The Planning Inspectorate

Appeal Decision

Hearing Held on 26 November 2019
Site visit made on 26 November 2019

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 January 2020

Appeal Ref: APP/A2525/W/19/3229241
Fleet Garden Centre, Fleet Road, Fleet, Spalding PE12 8LD

- 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 Applegate Homes (Lincs) Ltd against the decision of South Holland District Council.
- The application Ref H05-0849-18, dated 23 August 2018, was refused by notice dated 19 November 2018.
- The development proposed is demolition of existing site and proposed residential development and associated works.

Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Applegate Homes (Lincs) Ltd against South Holland District Council. This application is the subject of a separate Decision.

Procedural Matters

3. This appeal must be determined on the basis of the development plan as it exists at the time of my decision. Subsequent to determining the planning application, the Council adopted the South East Lincolnshire Local Plan (the Local Plan) which supersedes the adopted policies referred to by the Council in its decision. The parties have had the opportunity to comment on the Local Plan as part of the appeal process and at the Hearing. I have therefore considered the appeal against the relevant adopted policies of the Local Plan and make no further reference to the previous development plan.

4. The description of development used in the banner heading is taken from the planning appeal form and was agreed by the main parties at the Hearing.

Main Issues

5. The main issues in this appeal are:

   - Whether the site would be a suitable location for housing development with regard to local and national planning policy; and
   - Flood risk.

Reasons

6. The appeal site consists of a garden centre, including a number of buildings and associated hardstanding. The evidence suggests that other uses have also been undertaken at the site e.g. retail sales separate from the garden centre use.

7. There was some debate at the Hearing as to whether the whole of the appeal site could be classed as previously developed land (PDL). The Council considers that part of the site was used as a nursery which as an agricultural use would not fall within the definition of PDL. However, the appellant stated that glasshouses on the site were used for the display of plants for sale which were not propagated on site. The appellant also provided evidence with regards to the rateable value of the property which does not refer to a reduction for horticultural use. I also saw that the glasshouses were of a form and arrangement which are typical of those at a garden centre. On the basis of what I have seen and read, I consider that the whole of the appeal site has the characteristics of PDL and I have considered this appeal on that basis.

Planning Policy

8. The appeal site is located outside of defined settlement boundaries, and for planning policy purposes is therefore designated as countryside. Policy 1 of the Local Plan states that in the countryside development will be permitted if it is necessary to such a location and/or where it can meet sustainable development needs in terms of economic, community or environmental benefits.

9. With regards to the **location** of development, it has not been demonstrated that the proposal is necessary to this countryside location, for example with regards to specific housing needs. The proposal is therefore not supported by the locational requirement of Policy 1.

10. With regards to **economic** benefits, the owner of the site has referred to a lack of financial viability of the garden centre. Whilst I have no reason to doubt the issues raised by the owner, there is no detailed evidence before me to demonstrate that the business is not viable, such as audited accounts. Moreover, the site may be attractive to other commercial uses which would generate employment and investment. There is no substantive evidence before me to demonstrate that the site cannot continue to be used for commercial purposes, such as evidence in respect of interest from potential occupiers on the basis of a suitable marketing exercise. Based on the evidence before me, the loss of this commercial premises may therefore lead to harm to the economy of the area.

11. With regards to **environmental** benefits, the appeal site is of a relatively utilitarian appearance. However, whilst it is not particularly attractive, the buildings and associated features on the site are not untypical of this rural area and do not detract from its countryside character.

12. Although there are a number of dwellings in the vicinity of the site, these are of a sporadic or linear arrangement. I also saw that despite the variety of built development in the immediate area, the appeal site is part of a clear gap between the built extent of the settlements of Holbeach and Fleet Hargate.

13. In contrast to the prevailing form of development in the vicinity, the proposal would appear as a small cul-de-sac of a suburban character. This would

contrast uncomfortably with the more linear and dispersed development in the vicinity and would lead to an urbanising effect on this part of the countryside. Even allowing for potential landscaping and the layout of the proposal with some dwellings facing onto Fleet Road, I consider that the incongruous layout of the cul-de-sac would be readily apparent and would be harmful to the character and appearance of the countryside. Furthermore, due to an urbanising effect, the proposal would diminish the gap between Holbeach and Fleet Hargate.

14. With regards to **community** benefits, the proposal would represent a windfall site which could be built-out relatively quickly and which would add to the supply of housing in the area. It is common ground between the parties that the site is in a sustainable location with regards to access to services, although this can be said of many sites on the edge of or in close proximity to service centres. It was also agreed at the Hearing that the Council is able to demonstrate a suitable supply of housing land, even allowing for the buffer required by the Government's Housing Delivery Test. Whilst the Council's housing land supply may only be marginally above the target figure, and mindful that this is not an upper limit, due to the limited number of houses proposed I can give the supply of housing that would result from the proposal only limited weight in favour of the appeal.

