

Appeal Decision

Site visit made on 17 October 2016

by Zoe Raygen Dip URP MRTPI

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

Decision date: 28 October 2016

Appeal Ref: APP/A3010/W/16/3153892

**Land adjoining Orchard Close, Soss Lane, Misterton, Nottinghamshire
DN10 4DQ**

- 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 Mrs Carol Merrion against the decision of Bassetlaw District Council.
 - The application Ref 15/01540/OUT, dated 19 November 2015, was refused by notice dated 18 January 2016.
 - The development proposed is erection of detached dwelling and alteration to existing vehicular access.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The application is in outline; with all matters reserved for future consideration except for access. The appellant has submitted plan ref 15_1686 1 which details not only the proposed access, but also the siting of the proposed dwelling. I have therefore treated the siting of the dwelling as indicative only.
3. The appellant has provided a revised Flood Risk Assessment (the FRA) with their appeal statement. While the Environment Agency has not had the opportunity to comment on the revised FRA, I have had regard to it, insofar as it refers to the sequential test.

Main Issues

4. The main issues are:
 - i) whether the proposal would provide a suitable site for housing with particular regard to its location;
 - ii) Whether the appeal site represents an appropriate location for residential development, with particular reference to flood risk, and
 - iii) The effect of the proposal on the character and appearance of the area.
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Reasons

Suitable site for housing

5. The appeal site is located outside of the development boundary of Misterton as defined within the development plan. As such it is classed as being within the open countryside. Policy CS1 of the Bassetlaw Core Strategy and Development Management Policies DPD 2011(the DPD) states that development in settlements is restricted to the area inside the defined development boundaries. Furthermore, Policy DM3 of the DPD only allows new residential properties outside development boundaries subject to certain criteria regarding replacement buildings, development of previously developed land and new dwellings in association with agricultural and equine facilities.
6. It is agreed between the parties that the proposal would not meet the first or third criterion. However, there is some dispute between the parties as to whether the proposed dwelling would be constructed on previously developed land. Even if I were to accept that the land was previously developed, the proposal would not fall within any of the relevant sub criterion of Part B of Policy DM3. Accordingly therefore the proposal would be contrary to saved Policies CS1 and DM3 of the DPD.
7. However, there is no dispute between the parties that the Council cannot demonstrate a five year housing land supply. Paragraph 49 of the National Planning Policy Framework (the Framework) states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. I therefore give saved Policies CS1 and DM3 limited weight.
8. Paragraph 55 of the Framework specifically addresses the provision of housing in rural areas. It states that housing should be located where it will enhance and maintain the vitality of rural communities by avoiding isolated homes in the countryside unless there are special circumstances. The Framework does not define the meaning of 'isolated'. In my experience there are two main aspects to be assessed when considering 'isolation', these being whether the appeal site is physically isolated relative to settlements and other built development and whether it is functionally isolated relative to services and facilities.
9. There is a house opposite the appeal site and one to the rear of the site, Although loose knit development, their presence would ensure that the development would not be physically isolated relative to other built development.
10. Misterton is designated as a Local Service Centre within saved Policy CS1 of the DPD. Settlements with such a designation are deemed to have the services, facilities and development opportunities available to support moderate levels of growth. The site is located outside of the development boundary by about 135 metres and about 800-1000 metres away from local facilities.
11. Although this would be a reasonable walking distance the route to the edge of the village is narrow, unlit with no footway or areas for pedestrian refuge from cars. As a result I do not consider that accessing the services and facilities in Misterton by means other than the private car would be an attractive proposition for future occupiers particularly in the winter months and dark rainy

days and for those with mobility issues or with small children. I appreciate it would only be a short car journey. Furthermore, Soss Lane is a no through road so vehicle movements would be limited, but the proposal would still be contrary to one of the core principles of planning within paragraph 17 of the Framework to make the fullest possible use of public transport, walking and cycling. Even if this were not the case, there is no suggestion that the vitality of this community is under threat such that it requires support from one dwelling some distance away in the open countryside and I saw no evidence from my site visit that would lead me to a different conclusion. The appellant refers to public footpaths which also link the appeal site to Misterton, however these would have similar shortcomings to Soss Lane and therefore would not provide a satisfactory level of functional connectivity. The appeal site would therefore be functionally isolated.

