
Appeal Decision

Site visit made on 25 June 2019

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th August 2019

Appeal Ref: APP/D0515/W/19/3225296

Land adjoining Fern House, Swallow Lane, Four Gotes, Cambridgeshire, PE13 5PQ

- 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 G Mathias against the decision of Fenland District Council.
 - The application Ref: F/YR18/0725/O dated 25 July 2018, was refused by notice dated 28 September 2018.
 - The development proposed is residential development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposed development in the banner is taken from the application form. The description of the proposed development on the decision notice and appeal form both refer to the 'erection of up to 2 x dwellings' and I have determined the appeal on this basis.
3. The proposal has been made in outline application with all matters reserved. Drawing 3070-16 OIA was submitted with the application and shows a site layout. However, this drawing is clearly marked 'Indicative Layout Only' and I have therefore considered it as only being indicative.

Main Issues

4. The main issues in this appeal are:
 - a) the effect of the proposed development on the character and appearance of the area
 - b) whether the proposed development would provide a suitable location for housing, having regard to the accessibility to facilities and services and
 - c) the safety of the proposed development with regard to flooding.

Reasons

Character and appearance

5. Swallow Lane is a single-track road providing access to a number of dispersed dwellings, many in spacious grounds, set within a wider context of agricultural land across which the flat topography and general absence of hedgerows allow

extensive views. There are extensive views across the appeal site to the adjacent agricultural land and it contributes positively to the character and appearance of the area.

6. The development of up to two dwellings on this site adjacent to each other and close to Fern House would be at odds with the dispersed nature of development along Swallow Lane and thus detrimental to the prevailing character and appearance of the area. The proposed development would therefore be contrary to Policy LP16 of the Fenland Local Plan (2014) (FLP) which requires new development to make a positive contribution to the local distinctiveness and character of the area, reinforce local identity and not adversely impact on the settlement pattern or landscape character.

Accessibility to facilities and services

7. Policy LP3 of the FLP sets out a spatial strategy and settlement hierarchy for Fenland. Decisions on the location and scale of new development will be taken on the basis of the settlement hierarchy, itself based on the size of and range of services and facilities in the settlements. In this hierarchy, Four Gotes and the appeal site are considered as 'Elsewhere'.
8. In 'Elsewhere' locations development will be restricted to that which is demonstrably essential to the effective operation of local agriculture, horticulture, forestry, outdoor recreation, transport or utility services and to minerals and waste development. Policy LP12 of the FLP requires supporting evidence to be submitted with applications for new dwellings away from the market towns and villages to demonstrate the need for the dwelling. No evidence has been provided to demonstrate that the proposed development is essential to any of the activities acceptable in 'Elsewhere' locations. The proposed development is therefore contrary to Policies LP3 and LP12 of the FLP.
9. The 'Elsewhere' designation reflects the lack of services and facilities in the immediate area. The appellants refer to facilities and services being available in Tydd St Giles within walking and cycling distance of the appeal site. However, these are some distance away and the shortest route is via Swallow Lane and Sandy Lane, both of which are narrow lanes with no footways.
10. It is clear therefore that the future occupiers of the proposed dwellings would be reliant on private motor vehicles to access facilities and services for day to day living. The proposed development would thus be contrary to Policy LP15 of the FLP, which requires development to be located and designed to help increase the use of non-car modes and to provide safe and convenient access for all.

Flooding

11. The Environment Agency Flood Map for Planning identifies the appeal site as being within Flood Zone 3, which is land at the greatest risk of flooding. The appellant has submitted a Site-Specific Flood Risk Assessment which maintains that the site should be in Flood Zone 1 because the Environment Agency hazard map shows the site unaffected by any floodwaters arising from a Northern Area Tidal Breach. However, I note that the Agency's comments on the proposed development refers to there being a high flood risk at this

location. Therefore, I am considering this appeal on the basis that the site is in Flood Zone 3.

12. Policy LP14 of the FLP requires all development to adopt a sequential approach to flood risk from all forms of flooding. Development in areas known to be at risk from any form of flooding will only be permitted following the completion of potentially four steps. The first of these steps is a 'sequential test', if necessary, which accords with the National Planning Policy Framework's approach to planning and flood risk. As the site is in an area considered by the Environment Agency to be at high risk of flooding, the sequential test is necessary under Policy LP14. I have no evidence that the appellant has undertaken and submitted information to demonstrate that the Sequential Test is satisfied. The proposed development therefore fails to conform with Policy LP14 of the FLP.
13. The Framework does allow an exception test to be applied if it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives). However, the Sequential Test must be passed before the Exception Test can be applied. As I have no evidence that this is the case, the Exception Test is not applicable.
14. Both Policy LP2 and LP16 of the FLP require development proposals to provide safe living environments, including being safe from flooding. The submitted Flood Risk Assessment refers to floor level being 300 mm above Swallow Lane carriageway level and flood resilience construction incorporated up to 300 mm above finished floor level. However, in the absence of a Sequential Test I am not in a position to make a full assessment and be confident that it would be possible to provide an environment safe from flooding. I cannot be confident therefore that the proposed development would comply with Policies LP2 and LP16 of the FLP. Even if it did, this would not overcome the conflict with Policy LP14 of the FLP that I have identified above.

Other matters

15. The Council's third reason for refusal refers, in part, to Policy LP15 of the FLP which requires development schemes to provide safe and convenient access for all. However, as access is a reserved matter, it is not determinative in this appeal. Nevertheless, the appeal site is located partially on the inside of a blind bend, as confirmed during my site visit. Wherever the access or accesses to the proposed dwellings were located on the frontage to Swallow Lane, visibility would be restricted to the right when exiting the site.
16. The Highways Authority has noted that the proposed accesses would require substantial vegetation clearance to achieve the desired visibility splays, commensurate with 85%ile vehicle speeds along the site frontage. The restricted width of Swallow Lane is likely to discourage higher speeds, but I have no evidence of the splays required. It has not been demonstrated that a safe access or egress to the proposed development can be achieved, with regard to vehicles, cyclists and pedestrians approaching from the right or entering or exiting the site. Consequently, I cannot be confident that residential development on this site could be achieved that would accord with Policies LP15 and LP16 of the FLP.
17. The appellants challenge the validity of the Council's Five-Year Housing Land Supply Report March 2018, which is rebutted by the Council. However, even if

I was to conclude that the Council is unable to demonstrate a 5-year supply of deliverable housing sites, this would not mean that the policies of the adopted development plan have no weight. I consider that the very modest contribution to the overall supply the proposed development would make would be outweighed by the conflict with those policies as I have identified above.

18. The appellants have also referred to permissions for other dwellings in the locality. Few details of those other schemes have been provided but, in any event, I have to consider this appeal on its individual merits. The appellants maintain that the appeal site has no agricultural or commercial value. However, I see no reason why the site could not be farmed in conjunction with the adjacent agricultural land or put to a suitable use other than agricultural or commercial, subject to, if necessary, planning permission. Even if the site has no agricultural or commercial value this would not justify residential development in this location given the concerns I have identified above.
19. The countryside location may have some benefits for the health and wellbeing of the future occupiers of the proposed dwellings. However, I do not consider that these would justify the proposed development in the face of a clear conflict with established local policies protecting character and restricting development in locations remote from facilities and services. I note the appellants' dissatisfaction at not being afforded the opportunity to address the Council's Planning Committee, but this is a matter to be addressed through the Council's complaint procedures, not this appeal.

Conclusion

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

Martin Small

INSPECTOR