The Planning Inspectorate

Appeal Decision

Site visit made on 22 October 2018

by M Seaton DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 04 March 2019

Appeal Ref: APP/A2525/W/18/3204758
Land fronting Fairfields, 409 Broadgate, Weston Hills, Spalding, Lincolnshire

- 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 Ms R Poll against the decision of South Holland District Council.
- The application Ref H22-0730-17, dated 1 August 2017, was refused by notice dated 18 December 2017.
- The development proposed is a detached bungalow and detached garage.

Procedural Matters

1. The application has been submitted in outline with all matters to be reserved at this stage. Therefore, matters related to access, layout, scale, appearance and landscaping are reserved for later consideration. I have dealt with the appeal on this basis and treated the submitted plans as an indication of the proposed development.

2. During the course of the planning appeal, the Government published the final version of its revised National Planning Policy Framework (the Framework) on 24 July 2018, which sets out the Government's planning policies for England and how they should be applied. Furthermore, on 19 February 2019, the Government published the 2018 Housing Delivery Test measurement and a technical note on the process, as well as a further update to the Framework. In addition, the Inspector's Report on the Examination in Public of the South East Lincolnshire Local Plan was published on 29 January 2019.

3. In light of the publication of these various documents, the parties have been provided with a further opportunity to make submissions in respect of the implications on the submitted evidence. In this respect, I have had regard to the further brief submissions from the appellant and the Council and where pertinent have referred to the documents in my decision-making, as well as incorporating the parties references to the publications where relevant.

Decision

4. The appeal is allowed and outline planning permission is granted for a detached bungalow and detached garage on Land fronting Fairfields, 409 Broadgate, Weston Hills, Spalding, Lincolnshire, in accordance with the terms of the application Ref H22-0730-17 dated 1 August 2017, subject to the conditions set out in the Annex.

Main Issues

5. The main issues are;

- whether the proposed development would be in an appropriate location, having regard to the aims and objectives of national and local planning policies, and the effect on character and appearance; and,

- whether the proposed development would safeguard the living conditions of the occupiers of the neighbouring property at 409 Broadgate, having regard to outlook and privacy.

Reasons

6. The appeal site is a parcel of land comprised of an area of rough paddock located between the road to the west, and the dwelling at 409 Broadgate to the east. The land is relatively flat and is bounded predominantly by hedgerows and fencing, with the existing field access located in the north-east corner and leading on to a private drive serving 415 Broadgate. To the north of the appeal site would be residual land within the paddock not included within the appeal site, with the curtilage of 415 Broadgate beyond, with a line of further dwellings to the south along Broadgate, and open countryside to the west on the opposite side of the road.

7. In advance of the future adoption of the South East Lincolnshire Local Plan, the saved policies of the South Holland Local Plan 2006 (the Local Plan) remain of relevance as a constituent part of the Development Plan. In this respect, the Council has contended that the proposed development would conflict with Policies SG1, SG2, SG4 and HS7 of the Local Plan. These policies address the provision of sustainable development and the distribution of development, and development in the countryside in areas beyond defined settlement limits.

8. The appellant contends that the Council remains unable to demonstrate a five-year supply of deliverable housing sites. In this respect, the Council has cited the *South Holland District Council 5-year Housing Land Supply assessment (as at 31st March 2018)*. This document concludes that whilst the '*Sedgefield*' method of calculating the supply including a 20% buffer would only total 4 years, the '*Liverpool'* method of calculating the supply including a 20% buffer would total 5.5 years.

9. I have carefully considered the position in light of the *Planning Practice Guidance* chapter relating to *Housing and Economic Land Availability Assessment*. It is set out in the guidance that the '*Sedgefield*' approach should be used except in the context of strategic policy-making where an authority may wish to deal with past under delivery over a longer period, but only where it is made as part of the plan-making and examination process rather than on a case by case basis on appeal. In this respect, whilst I have had regard to the Council's submission that a further updated position in respect of five-year housing land supply will be published in the near future, I have not been provided with any detailed or compelling analysis or evidence to lead me to depart from the '*Sedgefield*' method of calculating the supply in making this decision. As a consequence, I am satisfied that in using the '*Sedgefield*' method of calculating supply the Council remains unable at this time to demonstrate a five-year supply of deliverable housing sites.

10. Paragraph 11d)ii. of the Framework sets out that where the policies which are most important for determining the application are out-of-date, including in situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites with an appropriate buffer, granting permission unless *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*. On this basis, paragraph 11 is engaged and the presumption in favour of sustainable development.