15. I conclude that the proposal would not be a suitable location for housing development with regard to local and national planning policy. The proposal would conflict with Policies 1 and 2 of the Local Plan with regards to the provisions for development in the countryside and the effect on the character and appearance of the area. The proposal would also conflict with the National Planning Policy Framework (the Framework) with regards to achieving well-designed places, recognising the intrinsic character of the countryside, and building a strong economy.

Flood Risk

16. The appeal site is within Flood Zone 3a and is therefore identified as having a 'High Probability' of flooding. The Framework requires that a sequential approach should be used in areas known to be at risk from any form of flooding, through the use of a Sequential Test to steer new development to areas with the lowest risk of flooding.

17. Much of the wider area around the appeal site is within Flood Zone 3. However, the South Holland Strategic Flood Risk Assessment 2017 (SFRA) forms the basis for the application of the Sequential Test in this area. The appeal site is identified as having a hazard rating of 'Danger for Some' by the SFRA. It may therefore be the case that there are alternative sites within the area with a lower hazard rating in respect of flooding.

18. The appellants have prepared a Flood Risk Assessment (FRA) which recommends measures to address flooding, including the raising of ground floor levels. However, the FRA refers to the site being deemed compliant with a Sequential Test prepared by others, and it was clear at the Hearing that this Test has not been undertaken.

19. I have been referred to a number of sites which have either been allocated or granted planning permission for housing development. However, I do not have full details of these sites and so cannot be certain that they represent a direct

parallel to the appeal proposal with regards to flood risk and wider considerations. Moreover, despite the number of sites referred to, the appellants' consideration of these does not represent a Sequential Test as required by the Framework.

20. The Planning Practice Guidance advocates a pragmatic approach when applying the Sequential Test. I acknowledge that the potential redevelopment of PDL is an important consideration for this site. However, it has not been demonstrated that there is an overriding need for the development of this land for residential purposes, including a lack of evidence in respect of the ongoing use of the land for commercial purposes. Moreover, a pragmatic approach has to be based on appropriate evidence, and this therefore does not lead me to a different conclusion with regards to the need for a Sequential Test.

21. Reference has also been made to the Exception Test. However, the Exception Test should only be applied following application of the Sequential Test, and as the latter has not been undertaken then I do not need to consider this matter further.

22. I note that flood risk was not identified as a reason for refusal for a previous proposal on the site. However, the Council explained at the Hearing that this was due to updated advice from the Environment Agency regarding the application of the Sequential Test prior to the appeal proposal being determined. Mindful of the policies of the Framework as well as the evidence of the SFRA and the appellants' FRA, I consider that the concerns in respect of flood risk are more than a 'make weight' issue and represent a substantive matter of concern in respect of the proposal.

23. I therefore conclude that a Sequential Test as required by the Framework has not been undertaken in respect of the appeal proposal. The proposal would therefore be contrary to the Framework with regards to taking account of flood risk.

Other Matters

24. I am mindful that the Framework states that the use of PDL should be encouraged where suitable opportunities exist. The Framework also supports the development of housing on suitable windfall sites, albeit within settlements. However, having regard to the identified harm to the countryside, economic considerations and flood risk I conclude that it has not been demonstrated that this site is a suitable opportunity for housing development.

25. I have also been referred to the Strategic Priorities identified in the Local Plan. However, whilst these refer to prioritising the re-use of PDL, the proposal would also conflict with other Strategic Priorities including taking account of flood risk and protecting the environment.

26. I have had regard to the comments raised locally in support of the proposal, including the comments from the Parish Council. However, the matters raised in support do not outweigh the harm I have identified above.

Conclusion

27. For the reasons given above, and taking account of all material planning considerations, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR

Appearances

FOR THE APPELLANTS:	
Clive Wicks BA(Hons) DipArch RIBA ARB	Clive Wicks Associates
Samantha Carr	Property Owner
FOR THE COUNCIL	
D Gedney	South Holland District Council
INTERESTED PERSONS	
J Newton	Applegate Homes
R Chappell	Applegate Homes
S Pickering	
E Penney	

Documents Submitted at the Hearing

1. Observations of Samantha Carr property owner
2. Notice of Alteration to the 2017 Rating List, 19 June 2019
3. Schedule of Alterations to the Rating List 2017, 18 June 2019
4. Non Domestic Rates Demand Notice for 2019/20
5. Business Rate Bill, 11 March 2010
6. 505 Bus Timetable

Documents Received Following the Hearing

1. Appellants' final comments on the Council's case against an award of costs.
2. Appellants' comments on the status of the site as Previously Developed Land.