 – Criteria for Agricultural, Forestry and Other Workers' Dwellings (inter alia) - outside defined settlement limits will only be permitted where the accommodation needs cannot be met or located within defined settlement limits and that the proposed accommodation is essential to the functioning of a financially sound enterprise which has been established for at least three years and that the dwelling is proposed to be located on and used in connection with that unit.

particular appeal site. I have seen no evidence of a Housing Needs Survey to establish a local need for the type of accommodation proposed or any mechanism for ensuring the proposed dwelling would be retained as affordable housing for local people and for second and subsequent owners/occupants.

12. I acknowledge the wishes of the appellant to provide support for his parents. However, I have seen no evidence of particular needs and there may be other ways in which such support could be provided. I also acknowledge the appellant's desire for a modern energy efficient home, his connections to the local area and his commitments to supporting his family and the local community. However, the appellant already lives in the local area. From the available evidence I give relatively little weight to the expressed need for a dwelling on this particular site in the context of this appeal.

13. For the reasons set out above I find nothing that leads me to conclude that the appeal scheme is 'essential' in the terms of Policy SG4. Nor would the proposal amount to an exception for the purposes of Policy HS7. Accordingly the proposal would conflict with Policies SG4 and HS7 of the LP. 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 therefore, in principle, residential development on this site would not be appropriate in terms of the countryside location.

Character and appearance

14. Roman Bank is a narrow country road which runs between fields, agricultural/horticultural businesses and sporadic scattered houses. The appeal site is part of an area of grassland which separates a house to the north and a bungalow, Greendale, to the south. It is positioned in the southern part of the grassland area adjacent to Greendale's substantial boundary hedge. At the time of my site visit there was little visible evidence that the appeal site was being used as a vegetable plot/play area in connection with occupancy of Greendale and there is little substantial evidence to suggest it falls within the residential curtilage of that property. There is a bank along the rear of the grassland which separates it from fields beyond. There are fields on the opposite side of Roman Bank.

15. The proposal would introduce built development into an expanse of open land and would have a suburbanising effect on an undeveloped site, extending built development into the countryside. Owing to the location of the site within Flood Zone 3, a matter to which I return later, floor levels would need to be at raised at least 500mm above the existing land level and have two storeys. As a consequence, any dwelling on this site would be seen as unduly prominent in the local landscape. The erection of a two storey property here would result in a significant intensification of built development. 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.

16. Accordingly, whilst recognising that a dwelling of suitable elevational appearance could be secured at reserved matters stage, and even though the site is not isolated in the sense that there are dwellings nearby, 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, amongst 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.

The accessibility of services and facilities

17. The appeal site is a considerable distance from the defined settlement limits of Long Sutton, a Main Service Centre, which is some distance to the north of the A17. The appeal site is about 660 metres to the south of the A17. Roman Bank is a narrow, single track, winding, country road with few streetlights and there is no safe provision for pedestrians or cyclists.

18. The nearest facilities are a cluster of highway related services, including a McDonald's and a petrol service station with a small shop, which are some distance away and unlikely to meet the day to day needs of future occupants of the proposed dwelling. Services and facilities in Long Sutton are further away and would require the crossing of the busy A17. I saw no readily accessible bus stops near the site although I understand there are some on Wisbech Road some distance away along narrow country roads and there is a CallConnect service with connections at Holbeach and Long Sutton. Even so in my view the site has relatively poor access to facilities and services other than by private vehicle.

19. Paragraph 29 of the Framework identifies that the opportunities to maximise sustainable transport solutions varies from urban to rural areas. However, there are some locations, such as Roman Bank, where accessibility to services and facilities is so restricted that, in order to actively manage patterns of growth in accordance with a core planning principle of the Framework, development should be restricted. I consider this to be such a case at the present time for the appeal site.

20. There are some facilities within walking distance, and I note that the appellant and others may walk or cycle daily. However, on balance for the reasons set out above, I conclude that the appeal site would have relatively poor accessibility to services and facilities and that future occupants of the proposed dwelling would be likely to be rely quite substantially on a private vehicle 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

21. The appeal site is located within Flood Zone 3 which is the zone with the highest 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. The Council has indicated that

the site is within an area identified as "Danger for Some" (not the most severe category) within the South Holland Strategic Flood Risk Assessment, which is used by the Authority to apply the Sequential Test.

