The Planning Inspectorate

Appeal Decision

Site visit made on 2 December 2016

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 20th January 2017

Appeal Ref: APP/D2510/W/16/3160157
South Lodge, South Road, North Somercotes, Louth, Lincolnshire, LN11 7PS

- 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 and Mrs Les Ballinger against the decision of East Lindsey District Council.
- The application Ref N/132/01029/16, dated 3 May 2016, was refused by notice dated 4 July 2016.
- The development proposed is a proposed new house with garaging (to facilitate extended family living).

Decision

1. The appeal is dismissed.

Procedural Matters

2. The address of the appeal site above is taken from the planning application form, however I note that the address of the site is in fact South Croft rather than South Lodge and will therefore refer to it as such in my decision.

3. The Council refers in its statement to the emerging Local Plan which is shortly to be subject of pre-submission consultations. However, I have not been referred to any policies in that plan and confirm that I have determined the appeal on the basis of the adopted policies in the East Lindsey Local Plan Alterations 1999 (Local Plan) referred to on the decision notice.

Main Issues

4. The main issues in this case are:

    - Whether the site would be in a sustainable location where the occupiers of the proposed house would have acceptable access to local services and facilities; and

    - The effect of the proposal on the character and appearance of the surrounding area; and

    - The effect of the proposal on the living conditions of the occupiers of South Croft; and

    - Whether the proposal represents an acceptable form of development having regard to its flood zone location and the provisions of the National Planning Policy Framework (the Framework).

Reasons

Sustainable location - access to local services and facilities

5. The appeal site comprises the bungalow at South Croft along with an area of hardstanding and paddock with a stable building to the rear. It is estimated by the Council to be around 450 metres south of the main part of North Somercotes and is in the countryside in planning policy terms.

6. Paragraph 55 of 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. The appellants do not argue that any of the special circumstances set out would be met by the appeal scheme.

7. The proposed house would be sited close to South Croft. There are existing dwellings on the west side of South Road opposite the appeal site and other dispersed development along South Road. St Mary's church is some 300 metres away and the village sign is around 180 metres to the south at the junction of South Road and Church Lane. I also appreciate that there are a number of existing pockets of development surrounding North Somercotes that are also in the countryside, and note the Parish Council's view that the Local Plan is outdated and defines the settlement too narrowly.

8. That said, the appeal site adjoins open land to the north, south and east and relates closely to the surrounding countryside. Whilst there is some sporadic development along South Road, the dwellings there are themselves somewhat isolated in the wider countryside and separated from the village by open fields. The village sign does not mark the main built up extent of North Somercotes, which is some distance further to the north. As such, I am not persuaded that the appeal site is within the general developed area of the village, rather it is somewhat out on a limb in relation to it.

9. North Somercotes is a large and important service village with a range of facilities. I saw at my visit that although there is a pub and a takeaway at the north end of South Road, other services and facilities are focussed around Keeling Street further to the east. There is no footpath along South Road linking the appeal site to the village and only intermittent street lighting. South Road has a 60 mile per hour speed limit close to the appeal site and traffic travels along it at speed. This being so, and given the not inconsiderable distances to the main part of the village, I share the Council's view that the future occupiers of the proposed house would be unlikely to walk to the village particularly during bad weather and at times of darkness. Whilst cycling would be possible, it has not been put to me that there are any opportunities for bus travel.

10. As such, it seems to me that the future occupiers of the proposed house would be heavily reliant on private car journeys to access services and facilities. Consequently the proposal would not foster sustainable modes of travel and 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. Nor would it help to minimise pollution or mitigate and adapt to climate change including moving to a low carbon economy.

11. Whilst the future occupiers of the proposed house would contribute to the maintenance of services and facilities in North Somercotes, they would be somewhat isolated from them and reliant on private car journeys to meet their day to day needs. Consequently the site's location, along with its modest scale for a single dwelling, would limit the proposal's role in enhancing or maintaining the vitality of the rural community nearby.

12. The Parish Council considers that development outside the current settlement boundary is permitted by Local Plan Policy A3. This sets out the settlement hierarchy and identifies North Somercotes as a main village in the Louth area. However, in relation to small groups of buildings in scattered locations (such as the appeal site) the supporting text to the policy explains that demand for new development, particularly housing, can and should be met instead in the more established settlements (as set out in the hierarchy).

13. I therefore conclude the site would not be in a sustainable location where the occupiers of the proposed house would have acceptable access to local services and facilities. The proposal would thus be contrary to paragraph 55 of the Framework and its core planning principle relating to sustainable transport modes.

Character and appearance

14. Despite the other properties nearby, the prevailing character of the area is rural and the site is surrounded by open countryside. The proposal would be positioned to the rear of the existing bungalow which fronts South Road on land which is currently open. By introducing residential development it would undermine the open nature of the site and encroach into the defined countryside. It would expand the existing pocket of development at South Croft and add to the extent of the sporadic development along South Road.

