Appeal Decision

COPY

Site visit made on 25 November 2002

by Janet L Cheesley BA(Hons) DipTP MRTPI

an Inspector appointed by the First Secretary of State

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Date

30 JAN 2003

Appeal Ref: APP/A2525/A/02/1094824
Land adjacent to 127 Chapelgate, Sutton St James

- 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 S Sutton against the decision of South Holland District Council.
- The application ref: H20/1368/01, dated 16 November 2001, was refused by notice dated 7 February 2002.
- The development proposed is a house and garage.

Summary of Decision: The appeal is allowed and planning permission granted subject to conditions set out in the Formal Decision below.

Procedural Matters

1. The application was submitted in outline with siting and means of access to be determined.

Main Issue

2. I consider the main issue to be the effect of the proposed development on the emerging local plan policy.

Development Plan and other Planning Policies

3. Lincolnshire Structure Plan Policy 9 proposes about 9400 new dwellings in South Holland District between 1991-2011. Policy 10 locates new housing principally in defined towns (about 6,300 dwellings in South Holland defined towns). Policy 11 states the appropriateness, scale and location of new residential development at all other settlements will be determined in local plans and be subject to criteria including the districts housing provision and size and character of the settlement. It appears that this plan is not adopted as the submissions only make reference to policies proposed for adoption 2000. Therefore, I believe the Structure Plan I am being referred to is an emerging plan.

4. The development plan includes the South Holland District local plan adopted 1998. Policy E1 indicates a broad range of assessment criteria for development proposals. Policy H2 allows new housing development in villages having regard to scale, character, traffic and intrusion into open countryside.

5. The South Holland District Local Plan, First Deposit Draft 2001 is being used by the Council to determine the proposed development. Policy H3 refers to housing development in villages, only allowing that which currently has the benefit of planning permission. The purposes of this policy are stated by the Council as being to address an

over-allocation of housing land in the District, to conform with the Structure Plan, and to comply with national guidance in PPG3.

6. Planning Policy Guidance Note No. 3: Housing (PPG3) promotes more sustainable patterns of development and better use of previously developed land, by concentrating most additional housing in existing towns and cities. Both the emerging structure and local plans reflect this national guidance and therefore I have attributed them significant weight in my determination.

7. Supplementary planning guidance, South Holland Interim Rural Housing Planning Statement adopted 2001 details how a more sustainable pattern of housing development can be achieved in the rural area. Policy H2A updates Policy H2 of the adopted local plan and allows housing development on small sites within Sutton St James if it constitutes frontage development, is self-contained within the village fabric and is in scale and character with its surroundings. As this guidance has been the subject of a public consultation exercise, has been adopted by the Council and reflects national guidance in PPG3, I have attributed considerable weight to it in my determination.

Reasons

8. I note the intention of the emerging structure plan to concentrate residential development principally in defined towns and I consider this approach to be in accordance with PPG3.

9. I have taken into consideration Policy H3 in the emerging local plan. Although I understand that this policy, (as part of an overall housing strategy), aims to be in accordance with PPG3, I do not believe that PPG3 seeks to prevent individual new houses in defined villages. Policy H2A in the Interim Rural Housing Planning Statement does reflect the objectives of PPG3 in terms of achieving a more sustainable pattern of housing development. I am satisfied that the proposed development meets the criteria in this policy. It would be frontage development within the existing built development. As regards the scale of the proposed development the Council has stated that the site is sufficiently wide to accommodate a two-storey dwelling and that a house could be accommodated upon this plot without unduly harming the street scene. From my observations of the site and surrounding area I concur with these views. I note there has been previous outline consent for a dwelling on this site. I am not aware of the policy context within which that previous application was considered but I am satisfied that the current proposed development would be in accordance with Policy H2A of the Interim Rural Housing Planning Statement.

10. I conclude that the proposed development would not have an adverse effect on the emerging local plan policy aimed at achieving a more sustainable pattern of development nor would this proposal for a single dwelling within the village materially affect any over-supply of housing land in the District.

Other Considerations

11. The Environment Agency had objected to the proposed development on the grounds that the site was believed to be at risk from flooding from a fluvial event of 1.0%annual probability as it is shown to be within the fluvial floodplain on the Indicative Floodplain Maps. Planning Policy Guidance Note No. 25: Development and Flood Risk, (PPG25),

states the primary responsibility for safeguarding land from flooding lies with the owner and in areas of flood risk applicants should provide an assessment of flood risk implications of a proposed development. PPG 25 at paragraph 60 requires an applicant proposing development in such a location to carry out an assessment of flood-risk that is appropriate to the scale and nature of the proposed development and submits this with the application. A Flood Risk Assessment has now been submitted and as a result the Environment Agency has withdrawn its objection subject to this Flood Risk Assessment being approved as part of any decision notice to ensure that the issue of flood risk is adequately resolved for the lifetime of the development. As a consequence, the Council has withdrawn its objection in relation to flooding.

12. As the Environment Agency has withdrawn its objection, I am satisfied that the proposed development would not result in undue harm from flooding. The main issue in the Flood Risk Assessment is the height of the proposed floor level above the surrounding land. It is my opinion that this should be addressed as a reserved matter as it is a matter of detailed design. I have attached a condition requiring that the development shall only be carried out in accordance with the Assessment.

13 I note the Council's concern regarding precedent. I do not consider that allowing this appeal would set a precedent that would prevent the Council resisting future developments that might be contrary to Government guidance. In my view, each proposal should be considered on its own merits.

Conclusion

14. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

15. The Council has suggested three conditions in addition to those relating to the submission of reserved matters. These relate to landscaping, turning facilities and access to the adjacent property. In my view adequate provision for landscaping for this single dwelling can be made through the submission of reserved matters. Conditions relating to turning in the site and a new access to No. 127 Chapelgate are reasonable and necessary in the interest of highway safety. In the interest of precision and enforceability I propose to amend the suggested conditions and I shall word the conditions to accord with the principles in Circular 11/95. I have referred above to the need for a condition regarding the Flood Risk Assessment.

Formal Decision

16. In exercise of the powers transferred to me, I allow the appeal and grant planning permission for a house and garage at land adjacent to 127 Chapelgate, Sutton St James in accordance with the terms of the application Ref. H20/1368/01, dated 16 November 2001 and the plans submitted therewith, subject to the following conditions:

1) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

2) Application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

3) Approval of the details of the design and external appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the local planning authority in writing before any development is commenced.

4) Before development is commenced the proposed access and turning facility serving the existing dwelling, 127 Chapelgate, shall be completed in accordance with details shown on drawing no. FD/777/01 accompanying the application.

5) The dwelling shall not be occupied until the turning facility has been constructed in accordance with the approved plans.

6) The development shall only be implemented in accordance with the Flood Risk Assessment submitted by the appellant under cover of fax message dated 28 November 2002.

Information

17 An applicant for any approval required by a condition attached to this permission has a statutory right of appeal to the Secretary of State if that approval is refused or granted conditionally or if the authority fails to give notice of its decision within the prescribed period.

18. This decision does not convey any approval or consent that may be required under any enactment, by-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

19. Attention is drawn to the enclosed note relating to the requirements of the Chronically Sick and Disabled Persons Act 1970, as amended.

20. A separate note is attached setting out the circumstances in which the validity of this decision may be challenged by making an application to the High Court.

Janet Cheesley

INSPECTOR