
Appeal Decision

Site visit made on 25 July 2017

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

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

Decision date: 04 August 2017

Appeal Ref: APP/D0515/W/17/3175506

**Land north east of Radnor Farm, Gossetree Road, Rings End,
Cambridgeshire PE13 4DH**

- 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 Matthew Bates against the decision of Fenland District Council.
 - The application Ref F/YR17/0080/F, dated 1 February 2017, was refused by notice dated 29 March 2017.
 - The development proposed is an animal enclosure and temporary accommodation for three years adjacent to enclosure.
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Decision

1. The appeal is dismissed.

Procedural matter

2. At appeal stage the appellant has sought to amend the application, replacing the portacabin with a second static caravan for the housing of reptiles. However, the appeal process should not be used to evolve a scheme and it is important that what I consider is essentially what was considered by the local planning authority. Given that a second static caravan would materially increase the quantum of development on the appeal site, I have dealt with the appeal on the basis of the scheme and plans that were before the Council when it made its decision.

Main Issues

3. The main issues in this appeal are;
 - whether the location of the proposed development within the open countryside is justified; and,
 - whether the proposal would comply with planning policy which seeks to steer development away from areas at the highest risk of flooding.

Reasons

Location of the proposed development

4. Core planning principles of the National Planning Policy Framework ('the Framework') in relation to decision taking include; actively managing patterns of growth to make the fullest use of public transport, walking and cycling; and, that the intrinsic character and beauty of the countryside should be taken into account.

5. In this regard, policies LP3 and LP12 of the Fenland Local Plan are consistent with the Framework. These policies focus development on larger settlements with the best access to services and facilities and restrict development in the countryside, including the use of land for the stationing of mobile homes, unless there is a justifiable reason for development in this location.
6. The proposed development would relocate 'The Exotic Animal Encounter' from its existing location at the home of the appellant to a field in an isolated location within the open countryside next to the A605. Within the field there would be a portacabin (to be used as a reptile enclosure), a new barn, static caravan and exercise area. The site has been fenced and the static caravan is already on the site.
7. The static caravan is described as offering accommodation 'as a base for ongoing and constant need to be on site when circumstances arise regarding the well-being and monitoring of the animals'. The buildings could be alarmed, but as the appellant does not reside on site he would be unable to respond promptly. It is the intention of the appellant to later apply for a log cabin type dwelling. Given that the static caravan has all the facilities necessary for it to function as a dwelling I have assessed the application on this basis. As such it policy LP12 part D is relevant.
8. The appellant states that 'The Exotic Animal Encounter' has been trading since 2013, is in profit and has outgrown the family home where it is located. Although some of the animals are nocturnal and can be noisy, there is no substantive evidence that the operation of the business has harmed the living conditions of neighbours. Given this consideration, there is no explanation of why a dwelling with a large garden in a settlement could not provide sufficient space for expansion of the business. Moreover, even if the proposed location of the business could be justified, in the absence of further details regarding its financial viability, I am not persuaded that it has been shown that it is an established, viable and financially sound business.
9. The appeal site is located several miles from the nearest settlement of note with services and facilities. Some bedding and foodstuffs could be obtained from farmers who are nearer and food for the animals could be reared on site. However, given that it has not been shown that the business could not be located within a settlement this would not overcome the in principle policy objection to the location proposed.
10. Taking all these matters into account, I therefore conclude that the location of the proposed development in an isolated location within the open countryside has not been justified. The proposed development therefore would be contrary to the spatial strategy contained in policies LP3 and LP12 of the Local Plan which, consistent with the Framework, seeks to ensure new development is in an accessible location.

Flood risk

11. Of the various cited development plan policies, I consider policy LP14 of the Local Plan to be the most relevant to this issue.
12. The proposed development includes a static caravan that would be used as temporary accommodation. There is disagreement between the appellant and the Council as to how frequently and for how long the accommodation would be lived in. However, given the valuable nature of the animals, the need to provide care and security, and the intention of the appellant in future to replace

it with a log cabin to live in permanently, I find that, as a matter of fact and degree, the accommodation is likely to be lived in for notable periods of time. Flood risk should accordingly be assessed on the basis that the static caravan would provide residential accommodation.

13. The appeal site is located within Flood Zone 3 which, ignoring the presence of defences, is the zone that has the highest probability of flooding. In accordance with the Framework and development plan, where development is proposed within this zone a Sequential Test needs to be carried out to demonstrate whether there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. No such test has been submitted. As a result, it has not been demonstrated that the development could not be located in an area of lower flood risk. The proposed development is therefore contrary to policy LP14 (Part B) of the Local Plan which seeks to minimise flood risk.

Other matters

14. The appeal site has been given to the appellant and he cannot afford to purchase the amount of land that he seeks elsewhere to expand his business. However, as Planning Practice Guidance¹ makes clear it is the effect of a proposal on matters that affect the public interest which must be considered, rather than private interests. For this reason, I attach little weight to this matter in favour of the appeal.
15. The appellant wishes to keep the business in the area in which it is based, rather than move to an area of lower flood risk, because of work with local businesses and charities. However, this consideration does not outweigh the need to direct development away from areas at highest flood risk.
16. The business carries out educational visits to schools which is a social benefit. Environmentally, further trees would be planted on site, rainwater would be harvested, composting would occur and it is intended that solar power would be generated. Economically, it is stated that the business would create a small number of jobs. In the absence though of substantive evidence regarding employment generation, I attach little weight to this as a benefit of the scheme.
17. Whilst there would be some social, environmental and economic benefits of the scheme, they do not outweigh the policy conflict regarding the location of the business in terms of the poor accessibility of service and facilities and whether alternative land at lower flood risk exists. Material considerations therefore do not justify making a decision other than in accordance with the development plan.

Conclusion

18. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector

¹ Para 008 Reference ID 21b-008-20140306