The Planning Inspectorate

Appeal Decision

Site visit made on 20 June 2022

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2022

Appeal Ref: APP/A2525/W/21/3285700
rear of Millview Daniel's Gate, Long Sutton, SPALDING PE12 9LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr P Gooch against the decision of South Holland District Council.
- The application Ref H11-0787-21, dated 21 July 2021, was refused by notice dated 13 September 2021.
- The development proposed is residential development, erection of bungalow.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

   - The effect of the development on the character and appearance of the area,
   - Whether the proposed development would be vulnerable to flooding and/or would contribute to flooding in the wider area, and
   - The effect of the proposed dwelling on the living conditions of neighbouring occupiers with particular respect to privacy and noise and disturbance.

Reasons

Character and appearance

3. Daniel's Gate is a residential street within a village location. The settlement consists of various house types and styles with housing being predominately two-storey, set within relatively spacious plots. The majority of rear gardens of both Daniel's Gate and Little London are comparatively long. These form a combined area with mature tree planting that reflect the open views found beyond the settlement edge. Due to its countryside location, and the size of plots close to the appear site, the area possesses a verdant and spacious character. The appeal site is behind an established row of dwellings within a plot that is similar in depth to its neighbours. The site contributes towards the local sense of spaciousness and therefore makes a positive contribution to the open character and appearance of the area.

4. The proposed dwelling would introduce a sizeable building into the existing rear garden. In combination with its associated hardstanding, the proposal would fundamentally alter the character of the site and the contribution it makes to

the surrounding area. It would erode the existing sense of spaciousness and introduce a form of development that would be out of character with the existing pattern of development. For these reasons, the proposal would have a harmful effect on the character and appearance of the area.

5. Accordingly, the proposal would conflict with policies 2(1) and 3(3) of the South East Lincolnshire Local Plan (LP) and the National Planning Policy Framework (The Framework) in terms of character and appearance. These seek, among other matters, for development to have regard to its impact on the character and appearance of an area and the landscape character.

Flood issues

6. The site is within flood zone 3, a defended flood plain. The South Holland Strategic Flood Risk Assessment (2017) identifies the site as being located in an area of "danger to most". LP Policy 4 states that development within flood zone 3 will only be permitted where it can be demonstrated that there are no other sites available at a lower risk of flooding, would provide wider sustainability benefits to the community and would be supported by a site-specific Flood Risk Assessment (FRA).

7. The Framework states that development in areas that are at risk of flooding should be avoided. It also states, at paragraph 161, that all plans in such areas should apply a sequential test to avoid flood risk and steer development toward areas with the lowest risk of flooding. If it is not possible to locate development in a lower risk area the exception test may be applied. Similar to LP policy 4, this would need to demonstrate that the development would provide wider sustainability benefits to the community to outweigh the flood risk and would be safe for its lifetime, without increasing flood risk elsewhere.

8. The appellant's FRA[1] identifies that the site is 5.2 kms from the tidal river Nene, which is protected from flooding through tidal defences between Wisbech and Sutton Bridge. Potential sources of flooding include in the event of the failure of Lutton Leam Tidal Sluice and overtopping of the river's banks. The FRA consequently deems the site to have a low risk of flooding. Nevertheless, due to the proximity of the river and local land levels the dwelling is proposed to be raised by 0.6 metres to exclude it from the flood plain. The FRA also refers to the proposal as a conversion, this is an error as the proposal clearly relates to the erection of a new dwelling. As such, an on-site search for alternative land would be insufficient to satisfy the sequential test.

9. Supporting text to LP policy 4 explains that windfall proposals for housing would need to demonstrate that an alternative site is not available, through a district wide search area, when undertaking a sequential test. Although alternative sites, outside the flood zone, may be limited this would not absolve the appellant from undertaking a sequential test. Also, whilst the site may present a low risk of flooding it is nevertheless necessary for the appellant to demonstrate that an alternative site, less vulnerable to flooding, does not exist.

10. As such, the appellant has not provided compelling justification to illustrate that sites in a less vulnerable location could not accommodate the proposed dwelling. Raising the proposed dwelling would exclude its footprint from the flood plain. However, this would expose local land to a greater risk of flooding.

[1] Flood Risk Assessment, Ellingham Consulting Ltd, dated July 2021

Therefore, even if the sequential test were satisfied an exception test would not be as the proposal would not deliver wider sustainability benefits and would increase the risk of flooding elsewhere.

11. Consequently, the proposal would conflict with LP policies 2(7) and 4 with respect to flooding. These seek development, inter alia, to take account of flood risk and to demonstrate through a sequential test, that alternative sites in areas least likely to flood, are unavailable.

Living conditions – existing

12. The driveway of the proposed dwelling would be adjacent to the rear boundaries of 129-133 Little London. The bungalow of No 133 is especially close to its rear boundary. The proposed access driveway would result in an increase of vehicular activity close to the rear boundary of these dwellings. However, the proposed driveway would be in a similar position as the existing drive. Also, the level of traffic associate with the proposed one bedroom dwelling, would be limited. As such, these factors combined would not result in substantially different or significantly greater traffic movements than the existing driveway creates. Consequently, the proposal would not result in material harm to the living conditions of neighbouring occupiers through noise or disturbance.

13. Due to its elevated position the proposed windows of several habitable rooms would overlook neighbouring gardens and dwellings. The proposed front bedroom window would provide close and relatively direct views into habitable rear windows of 'Dawn Flight' and the host dwelling over a short separation distance. Although there is a close boarded fence and an outbuilding adjacent to the boundary with 'Dawn Flight', intervisibility between this and the host dwelling would be likely to be unobstructed resulting in a significant loss of privacy. As such, the effect on the privacy of neighbouring residents, due to this relationship, would be substantial.

14. The proposed kitchen window would be adjacent to the garden boundary of 'Dawn Flight' providing views into the neighbour's garden. However, this window could be required to be obscurely glazed by condition to prevent any overlooking had I been minded to allow the scheme.

15. The garden of 'Lime View' would be overlooked by rear windows that serve a dining room, utility room and lounge. The rear garden of 'Lime View' includes many mature trees and hedges that limit views into the rear garden. Furthermore, the windows to the rear of the proposed dwelling would overlook the end most part of the garden of 'Lime View'. A substantial distance would be retained to the rear windows of 'Lime View' and any views into habitable rooms would be oblique, due to the orientation of both dwellings, and therefore resulting in limited harm in this respect.

16. Accordingly, the proposal would accord with LP policy 2(6) in requiring development to consider the effects of neighbouring land use including by reason of noise and disturbance. Nevertheless, the proposal would overlook habitable rooms of both 'Dawn Flight' and the host dwelling resulting in a significant loss of privacy adversely affecting the living conditions of the occupiers of these dwellings. The proposed scheme would therefore conflict with paragraph 130(f) of the Framework that seeks development to create places that have a high standard of amenity for existing users.

Other Matters

17. The site is within the settlement limits of Long Sutton. Development within the settlement is supported by policy 1 of the LP. This supports development in Main Service Centres, such as Long Sutton, that supports the role of the service centre, helps sustain existing facilities or helps the service needs of other local centres. The proposal would make a small contribution towards the local area through future occupiers using locally acquired goods and services. However, it is not in evidence that a particular service provider requires particular support and in any event one dwelling would make only a limited contribution towards local services. As such, compliance with this policy and the benefits associated with the development are of limited weight in support of the scheme.

18. The village includes several dwellings built behind the established frontages of other dwellings. These are large dwellings that stand within sizeable plots, with generous gardens. These therefore maintain the sense of spaciousness evident within the local pattern of development and are substantially different to the form of development proposed by this appeal. These local examples therefore offer only limited weight in favour of the proposal.

Planning Balance and Conclusion

19. The Framework seeks to boost the supply of housing. The proposed development would convey some benefits towards the social and economic wellbeing of the area. However, these benefits would be limited and would be outweighed by the impact of the proposal on the character and appearance of the area, harm to neighbour's living conditions and flood related matters.

20. Accordingly, the proposal would conflict with the development plan when taken as a whole and for the above reasons, the appeal is dismissed.

B Plenty

INSPECTOR