

Appeal Decision

Site visit made on 7 November 2016

by Philip Lewis BA (Hons) MA MRTPI

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

Decision date: 24 November 2016

Appeal Ref: APP/G2713/W/16/3157030

Dromonby Grange Farm, Thirsk Road, Stokesley TS9 5LD

- 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 Andrew Sibly against the decision of Hambleton District Council.
 - The application Ref 15/02575/FUL, dated 25 November 2015, was refused by notice dated 11 April 2016.
 - The development proposed was originally described as *'the existing farmhouse is to be divided to make two separate properties. Plot 1 is to have a two bedroom extension and plot 2 is to have a loft conversion to provide an additional bedroom'*.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues for the appeal are:
 - Whether the appeal site is in a sustainable location, having regard to national and local policies relating to the location of new housing development; and
 - Whether the proposal accords with the Sequential Test in relation to development in areas at risk of flooding.

Reasons

Sustainable development

3. The appeal proposal relates to alterations and the extension and sub division of an existing dwelling, a substantial property with seven bedrooms, to form two dwelling houses. I saw at my site visit that the appeal property is accessed via a long private track from the A172 and is situated with a number of buildings. I saw that one of the buildings was in commercial use, whilst some others have been converted to provide holiday accommodation.
 4. Policy CP4 of the Hambleton Local Development Framework Development Plan Document Core Strategy 2007 (Core Strategy) sets out that development outside of development limits will only be supported when an exceptional case can be made in terms of Core Strategy Policies CP1 and CP2 and where certain criteria are met. The appeal site does not fall within a defined settlement and in policy terms should be considered as falling within the countryside in the context of Policy CP4.
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5. Paragraph 55 of the National Planning Policy Framework (the Framework) states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the viability of rural communities such as development in one village may support services in a village nearby. Paragraph 55 of the Framework also indicates that isolated new homes should be avoided in the countryside unless there are special circumstances, which include the essential need for a rural worker to live permanently at or near their place of work; where such development would represent the optimal viable use of a heritage asset; where development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting; or be of an exceptional quality or innovative design.
6. The appeal property, although sited close to the commercial building and holiday lets does not form part of a settlement of a cohesive presence and whilst it may have services and an access road, there are no apparent facilities to meet day to day needs. I also do not consider that the site, with its long private road access to the highway network and distance to Stokesley is well related to that market town, even if it may be closer to the industrial estate than some new housing being built in Stokesley. For these reasons, the appeal proposal appears isolated in terms of paragraph 55 of the Framework.
7. In terms of special circumstances, the appeal proposal would not meet the essential need for a rural worker to live permanently at or near their place of work, does not relate to a heritage asset, or a redundant or disused building, nor would it give rise to a development of an exceptional quality or innovative design. I have considered the appellants comments that appeal property is a large dwelling, which no longer relates to a farm and is too large for any conventional family arrangement. However, it has not been demonstrated that there is no demand for such property in the area. Consequently, I do not consider that special circumstances have been established for an isolated new home in the countryside.
8. In terms of sustainability, the isolated location of the appeal property, access to the highway network via the private track and separation from services and facilities in Stokesley are such that future occupiers are likely to be dependent upon the private car to meet essential needs. I note that the holiday lets have been developed nearby. I have not been provided with details of the conversions sufficient to determine whether they should provide an example of what should be followed in this case in terms of sustainability. In any event, whilst the Council may have considered that the location is sustainable in respect of the needs of holiday makers, I do not consider it to be sustainable for a new permanent dwelling, given my findings above.
9. The appellant has referred to there being no sustainability assessment in relation to the conditions set out for prior approval in respect of the change of use of agricultural buildings to dwelling houses under Class Q of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) and that it would be perverse to treat two similar situations differently. However, the GPDO grants planning permission for certain classes of development and therefore the principle of development is established in such situations. No such permitted development right applies in this case and in determining this appeal I will consider the principle of development. In this regard, I note the appellant's comments regarding the

occupancy conditions relating to the cottages but this does not change my conclusions on this matter.

10. In conclusion, I do not consider that the appeal site is in a sustainable location. The proposal is therefore contrary to Core Strategy Policies CP1, CP2 and CP4. It also fails to accord with Core Strategy Policy CP6 which is concerned with the allocation of housing. Additionally, the proposal conflicts with the policies of the Framework in this regard.