22. The submitted FRA for the site indicates it is in a Defended floodplain where the likelihood of the overtopping or failure of a flood defence is considered to be low. The Council consider there are few other sites within the Long Sutton area that are sequentially preferable in flood risk terms. On this basis there may well be some other sites which are sequentially preferable in flood risk terms although much of the land around the Long Sutton is at risk of flooding.

23. If, after the application of the Sequential Test, it is not possible for development to be located in an area with a lower probability of flooding, an Exception Test can be applied where the proposal is not in accordance with the development plan[3]. This is aimed at helping ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available.

24. The Framework and the PPG set out two elements to the Exception Test. First, proposed development is required to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and second, that it will be safe for its lifetime without increasing flood risk elsewhere and, where possible, will reduce flood risk overall. In relation to the first part of the Test the PPG advises that local planning authorities will need to consider what criteria they will use in this assessment having regard to the objectives of their Local Plan Sustainability Appraisal framework (SA)[4]. If a planning application fails to score positively against the aims and objectives of the SA or policies of the LP, or other measures of sustainability, consideration should be given to whether conditions and/or planning obligations could make it do so. Where this is not possible the Exception Test has not been satisfied and planning permission should be refused. The available evidence does not enable me to conclude that the Exception Test has been passed.

25. The appellant states that he is registered for the text/email alert for early warning alerts for flooding/natural disasters and the property would have safe first floor accommodation. The Environment Agency raises no objections provided that the dwelling would have two storeys and subject to finished floor levels being raised 500mm 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. I see no reason to doubt the conclusions of the Environment Agency that this would meet the second element of the Exception Test.

26. Even had I been of the opinion that the Sequential Test was passed, as set out above, I am not convinced, in this instance, that the Exception Test has been passed. Accordingly I cannot conclude with any certainty that it has 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 a residential property within a high risk area where, on the basis of the evidence before me, it would

[3] ID 7-033-20140306
[4] ID:7-037-20140306

seem that there could be 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. I attach considerable weight to this.

Other Matters

27. The appellant asserts that the grassland area is too small to be used for agricultural purposes but I have seen no substantive evidence that this is so or that satisfactory maintenance could not be achieved. Moreover the proposed development, if permitted, would leave a smaller, more awkward, parcel of land which would be more inconvenient for agricultural uses.

28. The appellant says that developments have been approved elsewhere in open countryside and that agricultural occupancy conditions have been lifted as there is no need for houses for agricultural workers. No detailed evidence has been provided about the planning circumstances of these cases. Each application and appeal needs to be considered on its own planning merits but in any case the removal of the restrictions on other properties would not in itself justify a new dwelling in the countryside.

29. The Government is actively seeking to increase the supply of custom and self-build housing. However, in this case, the evidence does not incorporate any means of ensuring that custom/self-build proposals would be constructed in this manner or show how the related matter of ownership for a period of three years would be secured. Accordingly I can give this matter little weight in the context of this appeal.

Planning Balance and Conclusion

30. 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.

31. 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.

32. I have found that the development proposed would conflict with development plan policy, and that, in principle, residential development on this site would not be appropriate in terms of the countryside location for the purposes of the current development plan and the emerging Local Plan. I have also found that there would be harm in terms of the impact of the development on the character and appearance of the area and that 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. In addition, the site is at risk from flooding and there is no substantiated evidence

to demonstrate that the Sequential and Exception Tests have been passed in this regard.

33. In terms of any benefits that may arise the development proposed would provide an additional house at a time of pressing need. It would support construction jobs and there would be social and economic benefits in terms of sustaining local services and facilities and there would provide be personal benefits to the appellant. Although the weight to be afforded to these benefits is tempered by the small scale of development, they nevertheless carry modest weight in favour of the proposal

34. On a straightforward balance, the total of the benefits that I have identified do not outweigh the combined harms. The combined benefits do not justify making a decision in this instance that is contrary to requirements of the development plan and national guidance. I therefore conclude that the appeal should not succeed.

35. Even had the Sequential and Exception Tests been passed, such that the so called 'tilted' Paragraph 14 balance applied, the adverse impacts that I have identified in terms of character and appearance and accessibility significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole. The outcome of the appeal would have been the same.

S Harley

INSPECTOR