The Planning Inspectorate

Appeal Decision

Site visit made on 14 February 2017

by Nick Palmer BA (Hons) BPl MRTPI

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

Decision date: 1 March 2017

Appeal Ref: APP/D0515/W/16/3164590
Land west of The Lodge, Mouth Lane, Guyhirn, Cambridgeshire PE13 4ES

- 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 J, R and M Embling against the decision of Fenland District Council.
- The application Ref F/YR16/0012/F, dated 4 January 2016, was refused by notice dated 2 August 2016.
- The development proposed is a 2 storey 3-bed dwelling with garage.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposed development and site address as given in the appeal documentation differ from those given on the application form. However the appellants have confirmed that the application was for the amended description of development and that the site address is as given by the Council on its decision. I do not consider that any party would be prejudiced by my using the amended description and site address in the heading to this decision.

Main Issues

3. The main issues in the appeal are:

   i) the effect of the proposal on the character and appearance of the area; and

   ii) whether or not the proposal would accord with planning policies concerning flood risk.

Reasons

Character and Appearance

4. The appeal site is in the open countryside outside the village of Guyhirn. Along Mouth Lane there are sporadic dwellings with intervening areas of open land. The site is an area of grassland about 0.2 ha in area which is between two residential properties. To the rear and opposite there are open fields. Although there are houses along the road they do not alter the predominantly open rural character of the area.

5. A core planning principle of the National Planning Policy Framework (the Framework) is to take account of the character of different areas, recognising the intrinsic character and beauty of the countryside. Policy LP16 (d) of the Fenland Local Plan (LP) (2014) requires that development does not adversely impact on the landscape character of the surrounding area and that it reinforces local identity.

6. The design of the proposed dwelling would be innovative in that it would be a straw bale dwelling that strives to achieve carbon neutrality in occupation in accordance with *Passivhaus* principles. The proposal would provide for on-site food production and energy generation as well as sewage treatment and measures to minimise energy and water consumption. The design of the dwelling would be contemporary but would also reflect elements of traditional barns in terms of the forms and materials to be used and the proportions of the openings. For these reasons I concur with the Council's view that the design would be of a high architectural standard and innovative.

7. Paragraph 55 of the Framework allows for innovative design in the countryside but in such cases requires that development significantly enhances its immediate setting and is sensitive to the defining characteristics of the local area. Given that the area is predominantly open this defines its character rather than the sporadic dwellings along the road. Although the proposal would leave space on either side ensuring that the frontage would not be continuously built up it would nonetheless be of significant size occupying much of the space between The Lodge and Dale Cottage. It would thus reduce the openness and change the character of the road by having an urbanising effect. For these reasons the proposal would not be sensitive to the defining characteristics of the area. I have found that the proposal would be of high architectural quality but this in combination with the proposed landscaping would not be sufficient to amount to a significant enhancement of its setting.

8. I saw on my visit that there are tree belts in the area and planting around individual properties along the road but the site is open as are the adjoining areas to the rear and opposite. The proposal would be visible across a wide area and the proposed landscape planting within the site would not significantly reduce its visibility. For the reasons given I conclude on this issue that the proposal would adversely affect the character and appearance of the area and that it would not accord with policy LP16 (d) of the LP.

Flood Risk

9. The site is within Flood Zone 3 on the Environment Agency's mapping which indicates that it is at high risk of flooding. The appellants' Flood Risk Assessment explains that the EA's mapping does not take into account the existing flood defences. While it is claimed that the defences reduce the risk of flooding it has not been demonstrated that this risk is any less than 1 in 200 years for a tidal event or 1 in 100 years for a fluvial event which are the levels of risk defined in Table 1 in the Planning Practice Guidance[1] as Flood Zone 3a. The Internal Drainage Board's modelling demonstrates that the site is not at risk of flooding from the drainage system but this does not alter the position regarding tidal and fluvial flood risk.

[1] ID: 7-065-20140306

10. The EA states that in a 1 in 200 year tidal event taking into account climate change the site would be likely to flood to a depth of 0.5m – 1.0m. This would be caused by overtopping of the existing defences. While I note that flood waters would be likely to overtop other defences before reaching the Nene defences it has not been conclusively demonstrated that this effect would reduce the risk of flooding on the site. For these reasons the evidence before me indicates that the site is at high risk of flooding. The Framework requires the use of the Sequential Test to steer new development to areas with the lowest probability of flooding.

11. The Planning Practice Guidance[2] states 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. The catchment area may be identified from Local Plan policies which can include policies that identify a need for development in particular areas. Policy LP3 of the LP sets out the spatial strategy for development in the district. Guyhirn is identified in that policy as a Small Village where development will normally be of a very limited nature. The site is outside that village where the policy restricts development to that which is essential to the operation of activities such as agriculture and forestry. The proposal would not accord with that policy and there is no identified need for housing development in the local area.

12. The appellants' initial Sequential Test assessment considered the availability of alternative sites within a nearby area adjacent to Guyhirn which is identified on the EA map as Flood Zone 1. Three sites are identified in Tholomas Drove which have had permission for dwellings in recent years but those sites are not for sale. However the area considered is unnecessarily restricted and has not been justified as an appropriate area for the Sequential Test to be applied to.

13. The appellants then assessed whether sites identified in the Council's Five Year Housing Supply Report are available for the proposed development. They have discounted sites where planning permission has expired, sites identified as being for more than one dwelling and sites that do not meet their sustainability credentials. The expiration of planning permission does not mean that a site is unavailable however. Furthermore the size of the appeal site is larger than would normally be considered suitable for a single dwelling and the sustainability credentials used in the appellants' Sequential Test assessment have not been explained. For these reasons it is apparent that there are likely to be alternative sites for the proposed development in areas at lower risk of flooding and the requirements of the Sequential Test have not been met.

14. For this reason the proposal would not accord with policy LP14 (B) of the LP which has this requirement or with the Framework. Neither would the proposal accord with policy LP2 which requires that homes are safe from flooding or policy LP16 which requires safe high quality environments that are resilient to climate change. For the reasons given the proposal would not accord with national or local planning policies concerning flood risk.

Other Matters

15. The appellants have pointed out that historically there was a dwelling on the site. However all traces of this have been removed and this does not alter my conclusions for the reasons given.

[2] ID: 7-033-20140306

Overall

16. The proposal would represent a sustainable form of development in that it would minimise energy and water use and carbon emissions and would provide flexible accommodation. It may be of benefit in terms of support for the local community including the facilities nearby in Guyhirn. The proposal would provide employment during construction and would enable its occupants to work from home. It would include measures to support biodiversity. These aspects of the development would clearly accord with the three dimensions of sustainable development. However I have also identified significant harms in respect of flood risk and the character and appearance of the area. Those harms weigh considerably against the three dimensions and for this reason when considered as a whole the proposal would not be a sustainable form of development.

Conclusion

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

Nick Palmer

INSPECTOR