15. There are mature evergreen trees to the north boundary of the site which continue along South Road to the north of the site and would to some extent screen views of the proposal from the north. Nevertheless, although there are some trees to the west and south of South Croft, the appeal site itself is separated from the adjoining field to the south by only a low post and rail fence and is open in views from both the field and from South Road.

16. This being so, the proposal would be open and exposed in views from the surrounding countryside to the east and south and prominent in the flat agricultural landscape on the approach to the village along South Road. This intrusion of urbanisation would appear at odds with the rural surroundings and detract from the character appearance of the nearby countryside.

17. The scheme's unacceptable visual impact would be exacerbated by the size and design of the proposed house. Its substantial main two storey part would be 16 metres long by 14 metres wide with a pitched roof with an overall height of around 9 metres. An extensive attached single storey L shaped wing to accommodate a garage, car port and store is also proposed. The resultant tall and bulky structure would be out of step with the other buildings nearby, and despite being positioned to the rear of South Croft, would overwhelm the appearance of this more modest bungalow. It would thus stand out as a large, unsympathetic and incongruous feature.

18. I therefore conclude that the proposal would be harmful to the character and appearance of the surrounding area. It would be contrary to Local Plan Policy A5 which requires development not to detract from the distinctive character of the locality. It would conflict with Local Plan Policy H12 which is permissive of new housing only where in its siting, layout, density and design it (amongst other things) reflects or enhances the locally distinctive character (criterion a).

19. It would conflict with paragraph 61 of the Framework which requires decisions to address the integration of new development into the natural environment, and paragraph 58 which seeks to ensure developments respond to local character. It would also be at odds with paragraph 109 of the Framework which requires the planning system to contribute to and enhance the natural and local environment. Furthermore, it would fail to support the core planning principles of the Framework to always seek to secure high quality design and recognise the intrinsic character and beauty of the countryside.

Living conditions occupiers of South Croft

20. The proposed house would be positioned directly to the rear of South Croft. Its rear elevation would be around 11.5 metres from South Croft's east elevation which has a ground floor window and a first floor window facing the appeal site. It would present a long two storey elevation of around 16 metres in length to a height of 6.2 metres to its eaves and 9 metres to the pitch of the roof, along with an adjoining single storey wing for a length of a further 15 metres to a height of 3.2 metres to the eaves with a higher gable section that would reach 5 metres in height.

21. Whilst the Council does not raise issues of overlooking, this considerable, tall, unbroken and continuous elevation would be seen at rather close quarters from South Croft. It would thus completely overwhelm that existing bungalow and its areas of outdoor space such that it would be seen an unduly overbearing and dominant feature that would lead to an unacceptable loss of outlook for the occupiers of South Croft.

22. I therefore conclude that the proposal would be harmful to the living conditions of the occupiers of South Croft. This would be contrary to Local Plan Policy A4 which relates to the protection of general amenities and resists development which unacceptably harms the general amenities of people living or working nearby will not be permitted. It would also be at odds with the core planning principle of the Framework to always seek a good standard of amenity for all existing and future occupants of land and buildings.

Flood risk

23. The site is within Flood Zone 3a as defined on the Environment Agency's Flood Zone Maps. The Parish Council regards the flood risk data and maps used by the Environment Agency to be out of date, and refers to recent improvements in the sea defences which it considers means the risk of coastal flooding is low. Furthermore it cites warning systems that are in place and the emerging Parish Emergency Action Plan. Nevertheless, the site is defined as being in an area where there is a high risk of flooding.

24. Paragraph 100 of the Framework advises 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.

25. 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).

26. The appellants have submitted a Flood Risk Assessment (FRA) which refers to the Sequential Test and a study of alternative sites in North Somercotes. No further details of these are provided but the FRA indicates that apart from a small area in the centre, the whole village is within Flood Zone 3a. Accordingly it finds that there are no developable sites within the areas a lower risk than the appeal site and therefore concludes that the Sequential Test is met. The Parish Council also regards there to be no Zone 1 or 2 land remaining in the village.

27. That said, the Council expects the Sequential Test to make an assessment of the wider Local Plan Sub Area which includes other settlements. It refers to a recent appeal decision[1] for a dwelling nearby which supports this approach. The Guidance confirms that the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed. Since the proposal before me also concerns a single market dwelling, I see no reason to diverge from the previous Inspector's view that the Sequential Approach catchment area should not be restricted to just North Somercotes, and should include other neighbouring settlements which are further inland and at a lower risk of flooding.

28. In this context, the appellants have 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 conflicts with the Framework in this regard.