Sequential test

11. The Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. In respect of decision making, the Framework includes that local planning authorities should only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, it can be demonstrated that the development is appropriately flood resilient and resistant.
12. The Flood Risk Assessment provided by the appellant states that the appeal property lies within Flood Zone 3. Subsequent to this, the appellant has provided further information on flood risk in their appeal statement. I have considered the extracts from the Environment Agency mapping provided and consider that although these are not detailed, they do appear to indicate that the appeal property does not fall within Flood Zone 3. However, I do not consider that the flood mapping provided, due to its scale and level of detail demonstrates that the appeal property falls within Flood Zone 1.
13. I have taken into consideration, the comment from the Environment Agency provided by the appellant regarding the Eller Beck Flood defence bank, which states that the proposed dwellings at Plot 1 and 2 have a standard of protection between 1:100 and 1:1,000 years. The Planning Practice Guidance (PPG) sets out that land with such a flood risk of river flooding falls within Flood Zone 2. On the balance of the evidence before me therefore, I consider that the appeal site falls within Flood Zone 2.
14. The PPG advises that, in applying the Sequential Test, the aim is to steer new development to Flood Zone 1, these being areas with a low probability of flooding. Only where there are no reasonably available sites in Flood Zone 1 should reasonably available sites in Flood Zone 2 be considered.
15. The appellant has stated that as the proposal involves a change of use and minor householder development, a Sequential Test is not required. The Framework and PPG provide advice on when the Sequential Test does not need to be applied. These include minor development or change of use (except for change of use to caravan parks or similar). The PPG defines minor development and is clear that any proposed development that would create a separate dwelling within the curtilage of the existing dwelling such as the subdivision of houses into flats is excluded from the definition¹. The proposed development is for the extension and sub-division of the existing dwelling to form 2 dwellings and is not for the extension of a single dwelling. Therefore, whilst it may be possible to undertake the alterations to the existing dwelling

¹ PPG Paragraph: 046 Reference ID: 7-046-20140306

as permitted development, the proposal nevertheless involves the sub-division of the existing dwelling and does not constitute minor development as defined in the PPG.

16. It follows therefore that the Sequential Test should be applied to the appeal proposal. I have not been provided with evidence to show that a robust search for reasonably available sites in Flood Zone 1 has been undertaken and that this search revealed no such sites to be available. The proposed development therefore fails to accord with the Sequential Test required by the Framework and the PPG.
17. The appellant has referred to there being no objections on flood risk grounds to the holiday use of buildings at the site. However, I have not been provided with details of these developments to consider whether they are sufficiently similar in respect of flood risk so as to provide an example of what should be followed in this case. I note the comments regarding the numbers of people which may be exposed to flood risk as a result of the proposal being unchanged, but nevertheless, find that the appeal scheme fails to accord with the requirement for the Sequential Test.
18. I conclude that the proposal fails to accord with the Sequential Test in relation to development in areas at risk of flooding. The appeal proposal conflicts with Core Strategy Policy CP21 which includes that proposals must ensure protection from flooding. It also conflicts with Hambleton Local Development Framework Development Plan Document Development Policies Policy DP42, which is concerned with flooding and includes that development proposals advanced on land that has any risk of flooding will need to demonstrate that the sequential test has been undertaken and where required the exceptions test. The proposed development also fails to accord with the Framework and the PPG in relation to development in areas at risk of flooding.

Other matters

19. The appellant has set out that they consider that the Council cannot demonstrate a five year supply of deliverable housing sites and has referred me to a number of appeal decisions in support of their position (APP/G2713/A/14/2223624 and APP/G2713/A/14/2217056). The Council dispute this and state that they can demonstrate a five year supply of deliverable housing sites, though I note that this has not been tested. The appellant has also referred to the Council having put into place Interim Housing Policies that recognise that key parts of the Core Strategy including Policy CP1, are no longer to be given the full weight. I have not been provided with details of these policies in this case and the Council has not referred to them in their evidence or relies upon them. I also note the comment by the appellant that the Council has published a new Local Plan for consultation. However, I have not been provided with any details to consider.

Conclusions

20. Whilst the appeal proposal would give rise to a net increase of a single dwelling, this would make a small contribution to the supply of housing and is a minor positive benefit of the scheme. Paragraph 49 of the Framework states that housing applications should be considered in the context of the presumption in favour of sustainable development. In this case the appeal proposal would give rise to some benefits to the local economy through the

purchase of goods and services and provide housing which is a social benefit. However, whilst the appeal scheme would make better use of the appeal property and may stop it falling into disrepair, I have found that the appeal proposal fails to meet the requirement for a Sequential Test in respect of flooding and would not be sustainably located. The proposal does not therefore constitute sustainable development for which the Framework has a presumption.

21. The Framework in paragraph 14 states that where relevant policies of the development plan are out of date, permission should be granted unless the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits of the scheme when assessed against the Framework as a whole, or where specific policies in the Framework indicate that development should be restricted, which footnote 9 of the Framework includes locations at risk of flooding. Given my findings in respect of flood risk and in respect of sustainability, the appeal should fail, despite any such shortfall which may exist in the supply of housing.
22. For the reasons given above and having considered all matters raised, I consider that the appeal should be dismissed.

Philip Lewis

INSPECTOR