Location of housing & character and appearance

11. There is no dispute between the parties that the appeal site is located within open countryside and beyond the settlement boundary for Weston Hills in the Local Plan, albeit that the Council's assessment of the immediacy of the location in the context of the settlement boundary is somewhat conflicting between the officer report and statement of case. Nevertheless, the appeal would fall to be assessed against Policy HS7 of the Local Plan, which provides that new housing will only be permitted for certain essential needs or where it is for a small-scale rural exception affordable housing scheme. There is no suggestion that the proposal would in this instance meet either requirement and it is therefore contrary to this Policy. However, Policy HS7 has the effect of constraining housing supply, and therefore the weight I attach to this conflict, in this instance, is very limited.

12. I have had regard to the Council's reference to Weston Hills as being a settlement identified within the lowest tier of the settlement hierarchy as set out in the emerging South East Lincolnshire Local Plan, and that the settlement possesses only a limited amount of services and facilities. However, in this context I am also mindful that a limited amount of new development would have been anticipated as acceptable. I have noted the references to existing services within Weston Hills, and the comparative level of accessibility to public transport as an alternative to the use of the private car, as well as the assessment of local employment opportunities within a 2km buffer, which was provided as set out in the evidence base for the emerging Local Plan to which the appellant has drawn my attention. In this respect, whilst I accept that Weston Hills does not possess the full range of services and facilities offered by settlements set higher within the hierarchy, the proposed development would nevertheless be within reasonable walking and cycling distance of those that are present in the village, with employment opportunities within the vicinity, and the settlement benefits from an alternative travel option to further afield.

13. Turning to the impact on the character and appearance of the area, I have carefully considered the Council's contention that the proposed development would represent an unacceptable form of ribbon development and an unjustified encroachment into the open countryside. In this respect, I accept that the development of the appeal site for a dwelling would result in an adverse impact on the existing open countryside character of the land itself through the introduction of development, and the loss of open land which is currently devoid of any structures or buildings. However, whilst the proposed dwelling would undoubtedly represent a continuation of the existing line of development along the road frontage, the development of the site must be considered in the context of the location of the surrounding dwellings and curtilages of 409 & 415 Broadgate. In this circumstance, the development of the appeal site would have a more limited impact on the character of the street

scene and wider landscape given the position of existing dwellings and curtilages, with the overall adverse effect more limited in respect of the level of visual harm.

14. I note that the Council has referred in the reason for refusal to paragraph 55 of the 2012 Framework, which addressed the development of isolated homes, and has now been superseded by paragraph 79 of the updated Framework. The Courts have clarified that the word "isolated" should be given its ordinary objective meaning, and in this instance the proposed dwelling would not be regarded as being far away from other places, buildings or people, or remote. As such, I do not regard paragraph 79 of the Framework to be of relevance to this case.

15. The Proposal would be contrary to Local Plan Policy HS7. Nevertheless, because of the housing land supply position this Policy should be regarded as out of date and I attribute limited weight to this harm.

16. I recognise that Policy SG2 of the Local Plan advocates a sequential approach to the distribution of development, and there is no evidence before me that such an exercise has been undertaken in respect of site selection. However, despite recognising the location of the appeal site beyond the existing settlement boundary, I am satisfied that any conflict with the spatial elements of the Development Plan and Policies SG2 and SG4 would be comparatively limited, as would be the harm to the character and appearance of the area and wider landscape as a consequence of the development of the existing open paddock.

Living conditions

17. The Council has also expressed concerns relating to the impact which the proposed development would have on the living conditions of the neighbouring occupiers, and in particular with regards to privacy, and outlook due to a contended overbearing impact.

18. In this regard, the appellant has indicatively shown the location of the proposed single-storey dwelling, although I am mindful that all matters including layout, scale and appearance have been reserved at this stage. I have carefully considered the relationship between the appeal site and the neighbouring dwelling at 409 Broadgate, and observed at the site visit there to be boundary planting and hedges on the shared boundary which provide for a significant degree of screening of the appeal site. In this respect, even allowing for the recommendation of the Flood Risk Assessment and the provision of an 800mm build-up to address flood risk concerns, I am not persuaded that an appropriately designed and scaled dwelling would necessarily adversely affect the living conditions of the neighbouring occupiers, given the disposition of the site and availability of existing visual mitigation.

19. I have not therefore found there to be a reason to conclude that the proposed development would be unable to safeguard the living conditions of the occupiers of the neighbouring property at 409 Broadgate, having regard to outlook and privacy. The proposal would not conflict with Policies SG14 and SG17 of the Local Plan, which seek to ensure that development has regard to the amenity of nearby residents with regards to overlooking and loss of privacy and the extent of any overbearing effect.

Other Matters

20. The Council has raised concerns that the development, if allowed, would have the potential to set an unacceptable precedent for other similar development in the future. However, this would appear to be a generalised concern and one for which I have not been directed to any specific other sites where such an occurrence could arise. As a consequence of the specific circumstances and characteristics of the appeal site and proposals, I remain satisfied that the Council would remain able to successfully resist a scheme that was genuinely unacceptable, irrespective of the decision on this appeal.

21. I have also had regard to the concerns of the neighbouring occupier with regards to the impact of the proposed development on the value of neighbouring property, the impact on highway safety, the potential for noise and disturbance during the construction period, and in respect of personal circumstances related to health.

22. Whilst I accept that there may well be some noise and disturbance during the construction period, this would be for a temporary period and there is no evidence from which to conclude that it would be unacceptable. With regards the potential impact on highway safety, I am mindful that the means of access to the site and matters of highway safety will be considered at the reserved matters stage. Finally, whilst I have had regard to the personal circumstances of the neighbouring occupier regarding health issues and property value, I am not persuaded on the basis of the submitted evidence that these are matters which would weigh with any significance against the proposed development.

Planning Balance

23. The Council is currently unable to demonstrate a deliverable 5-year supply of housing land and as a consequence, the 'tilted balance' addressed by paragraph 11 of the Framework and the presumption in favour of sustainable development is engaged.

24. I have already concluded that the proposed development would result in some limited harm to the spatial objectives of the Local Plan and would also result in some limited harm to the character and appearance of the area and the wider landscape.

25. Nevertheless, the provision of an additional dwelling to the local housing market would be an undoubted benefit of the proposed development, albeit given the quantum of development the weight to be attached would be limited. Despite the Council's contention to the contrary, the local economy would also have the potential to have some limited benefit during the construction period and from any expenditure from future occupiers going forward.

26. I have not found the development to be in accordance with the Development Plan. However, being mindful of paragraph 11 of the Framework, I do not regard that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conditions

27. In addition to conditions addressing the timing of development and ensuring accordance with approved plans and documents, conditions guiding the

required details of reserved matters including landscaping/planting, boundary treatments, layout, scale and external appearance of the proposed building, means of access, and site and floor levels, would all be required in the interests of proper planning and safeguarding the character and appearance of the site and area. A condition requiring compliance with the conclusions and proposed mitigation set out within the Flood Risk Assessment would be reasonable and necessary in the interests of reducing the risk of flooding.

Conclusion

28. Therefore, for the reasons given above, and subject to the conditions listed, the appeal is allowed.

M Seaton

INSPECTOR

Annex

Conditions

1. The application for approval of reserved matters must be made not later than three years beginning with the date of this permission, and the development must be begun before the expiration of two years from the final approval of reserved matters or in the case of approval on different dates, the final approval of the last such matter to be approved.

2. The development hereby permitted shall be carried out in accordance with the following approved plans:

   Flood Risk Assessment (Prepared by S M Hemmings - Registered 16 November 2017)

   A101

   A101A-A

3. No development shall take place without the prior written approval of the Local Planning Authority of all details of the following matters:

   i) the layout, scale and external appearance of building(s), including a schedule of external materials to be used;

   ii) the means of access to the site;

   iii) the landscaping of the site;

   iv) the means of sewage and surface water disposal;

   v) the existing and proposed site levels and floor levels of the buildings and hard surfaced areas.

4. When application is made to the Local Planning Authority for approval of reserved matters, that application shall be accompanied by a scheme of landscaping and tree planting indicating, inter alia, the number, species, heights on planting and positions of all trees in respect of the land to which that application relates, together with details of post-planting maintenance and such a scheme shall require the approval of the Local Planning Authority before any development is commenced. Such scheme as is approved by the Local Planning Authority shall be carried out in its entirety within a period of twelve months beginning with the date on which development is commenced. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

5. Prior to its installation, details of the proposed boundary treatment, including a schedule of materials, and details of the size and species of any hedging, shall be submitted to and approved in writing by the Local Planning Authority, and the details so approved shall be implemented in full before the development is first brought into use.

6. The development permitted by this planning permission shall be carried out in accordance with the approved Flood Risk Assessment (FRA), dated 09 November 2017, compiled by Stuart Hemming and the following mitigation measures detailed within the FRA:

· Finished floor levels are set no lower than 800mm above Ordnance Datum (AOD).

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.