

Appeal Decision

Site visit made on 20 September 2016

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 30th September 2016

Appeal Ref: APP/Y2003/W/16/3152053

Burnside, Brook Lane, Scawby Brook, Brigg, North Lincolnshire, DN20 9JZ

- 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 Simon Jukes against the decision of North Lincolnshire Council.
 - The application Ref PA/2016/0061, dated 18 January 2016, was refused by notice dated 29 March 2016.
 - The development proposed is the erection of one dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue in this case is whether the proposal would comprise sustainable development having regard to sustainable patterns of growth and flood risk.

Reasons

3. The appeal site forms part of the garden of Burnside a newly built detached dwelling at the end of Brook Lane which is occupied by the appellant's elderly parents. It is outside the defined settlement boundary for Brigg and Scawby Brook and in the open countryside in policy terms.
 4. Policy CS2 of the North Lincolnshire Core Strategy (Core Strategy) concerns sustainable development and restricts development outside the defined settlement limits to that which is essential to the functioning of the countryside. It advises that proposals should comply with the sustainable development principles of (amongst other things); minimising the need to travel and to encourage any journeys that remain necessary to be possible by walking, cycling and public transport; contributing towards the creation of locally distinctive, sustainable, inclusive, healthy and vibrant communities; and ensuring that everyone has access to health, education, jobs, shops, leisure and other community and cultural facilities that they need for their daily lives.
 5. Core Strategy Policy CS3 relates to development limits and states that development outside these will be restricted to that which is essential to the functioning of the countryside. Policy RD2 of the North Lincolnshire Local Plan (Local Plan) similarly advises that development in the open countryside will be strictly controlled.
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6. Paragraph 55 of the National Planning Policy Framework (the Framework) indicates that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.
7. I understand that the site was formerly occupied by a house (Spring Cottage) and a barn/workshop and note the appellant's view that the proposal would return the site to its original configuration. Whilst evidence of these remains on site, they have been demolished. As such the proposal before me concerns the erection of a new house in the countryside and I have considered it as such.
8. The Council does not outline its specific concerns in relation to the site's countryside location. However it seems to me that although the appeal site is not isolated in the sense of its position next to Burnside, it is somewhat out on a limb at the extreme edge of the pocket of development on Brook Lane. This existing development is itself remote from the main part of Scawby Brook and separated from it by open land. The proposed house would be right at the end of the southern spur of Brook Lane and would expand the extent of the built development here further into the countryside.
9. It has not been put to me how far the site is from nearby services and facilities or how these would be reached. However, at my visit I saw few services or facilities in Scawby Brook and consider it likely that the occupiers of the proposed house would travel to Brigg, or further afield, to meet their day to day needs. The house would be at the furthest end of the southern spur of Brook Lane which is a single width track that is in part unmade and unlit. The future occupants of the house would have to walk a not inconsiderable distance along this route to get to B1206 (the main road through Scawby Brook). Brigg could then be reached along the B1206 and the A18, but would require the occupants to walk a significant distance to reach the centre there.
10. There appear to be some opportunities for bus travel along the B1206, but the bus stops there would be reached via Brook Lane and the route described above. Whilst cycling would be a possibility, in practical terms, these factors would in my view be likely to deter the future occupiers of the dwelling from taking up these more sustainable forms of transport. As such, I consider that the future occupants of the proposed house would have few alternatives to the use of a private vehicle to meet their day to day requirements. This would be at odds with the core planning principle of the Framework to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling.
11. The site is within Flood Zone 1 of the Environment Agency's (EA) current Flood Zone Map. However, part of the site is within Flood Zones 2 and 3a as defined in the North Lincolnshire Strategic Flood Risk Assessment (SFRA). The Council explains that the watercourse running along the southern boundary of the site (Scawby Brook) results in the eastern part of the site being in Zones 2/3a. Within such areas, more vulnerable development, such as the dwelling proposed, are only considered acceptable if they pass the Sequential Test and, where appropriate, the Exception Test.