29. I am mindful that the Exception Test should not be applied unless the Sequential Test has been met. Nevertheless, the appellants have provided information in this regard which I have considered. Paragraph 102 of the Framework states that for the Exception Test to be met it must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk. Additionally a site specific FRA must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible will reduce flood risk overall. It is also clear that both elements of the test will have to be passed for development to be permitted.

[1] APP/D2510/W/15/3138543

30. On the first part of the Exception Test, the appellants argue that the occupiers of the house would lead to extra expenditure on local services and facilities. It would also add to the supply of housing in the area and generate construction jobs during the build phase. Nevertheless, given the limited scale of the scheme for a single dwelling, and since North Somercotes is a reasonably large and sustainable settlement, the scheme's contribution in these regards would not be great.

31. Services are already available on site and I understand that the house would be eco-friendly. It would utilise electro voltaic panels, rainwater harvesting, triple glazing along with insulation in excess of that required by the building regulations. Although these measures could be secured via planning conditions, I am not convinced that they go very far beyond those required as a matter of course by the Building Regulations and the Framework. This supports the move to a low carbon future and expects new development to help to increase the use and supply and renewable and low carbon energy and take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption (paragraphs 96 and 97).

32. The appellants run a long established taxi business which employs a number of drivers and transports disabled children to school. I understand that in an area with little public transport this service is relied on by local residents. However, I have seen no evidence to suggest that the taxi business is at risk of closure. Nor has it been explained how the operation of the service relies on the appeal scheme or why it would not continue in its absence. As such, I see no reason why this valued service to the community would necessarily cease, or why jobs would be lost, should this appeal be unsuccessful.

33. As such, overall I do not consider that the proposal would give rise to wider sustainability benefits to the community that would outweigh flood risk.

34. With regard to the second part of the Exception Test, the floor levels of the proposed house would be raised and all bedrooms would be at first floor. The Environment Agency is satisfied with the development and raises no objections. This being so, I have seen nothing to suggest that the development would not be safe for its lifetime or that it would increase flood risk elsewhere. Be that as it may, the scheme presents no particular circumstances in relation to wider sustainability benefits to the local community. Thus, I am not convinced that the Exception Test would be passed in this instance.

35. Since I cannot be content that either the Sequential Test or the Exception Test would be passed, the scheme runs contrary to one of the fundamental aims of government policy as set out in the Framework. I have seen nothing to suggest that this approach is at odds with the Lincolnshire Sustainable Communities Strategy 2009-30. I therefore conclude on this issue that the proposal does not represent an acceptable form of development having regard to its flood zone location and the provisions of the Framework.

Other matters

36. There are no objections to the proposal from public health, the highway authority, or the Parish Council which supports the scheme. The absence of harm in these regards counts neither for, nor against the proposal.

37. The appellants anticipate living in the proposed house in their old age with help and assistance from a relative who would live in South Croft (or from carers living in the proposed house). The house's layout would enable wheelchair access and the proposal would ease pressure on Council care services since the appellants would not have to go into a home. The proposal would also allow the appellants to stay in the local area to which they have connections. However, whilst these are benefits of the scheme there is nothing to guarantee that the house would be occupied by the appellants in perpetuity. I have been provided with no evidence to demonstrate that the appellants are currently in need of on-site care and am mindful that it may be possible for their future needs to be met by an alternative scheme.

38. The Parish Council argues that the area needs housing growth to support economic development and considers that there is an inadequate supply of sites for housing in the village and a low likelihood of extant permissions being built. It cites a high demand for existing properties and questions the Council's approach to housing development. It also refers to the exclusion of the coastal area from the Council's self-build register and a lack of alternative suitable plots for this purpose. Furthermore it considers the appeal site to be previously developed land and believes that the scheme would take pressure off need to use greenfield sites. The Council confirms that it cannot demonstrate a deliverable 5 year supply of housing land, and the proposal's contribution to housing supply and growth in the local area is a benefit of the scheme. However, its contribution in this respect would not be great given the limited scale of the proposal for a single dwelling.

39. Whilst not cited by the parties, in the context of the Council's housing land supply situation and the advice at paragraph 49 of the Framework, I confirm that I have considered the proposal under the terms of paragraph 14 of the Framework concerning the presumption in favour of sustainable development. This indicates that where the development plan is out-of-date permission should be granted unless specific policies in the Framework indicate development should be restricted. These include, at footnote 9, locations at risk of flooding. In any event, I have also found that the proposal would not be in a sustainable location where occupiers of the proposed house would have acceptable access to local services and facilities and that it would be harmful to the character and appearance of the surrounding area. As such, overall 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. Thus I do not regard the proposal to constitute sustainable development.

Conclusion

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

Elaine Worthington

INSPECTOR