
Appeal Decision

Site visit made on 17 January 2017

by Nick Palmer BA (Hons) BPI MRTPI

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

Decision date: 16 February 2017

Appeal Ref: APP/V2635/W/16/3160788

Land west of Mayfield House, High Road, Saddlebow, King's Lynn, Norfolk PE34 3AR

- 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 L Aldren against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 16/00373/O, dated 23 February 2016, was refused by notice dated 20 April 2016.
 - The development proposed is construction of four dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is for outline permission with all detailed matters reserved. A plan has been submitted showing indicative proposed plot boundaries and an indicative layout plan is included in the Design and Access Statement. I shall consider those plans on this basis.
3. When the Council made its decision it's Site Allocations and Development Management Policies Plan (SADMP) was not adopted but was at an advanced stage. Since then the Plan has been adopted¹ and I shall consider the proposal against the relevant policies of that Plan.

Main Issues

4. The Council has accepted that its second reason for refusal which concerns the need for affordable housing no longer applies. This is because since the Council made its decision the Court of Appeal gave legal effect to the Government's policy on the need for affordable housing contributions on small sites. Under that policy² no affordable housing contribution would be required. I shall not therefore consider this as a main issue.
5. Accordingly the main issues in the appeal are:
 - i) whether the proposal would accord with planning policies for development in the countryside having regard to its effect on the character and appearance of the area and its accessibility to services and facilities by sustainable means of transport; and

¹ King's Lynn & West Norfolk Site Allocations and Development Management Policies (2016)

² Planning Practice Guidance ID: 23b-031-20160519

- ii) whether the proposal would accord with planning policies concerning flood risk.

Reasons

Planning Policies for Development in the Countryside

6. The site is an open unused area of land which is adjacent to and opposite dwellings that form the small settlement of Saddlebow. This is defined in the King's Lynn & West Norfolk Core Strategy (CS) (2011) as a smaller village or hamlet but within the countryside for planning policy purposes. Policy CS06 of the CS resists the development of green field sites in the countryside for housing other than for agricultural or forestry purposes.
7. The Council states that it has a five year supply of deliverable housing sites and has referred to an appeal decision³ from February 2015 in which this position was agreed between the parties to that appeal. There is no specific evidence before me regarding the housing land supply but the appellant has not disputed the Council's position. Accordingly I shall give full weight to the development plan policies for the provision of housing in the countryside on the basis that those policies are up-to-date.
8. I saw on my visit that the site is open and overgrown. There appeared to be two small derelict structures which were largely obscured by vegetation but those structures are very limited in size. The appellant says that the site has been vacant since the mid-1980s. There is no substantive evidence before me to show that the site is previously-developed land as defined in Annex 2 to the National Planning Policy Framework (the Framework).
9. Policy DM3 of the SADMP allows for sensitive infilling of small gaps within an otherwise continuously built up frontage in smaller villages and hamlets. However the proposal would not be such a development because the site is not within such a frontage and the proposal would extend built development into the open countryside.
10. Policy DM3 also exceptionally allows for the development of small groups of dwellings which are of a particularly high quality and would provide significant benefits to the local community. Details of the proposed development have not been provided and there is no evidence before me to demonstrate that the proposal would accord with that part of the policy.
11. Policy CS06 of the CS promotes sustainable patterns of development in rural areas. Such development is required to maintain local character and a high quality environment. The scale of the proposed development would be significant in relation to the small size of the hamlet. Moreover the proposal would have an urbanising effect which would be harmful in the context of the distinctly rural character of the area. For these reasons I find that the proposal would adversely affect the character and appearance of the area and would not accord with policy CS06 of the CS or with policy DM3 of the SADMP.
12. Saddlebow appears to have no local services or facilities although I saw on my visit that it appears to have a bus service. The site is quite close to the urban area of King's Lynn which provides a wide range of services and facilities including employment opportunities. While there may be opportunities to use

³ APP/V2635/A/14/2221650

public transport no details of the services available are before me. It is likely that the occupants of the proposed dwellings would be highly dependent on the car for transport. This would not accord with one of the Framework's core planning principles which is to make the fullest use of public transport, walking and cycling.

13. Paragraph 55 of the Framework states that new isolated homes in the countryside should be avoided. While not isolated in terms of their proximity to existing dwellings the proposed dwellings would be isolated in terms of their accessibility to services and facilities by sustainable means. Although the Framework allows for housing in rural areas where it will enhance or maintain the vitality of rural communities such a benefit has not been demonstrated.
14. Policy CS06 of the CS allows for development in smaller villages and hamlets where this would be accessible to employment, services and markets. While journeys by car to the urban area would be quite short this is not sufficient to demonstrate that the site is in a sustainable location in terms of minimising car journeys or maximising the use of sustainable means of transport. For these reasons I find that the proposal would not accord with policy CS06 or with the Framework in this regard. I conclude on this main issue that the proposal would not accord with planning policies for development in the countryside.

Flood Risk

15. The site is within an area at high risk of flooding, being identified as Flood Zone 3 on the Environment Agency's mapping and in the Council's Strategic Flood Risk Assessment. The latter also identifies that the site is within a Hazard Zone. The appellant's Flood Risk Assessment (FRA) explains that the existing flood defences on the River Great Ouse protect the site but the level of tidal flood risk remains as identified for Flood Zone 3a in Table 1 in the Planning Practice Guidance⁴. Taking into account climate change there would be a risk of overtopping of the defences.
16. The Framework requires the use of a Sequential Test to steer new development to areas with the lowest probability of flooding. The Planning Practice Guidance⁵ states that the area to apply the Sequential Test across will be defined by local circumstances. For example where there are large areas in Flood Zones 2 and 3 and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives.
17. The FRA states that there are no other sites available that are in an area at lower risk of flooding within a radius of 5 km from the River Great Ouse flood defences. It has not been explained why this radius has been used in the assessment. No evidence has been provided to demonstrate that there is a specific need for housing development to take place in Saddlebow or the immediately surrounding area. Given that there are likely to be sites available for housing across the wider area that are at lower risk of flooding the Sequential Test has not been demonstrated to have been passed.
18. Notwithstanding my finding on this requirement the Council's third reason for refusal concerns the Exception Test and I shall consider this. That test requires proposed development to show that it will provide wider sustainability benefits

⁴ ID: 7-065-20140306

⁵ ID: 7-033-20140306

to the community that outweigh flood risk and that it will be safe for its lifetime, without increasing flood risk elsewhere. For the reasons given above no sustainability benefits have been demonstrated and indeed I have identified harms in terms of the character and appearance of the area and the lack of accessibility to services and facilities by sustainable means.

19. The Environment Agency (EA) advises that its Tidal Hazard Mapping shows that the majority of the site would be at risk of flooding to a depth of between 1m and 2m with a small part of the site at risk up to a depth of over 2m. The EA has confirmed that the development could potentially be made safe for its lifetime but this would be dependent on providing habitable floor levels at 2m above existing ground level. It has not been demonstrated that such an arrangement would be practicable or acceptable in other respects. Thus I have concerns as to whether a safe form of development could be achieved. For these reasons notwithstanding my findings on the Sequential Test, the Exception Test would not be passed.
20. Policies CS01 and CS08 of the CS require that new development is guided away from areas at high risk of flooding but allow for development to take place in areas of high flood risk where they would contribute to the wider sustainability needs of rural communities. The latter has not been demonstrated and the proposal would not accord with those policies or with the Framework.

Other Matters

21. I have taken into account all other matters raised. The appellant has referred to a previous planning permission for two dwellings on the site but no details of that permission are before me. I also note the appellant's comments about other applications which he says were dealt with differently by the Council. However the matters commented upon concern details of process rather than the substantive matters before me and in any case proposals must be considered on their individual merits.

Conclusion

22. For the reasons given I conclude that the appeal should be dismissed.

Nick Palmer

INSPECTOR