12. Paragraph 101 of the Framework requires decision makers to steer new development to areas at the lowest probability of flooding by applying a Sequential Test. Planning Practice Guidance (the Guidance) indicates that the aim is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2, applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered (taking into account the flood risk vulnerability of land uses and applying the Exception Test if required).
13. Local Plan Policy DS16 advises that development will not be permitted where it would (amongst other things) increase the number of people or buildings at risk (i). Core Strategy Policy CS19 advises that the Council will support development proposals that avoid areas of future or current flood risk and which do not increase the risk of flooding elsewhere, and that this will involve a risk based sequential approach.
14. The appellant submitted a Flood Risk Assessment (FRA), but on the basis of the site's location within Flood Zone 1 on the EA's maps, has not undertaken a Sequential Test. I am mindful that the EA's Flood Zone Maps are generally based on the results of a broad scale modelling approach (updated as more information becomes available) and on the conditions that occur at present (and so do not include any allowance for climate change). The SFRA has been produced in consultation with the EA and takes into account the particular conditions in the local authority area. The SFRA maps produced by the Council refine the information on the EA's maps but also take into account the implications of climate change until 2115. As such, in my view the SFRA maps provide the starting point for the proposal, and since the house would be in Flood Zones 2 and 3a where there is a high probability of flooding, a Sequential Test is required.
15. The Environment Agency raises no objections to the proposal, but does not comment on the requirement for a Sequential Test. I appreciate that the site would be elevated by more than 300mm and note that the FRA details other measures in relation to resilient construction. Furthermore, I am aware of the appellant's view that the appeal site has not suffered any flood damage in past.
16. Nevertheless, the Council considers that there are sites available within the development limits of Brigg which are at a lower risk of flooding than the appeal site. The appellant does offer any evidence to the contrary. In this context, and in the absence of a Sequential Test, the appellant has not demonstrated that there are no reasonably available sites in Flood Zones 1 or 2 where there is a lower probability of flooding. As a consequence, I cannot be satisfied that the requirements of the Sequential Test would be met, and the proposal runs contrary to the development plan and one of the fundamental aims of government policy as set out in the Framework.
17. I note the Council's view that the proposal could be re-positioned within the site to fall outside the highest flood zone. Be that as it may, I have considered the appeal on the basis of the siting of the dwelling as indicated on the submitted plans.

18. Bringing matters together, the appellant considers that the proposal would be sustainable development since it would improve the economic, social and environmental conditions of the area. It has not been explained how the proposal would stand up to the three dimensions of sustainable development¹. However, it seems to me that in economic terms the proposal would bring short terms construction work and on going spending associated with additional residents along with Council Tax revenue. However, given the scale of the scheme its contribution to the building a strong, responsive and competitive economy would not be great.
19. In social terms, the house is intended for the appellant's occupation when he returns from working abroad. Until then it would be used by visiting family members and would allow the appellant's parents to be cared for. The house would be accessible to disabled occupants and visitors and would also be offered for rent in other months of the year. The proposal would reduce the maintenance burden of the large garden on the occupiers of Burnside and allow the appellant to resume his former bird breeding hobby. Whilst these are personal benefits to the appellant and his family, in my view they would not have a significant bearing on the social and cultural well being of the wider community.
20. The appellant regards there to be a lack of development sites in Scawby Brook and the proposal would add to housing land supply. However, this benefit of the scheme is limited by its small scale for a single dwelling. In practical terms, the occasional rental of the property for local housing would be of only limited attractiveness and benefit to the local housing market and mix of housing options in area. Additionally the reliance of the future occupants of the house on the private car to meet their day to day needs would to some extent curtail the proposal's social role.
21. Thus, the scheme would play only a small part in enhancing or maintaining the vitality of the rural community (as required by paragraph 55 of the Framework) and would not make a great contribution towards the creation of locally distinctive, sustainable, inclusive, healthy and vibrant communities as required by Core Strategy Policy CS2.
22. In terms of the environmental role of sustainable development, the house would have a low pressure hot water heating system. Additionally the appellant has planted fruit trees and intends to develop a wildlife garden with bat and bird boxes. On the other hand, the proposal would not reduce the need to travel or make the fullest possible use of public transport, walking and cycling and would be located so as to be at risk from flooding when it has not been demonstrated that other sequentially preferable sites elsewhere are unavailable. As such, the proposal would fail to meet the environmental role of sustainable development in terms of its approach to pollution, climate change and the move to a low carbon economy.
23. There is support for the scheme from the Parish Council. The Council raises no objections in terms of the proposal's impact on the living conditions of the occupiers of Burnside or other houses nearby (including in relation to overlooking and privacy). The absence of harm in these regards counts neither for, nor against the proposal.

¹ As set out at paragraph 7 of the Framework – Economic, Social and Environmental

24. On this basis, even taking account of the benefits of the scheme to both the appellant and the wider community, in my view the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, and I do not regard the proposal to amount to sustainable development.
25. I therefore conclude on this issue that the proposal would not comprise sustainable development having regard to sustainable patterns of growth and flood risk, and would be contrary to Core Strategy Policy CS2 and paragraph 55 of the Framework.

Conclusion

26. For the reasons set out above, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR