The Planning Inspectorate

Appeal Decision

Hearing held on 22 November 2016

Site visit made on 22 November 2016

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 2nd December 2016

Appeal Ref: APP/Z3825/W/16/3149487
Woodland Farm, Shaws Lane, Southwater, West Sussex RH13 9BX

- 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 Mr E Jegla against the decision of Horsham District Council.
- The application Ref DC/15/2036, dated 29 August 2015, was refused by notice dated 3 November 2015.
- The development proposed is demolition of existing agricultural buildings and erection of a single storey dwelling.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application sought outline permission for a single-storey dwelling with only access and layout to be determined at this stage. All other matters were reserved for future determination. One of the submitted drawings was a block plan showing the footprint of the proposed dwelling.

3. The Council adopted the Horsham District Planning Framework (HDPF) on 27 November 2015, just after this application was determined. The Council has confirmed that this document now forms the development plan and that policies from previous plans referred to in its decision notice have been superseded by the HDPF. In determining the appeal, I have therefore had regard to the policies in the HDPF.

Main Issue

4. The main issue is whether or not the appeal site would be suitable for a new dwelling in view of its location and its accessibility to local facilities and services.

Reasons

5. Woodland Farm is a substantial chalet bungalow, which is the subject of an agricultural occupancy condition. It is located on Shaws Lane, a narrow rural lane that provides access to a number of scattered dwellings along its length. The appeal site is part of a larger area of land in the appellant's ownership surrounding the chalet bungalow that extends to approximately 5 hectares. The site is currently partly occupied by two buildings which have not been used in connection with an agricultural operation for about twenty years. The proposal seeks to demolish these buildings in order to construct a custom built bungalow to the meet the personal needs of the appellant and his wife.

6. The over-arching approach of Policies 1 and 2 of the HDPF is to promote a sustainable settlement pattern by seeking to direct new development to the district's main settlements, whilst restricting development outside built-up boundaries to those that have an essential need to be located in the countryside. In this case, the appeal site lies well beyond the existing built-up area boundary of Southwater. Southwater is identified in Policy 3 as a large village with a good range of local services and facilities. Consequently, for planning purposes, the site is in the countryside where Policy 26 applies.

7. The primary purpose of the proposed dwelling would be to meet the personal needs of the appellant's wife, who is severely disabled. I appreciate Mr and Mrs Jegla's desire to remain living in the area where they have been for over thirty years. However, a personal aspiration of this nature is not one of the criteria set out in Policy 26 and which would be an exception to the presumption against new dwellings in the countryside. Policy 4 accepts that there will be a need for settlements across the district to grow, but the policy sets out only a limited number of circumstances where development outside the built-up area boundaries will be supported. As the proposal is some distance from Southwater, it would not amount to an expansion of the village and there was no evidence presented to demonstrate that the proposal would meet any of the other criteria set out in the policy.

8. At present, without using a car, the route from the appeal site to the centre of Southwater would involve walking over a mile along a predominantly unlit country lane with no footways. Whilst this might be a practical option in the summer months and in good weather, it would be much less convenient than using a car. It therefore seems highly likely to me that anyone living in the proposed bungalow and caring for Mrs Jegla, would be dependent on a car to undertake any activities away from their employers. In my view the site is poorly located in relation to any local facilities, especially those that are likely to be required by someone who has complex medical needs.

9. I acknowledge that as a consequence of a major housing development on the west side of Southwater, in the longer term the appeal site will be closer to the built-up area of the village. However, at the Hearing I was told that this development could take between 2-5 years to build and the boundary, as defined in the development plan, is not likely to be reviewed until after the development has been completed.

10. This housing scheme, of approximately 600 units, cannot be compared with the appeal scheme as it is fundamentally different in scale and complexity. The site was allocated in the HDPF and outline planning permission has been granted in order to meet district wide identified housing needs. It will include infrastructure such as footways and street lighting to encourage those living there to access local facilities on foot and by bike, rather than relying on a car. The level of accessibility is therefore not directly comparable with the appeal site. The development will also include other infrastructure and community facilities to meet a wide range of economic and social needs, enabling it to be a sustainable development overall.

11. In any event, even when that development is completed, the appeal site will still be about 300m from its edge and separated by a significant landscape buffer and an existing belt of trees. Woodland Farm will continue to be physically, visually and functionally separate from the village. I therefore consider that the proposal would be an isolated new home in the countryside, which paragraph 55 of the National Planning Policy Framework (the Framework) advises should be avoided, unless special circumstances apply. Whilst the Framework gives examples of such circumstances, none of them apply in this case.