12. For the reasons above I consider that the proposal would not provide a suitable site for housing with particular regard to location. It would therefore be contrary to saved Policy DM4 of the DPD and Paragraphs 7, and 55 of the Framework which seek to resist isolated new houses within the countryside, ensure that development has accessible local services, prioritises safe, easy and direct pedestrian movement and a functional relationship is created between the development and its wider setting.
13. Saved Policy DM4 of the DPD does not relate to the supply of housing and I find it broadly to be in accordance with the requirements of paragraphs 7, 17 and 60 of the Framework, I therefore give it full weight.
14. The Council also refer to part 11 of the Framework within their reason for refusal. However I am unclear as to which paragraphs of part 11 they particularly refer to. It has not therefore been determinative in my consideration of this issue.

Flood risk

15. The appeal site is located in Flood Zone 3a. 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 PPG) 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).
16. Although the revised FRA refers to the preparation of a sequential test which should be read in conjunction with the FRA, one has not been submitted. The appellant refers to paragraph 25 of the Framework which states that the sequential approach should not be applied to small scale rural developments. However paragraph 25 refers to the siting of retail uses and not development in relation to flood risk.

17. Even if I were to accept the conclusions of the revised FRA, Paragraph 103 of the Framework makes it clear that the FRA is only considered after the application of the Sequential Test and if required the Exception Test.
18. I therefore conclude that in the absence of any evidence to demonstrate that the dwelling could not be located in an area with a lower risk of flooding, the proposal would not provide a suitable site for housing with regard to flood risk. It would therefore be contrary to paragraph 101 of the Framework which seeks to avoid inappropriate development in areas at risk of flooding by directing development away from those at highest risk.

Character and appearance

19. Soss Lane, in the vicinity of the appeal site, is a narrow lane in the open countryside, mostly lined by mature trees. A house opposite the appeal site is located in association with an agricultural small holding. It is sited behind the existing line of trees and therefore has limited views from the road. Orchard Close is also sited back from the road and is well screened. As a result the road has a verdant rural character. The appeal site although used as a car park, contributes to the rural character through its openness and trees along the boundary.
20. I acknowledge that the dwellings on Soss Lane closer to Misterton are visible and closely spaced, having diverse architectural designs and styles. However, the character of Soss Lane changes from a built up form on the edge of the village to a rural character, where the appeal site is located, as the dwellings are largely replaced by open countryside.
21. Consequently the introduction of a house, which would be visible from the road on the appeal site, together with the enlargement of the existing access, would have significant visual impact in the countryside location. It would create an urban frontage which would encroach into the rural area reducing the openness. This would be reinforced through the introduction of further residential paraphernalia such as washing lines, car parking and refuse bins and be accompanied by further traffic generation and more intensive domestic activity in and around the building all of which would detract from the rural character of the area and fail to protect and enhance the natural environment as required by paragraph 7 of the Framework.
22. For the reasons above I conclude that the proposal would be harmful to the character and appearance of the area and therefore contrary to saved Policy DM4 of the DPD and paragraph 17 of the Framework. These require, amongst other things that development complements and enhances the character of the built, historic and natural environment and recognises the intrinsic character and beauty of the countryside.

Balancing and conclusion

23. In considering the potential benefits of the proposal, I note that the new dwelling would contribute to the Council's five year housing land supply as required by the Framework. I recognise that individual dwellings cumulatively contribute to housing land supply figures, however I have to consider this appeal on the basis of its own merits only and a net increase of one dwelling would be a small contribution so I afford this benefit only moderate weight.

24. In addition, the construction of the dwelling would derive some economic benefits but this would only be for a limited time. Furthermore, given the small scale of the development, the contribution to the local economy from the spending power of future occupants is unlikely to be significant. I therefore give these benefits limited weight.
25. The proposed development would be functionally isolated resulting in the inherently harmful effects I have already identified. In addition it would be harmful to the character and appearance of the area. Furthermore, it would not represent a suitable site for housing with particular regard to flood risk. These impacts are contrary to both local and national planning policy to which I give considerable weight.
26. I therefore conclude that the considerable adverse impacts of the development would significantly and demonstrably outweigh the limited to moderate benefits I have identified when assessed against the policies in the Framework as a whole. Consequently the proposal is not sustainable development for which the Framework carries a presumption in favour. For this reason, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR