The Planning Inspectorate

# Appeal Decision

Site visit made on 20 March 2017

**by Nigel Harrison BA (Hons) MRTPI**

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

**Decision date: 28 March 2017**

**Appeal Ref: APP/A2525/W/16/3164199**
**Land off Pipwell Gate, Moulton Seas End, Spalding, Lincolnshire, PE12 6LU**

- 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 and Mrs P Breach against the decision of South Holland District Council.
- The application Ref: H13-0610-16 dated 17 June 2016, was refused by notice dated 19 September 2016.
- The development proposed is 'residential development'.

## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The application was made in outline with all matters (layout, appearance, landscaping, scale and access) reserved for subsequent approval. An indicative site layout plan has been submitted showing five detached dwellings which I shall treat as being for illustrative purposes only.

## Main Issues

3. I consider the three main issues in this case are: Firstly, the effect of the proposal on the form and setting of the village and the character and appearance of the area; secondly, the effect of the proposal on the living conditions of the occupiers of Nos 7 and 9 Pipwell Gate with regard to noise and disturbance from vehicles entering and leaving the site; and thirdly, whether the proposal would be consistent with the principles of sustainable development having regard to the provisions of the development plan and the *National Planning Policy Framework* (the Framework), and having regard to the Council's housing land supply position.

## Reasons

4. The appeal site (approximately 0.36ha) comprises a large flat area of mown grass in front of the appellants' bungalow 'The Retreat'. Access to the site is via a gravelled private lane off Pipwell Gate. Existing residential development is located to the south and west with open land (formerly allotments) to the east.

*Policy Background*

5. Moulton Seas End is defined as an 'Other Rural Settlement' in the *South Holland Local Plan* 2006 (LP), and as an 'Other Service Centre and Settlement' in the emerging *South East Lincolnshire Local Plan 2011-2036 (Public*

*Consultation Document on Preferred Sites for Development), July 2016* (SELLP). The Council states that these villages are low in the settlement hierarchy with few services or facilities. Moulton Seas End is identified as an area of 'development restraint' with limited opportunities for frontage infill.

6. The SELLP is at a fairly advanced stage, with the final statutory round of consultation due to take place in April/May 2017. I note that the appeal site was put forward by the appellants for consideration as a possible housing site (Mou36) in the emerging Plan, although I understand the Council's response was that the site was unsuitable for inclusion 'due to conflict with the emerging Plan's locational strategy'. However, the SELLP is not yet part of the Development Plan, and neither the Council's decision notice nor statement refers to any of its policies. I have therefore assessed the proposal against the saved LP policies and the policies in the Framework, the latter being an important material consideration.

7. The appeal site lies outside any of the settlement boundaries defined in the LP, although is on the edge of the built up part of the village. Therefore, for planning policy purposes it is within an area regarded as countryside. Although a settlement boundary for Moulton Seas End is included in the emerging SELLP, the appeal site is not included within it.

8. Saved LP Policy HS7 says new housing development will only be permitted in the countryside, including the Other Rural Settlements, where it is essential to meet the needs of rural workers, or where the proposal is for small scale affordable housing schemes. None of these policy exceptions apply in this case. Therefore, the proposal 'on its face' is contrary to LP Policy HS7. At the national level, paragraph 55 of the Framework confirms that isolated new homes in the countryside should be avoided. In terms of its location therefore, the proposal would represent an incursion into the countryside and is contrary to local and national policies which seek to restrict development in such areas.

9. The Framework states that local planning authorities should identify and annually update a supply of specific deliverable sites sufficient to provide five years supply of housing against their housing requirements (the 5-year land supply). Paragraph 49 of the Framework states that housing proposals should be considered in the context of the presumption in favour of sustainable development. It further states that relevant policies for the supply of housing should not be considered up-to-date if the Council cannot demonstrate a 5-year supply of deliverable housing sites. Saved LP Policy HS7 is clearly a relevant policy concerned with the supply of housing land.

10. The Council accepts that it currently does not have a 5-year supply, although the scale of the shortfall is not stated. Nonetheless, and as the Council accepts, its policies *insofar as they concern the supply of housing* cannot be considered up-to-date, and can only be afforded limited weight at the present time. Therefore, the fact that the site lies in the countryside outside any of the LP's settlement boundaries, and thus conflicts with Policy HS7, is not determinative.

*Character and Appearance*

11. Existing housing on Pipwell Gate and the east side of Moulton Seas End Road is predominantly frontage development, the houses being lose to the road with generally large gardens extending to the rear. The only significant exception is the appellants' bungalow 'The Retreat', which is set well back from the road in

a spacious setting. The appeal proposal, in contrast, would amount to a form of backland development that extends beyond the existing built form of the village. Although enclosed and maintained as garden, the site occupies a prominent position on the edge of open countryside. This open aspect contributes positively to the character and setting of the village, and I consider the proposed development would significantly erode the rural feeling which currently pervades the area. Notwithstanding the relatively low density of the scheme, I consider the scale of development in this location would harm the subtle transition from the built up part of the village to the open countryside beyond. As a result, the character and setting of the village would irrevocably be changed through the loss of this open land.

12. Whilst the appeal site itself may not be 'classic' countryside, being on the edge of a village, the visual character of the landscape adjoining it is still overwhelmingly open and unobstructed, and a rural feel prevails. One of the core planning principles set in Paragraph 17 of the Framework is to recognise the intrinsic character and beauty of the countryside, and I consider the proposal fails to meet that objective.

13. I therefore conclude on this issue that the proposal would cause significant harm to the form and setting of the village and the character and appearance of the surrounding area. As such, it would conflict with Paragraphs 17 and 55 of the Framework and saved LP Policy SG14 which, amongst other things, require new development to make a positive contribution to the visual quality of its surroundings, and respect local distinctiveness and the historic pattern of development in the locality.

*Effect on living conditions*

14. Nos 7 and 9 Pipwell Gate are located to either side of the proposed site access, and this access would potentially serve five additional dwellings. The width of the access and appellants' land ownership is constrained where it passes between these two properties, and there is no space for any meaningful planting or screening that might help mitigate the potential noise and other disturbance arising from the coming and going of vehicles on the access road. As such I consider that the increased vehicle activity engendered by the proposed development would have an adverse impact on the living conditions of the occupiers of that property.

15. I therefore conclude on this issue that the proposal would materially harm the living conditions of the occupiers of Nos 7 and 9 Pipwell Gate. As such it conflicts with saved LP Policy SG17 which only supports proposals where no material harm to residential amenity would arise. Noise nuisance, including that associated with vehicle activity, is specifically referred to in the policy.

*Whether the proposal would represent sustainable development*

16. Paragraph 7 of the Framework identifies a three-stranded definition of sustainable development based on economic, social and environmental factors; and it is necessary to determine whether the proposal is sustainable in the wider realm in the context of the Framework taken as a whole.

17. With regard to the economic dimension, the proposal would make a short-term contribution to the local economy in terms of jobs during construction, and would increase support local services and facilities in the nearby towns and

villages. With respect to the social dimension, the scheme would be deliverable, and the provision of potentially five new homes is a material consideration to which substantial weight should be given. Although the scale is modest, taken together these represent significant benefits in terms of the social and economic dimensions of sustainable development.

18. However, in weighing the above benefits and disbenefits together, and notwithstanding the shortfall in housing supply, I consider the adverse environmental harm which I have identified to the form and setting of the village and the character and appearance of the surrounding area, together with the harmful impact on residents living conditions, would substantially and demonstrably outweigh any potential social and economic benefits, and must be decisive. For this reason I conclude that the proposal does not amount to sustainable development, and the presumption in favour of such development does not therefore apply. The proposal would conflict with the policies of the development plan and the provisions of the Framework when taken as a whole.

*Other Matters*

19. The appellants feel there has been some inconsistency in decision-taking by the Council, and has drawn my attention to recently approved applications for residential development nearby which I took the opportunity to view at my site visit: Two dwellings adjacent to No 33 Pipwell Gate;[1] one dwelling adjacent to Pebble Cottage, Pipwell Gate;[2] and one dwelling fronting Moulton Seas End Road close to the junction with Pipwell Gate.[3] However, in contrast to the appeal site, these sites may all be said to reasonably represent examples of frontage infill development between existing dwellings. As such, I cannot draw any meaningful comparison with the appeal proposal, or infer that any kind of precedent has been set.

20. In any event, it is rarely possible to compare decisions at different sites in any meaningful way, and these previous decisions have not influenced or fettered my reasoning. Each application and appeal falls to be considered on its own merits.

21. The appellants have referred to nearby 'backland' developments at Sizen Court and 1a and 1b Pipwell Gate. However, although to the rear of frontage properties, both these developments have been built within what was a rear garden environment, and consequently are not at odds with the historic pattern of development in the village.

***Conclusion***

22. Therefore, for the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*Nigel Harrison*

INSPECTOR

[1] Ref: H13-0441-16
[2] Ref: H13-0441-16
[3] Ref: H13-0594-16