12. Taking all these factors into account, I conclude that the appeal site would not be suitable for a new dwelling due to its isolated location and its limited accessibility to local facilities and services. It would be contrary to Policies 1, 2, 3, 4 and 26 of the HDPF, which seek to direct new development to locations within built-up area boundaries and to protect the rural character and undeveloped nature of the countryside. Policy 10, referred to in the Council's decision notice, was not in the list of policies which were drawn to my attention in the Council's statement. However, as it is concerned with rural economic development it is not directly relevant to this case. I am satisfied that there would be no conflict with Policy 15 or Policy SD10. I have had regard to the other policies drawn to my attention, but consider none of them to be directly relevant to my assessment of the appeal proposal.

Other Considerations

13. Planning law requires that planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise. I will therefore move on to consider the personal circumstances of the appellant in this particular case, having due regard to the disabilities of the appellant's wife, in accordance with Section 149(7) of the Equality Act 2010.

14. It is apparent from all that I have read that Mrs Jegla has a series of complex medical needs which means that she requires care around the clock. The appellant's clear preference would be to provide for her needs in a purpose-built bungalow with all the necessary adaptations for a severely disabled person and where she could be supported by a live-in carer. At the Hearing I was informed that Mrs Jegla's health has deteriorated further recently and that, following a period in hospital, she is now in a care home as it is no longer possible for her to be looked after adequately at Woodland Farm.

15. On my site visit I saw that Woodland Farm is a modern, well-equipped chalet bungalow with three reception rooms, a good sized kitchen, a bedroom and a bathroom on the ground floor. The upstairs is reached by a wooden staircase where there are three more bedrooms and two bathrooms. In addition, at the rear of the garage there is the footprint of a partially constructed extension. I also saw that there are differences of levels between the house and its surroundings and that the doors throughout the house are not wide enough to accommodate an electric wheelchair. I therefore accept that the existing layout does not lend itself to meeting Mrs Jegla's needs, supported by a live-in carer.

16. Nevertheless, I consider that in terms of its size, the ground floor could be capable of being modified to provide a suitable space in which to care for Mrs Jegla, whilst providing separate sleeping accommodation for the appellant. I accept that this would result in some loss of living space and would require adaptations to the bathroom. However, in view of the size of the house, this would seem to be reasonable as it would still be possible to retain a separate kitchen and living room. Similarly, the upper floor could be modified to provide sufficient accommodation for a live-in carer who, with appropriate alarms, would be close at hand to offer care at night, whilst offering both parties a reasonable degree of privacy. I do not accept that it would be necessary for the carer to live on the ground floor, leaving the increasingly frail appellant having to negotiate the stairs.

17. I appreciate that undertaking such adaptations would inevitably cause some damage or disruption to what is a well-finished house. Neither would such an arrangement provide the appellant with the privacy that would be possible in a purpose built bungalow. However, in order to justify an exception to requirements of the development plan, I must be satisfied that all other options have been

adequately explored. From what I heard at the Hearing the possibility of adapting the existing dwelling to provide the necessary care has not been sufficiently investigated. In the absence of compelling evidence that the dwelling could not be adapted, or that to do so would be excessively costly, I can only give these personal circumstances limited weight in my overall assessment of the scheme. I am therefore not persuaded that the personal needs of the appellant amount to an essential need to construct a new dwelling in the countryside.

18. I recognise that if a dwelling was built with the needs of a severely disabled person in mind, it could contribute towards the needs of a locally ageing population. However, in my view, such homes would be more suitably located in a town or village with better access to the services that their occupants would be likely to require. Similarly, while the proposal could be considered to be a "windfall" development that would contribute to the housing needs in the district, the overall spatial strategy of the HDPF is based on such sites being found within or very close to existing built-up area boundaries, not in the countryside.

19. I acknowledge that the proposal would be set back from the lane and largely screened from any public views. The Council is satisfied that there would be no harm to the character and appearance of the landscape surrounding Woodland Farm and I see no reason to reach a different view. Similarly, an additional dwelling would not generate a significant number of traffic movements. I therefore concur with the highway authority that this matter would not be a reason to reject the scheme. However, the absence of harm in relation to these matters does not carry significant weight in my overall considerations.

Planning Balance

20. The Government is seeking to significantly boost the supply of housing and requires applications for housing development to be considered in the context of the presumption in favour of sustainable development. However, I have found that the proposal would conflict with the HDPF, a recently adopted development plan whose policies can be considered to be up-to-date.

21. Whilst I have sympathy for the appellant and his wife's disabilities, to set aside the requirements of the development plan would be a disproportionate response to those needs, when compared with the harm that would be caused by the presence of a permanent dwelling in the countryside. The rejection of the proposal would therefore not amount to an unacceptable interference with the appellant's human rights, as set out in Article 8 of the First Protocol to the Convention and incorporated in the Human Rights Act 1998.

Conclusion

22. For this reason, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Chris Hammerslea MSc LPC	Zydla Law
Mr Jegla	Appellant
Graham Bowden FCA	

FOR THE LOCAL PLANNING AUTHORITY:

Aimee Richardson BA MPlan	Senior Planning Officer
Hazel Corke BSc PGDip	Development Team Leader