

Appeal Decision

Site visit made on 30 April 2019

by P B Jarvis BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 August 2019

Appeal Ref: APP/V0510/W/18/3218751

Land north of 14 New River Bank, Littleport, CB7 4TA

- 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 Ray Miller against the decision of East Cambridgeshire District Council.
 - The application Ref 17/01857/FUL, dated 13 October 2017, was refused by notice dated 2 August 2018.
 - The development proposed is construction of new four bedroom house with garaging and associated site works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (a) whether the proposal would be acceptable having regard to its location and access to services and facilities, (b) the effect on the character and appearance of the area and (c) whether it has been demonstrated that the development is necessary in Flood Zone 3.

Reasons

3. The appeal site comprises an open pasture field located on the eastern side of New River Bank, a main road which runs along the River Great Ouse to the east of the market town of Littleport.
4. It lies to the north of a small number of dwellings that front New River Bank to the south. To the north of the site is Riverside Farm, set within farmland, and beyond that there is a further small group of properties.

Location and access to services / facilities

5. The site lies outside the defined development envelope of the town of Littleport where Policy GROWTH2 of the East Cambridgeshire Local Plan (2015) (LP) states that development will be strictly controlled having regard to the need to protect the countryside and the setting of towns and villages, subject to a number of listed exceptions providing there is no significant adverse effect on the character of the countryside and that other local plan policies are satisfied. The proposal does not fall within any of the exception categories.
6. LP Policy COM7 requires development to reduce the need to travel, particularly by car, and that it should promote sustainable forms of development appropriate to its particular location. The appellant contends that the site is within reasonable walking distance of both the station and the centre of the

town. However, this would involve using the 'green' footpath along the riverbank, which connects with the two crossing points over the river, some distance to the north and south of the site. There is no pavement along New River Bank and such a walk would not be manageable by all. I also note that there is no bus service; however, I accept that cycling is an option albeit this would be along the main road. Overall, I consider that this would result in the majority of trips being made using the car. The development would not therefore reduce the need to travel by car and would only promote sustainable forms of transport to a limited extent.

7. In seeking to promote sustainable transport, paragraph 103 of the National Planning Policy Framework (the Framework) notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and paragraph 110 states that priority should be given to pedestrian and cycle movements, so far as possible, and access to high quality public transport should be facilitated. Notwithstanding that the site is in a rural location, albeit reasonably close to the settlement of Littleport, it is my view that there would be little opportunity to use sustainable modes of transport.
8. Overall, I find that the proposal would be contrary to the above LP policies and the policies of the Framework that seek to promote sustainable transport.

Character and appearance

9. The site is a substantial area of agricultural land, currently comprising an open undeveloped part of the countryside that surrounds the town of Littleport, and which provides a pleasant rural landscape setting to it. The eastern side of New River Bank is characterised by some sporadic dwellings set within large plots. However, these are interspersed with large open areas of undeveloped farmland. The appellant suggests that the site could be considered as an 'infill' plot within what is described as ribbon development, but in my view, the built development that exists does not provide a continuous built up frontage within which it might be argued that infill development would be appropriate.
10. The appellant also suggests that the proposed dwelling, by reason of its sympathetic 'rural' design, form and materials, would integrate into the landscape with areas of ecological enhancement and native tree planting and hedgerows. However, whilst the proposed 'green' design and appearance of the proposal is noted and I acknowledge that this would provide, to an extent, an open, landscaped setting, it would nevertheless introduce a substantial building into this currently undeveloped and completely open site with additional areas of driveway and hardstanding for the parking of cars. This would introduce a visually prominent and intrusive form of development, mitigated to only a limited degree by the proposed landscaping. In addition, I note that as part of the flood mitigation proposals it would be necessary to build the dwelling on a raised bund, 1 metre above existing ground levels. This would exacerbate the visual impact of the proposed dwelling.
11. Overall, I consider that the proposal would detract from the open nature of the site and its relatively undeveloped surroundings. Thus, it would conflict with LP policies ENV1 and ENV2 which seek to ensure that development is sympathetic to settlement character including the space between settlements and their wider landscape setting and complements local distinctiveness. For the above reasons the proposal would also fail to comply with paragraphs 127 and 170 of the Framework which seek to ensure that development is

sympathetic to local character, including the surrounding landscape setting, and recognises the intrinsic character and beauty of the countryside.

Flood risk

12. The site is located in Flood Zone 3 where vulnerable development such as that proposed should be avoided. LP Policy ENV8 states that new development should normally be located in Flood Zone 1 and that elsewhere the Sequential Test and Exception Test will be applied as appropriate. This policy is supported by the Cambridgeshire Flood and Water SPD which sets out in detail how such tests should be undertaken to support proposed development. The Framework states that the aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding and that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
13. Whilst the appellant has provided a Flood Risk Assessment (FRA) that has satisfied the Environment Agency in terms of demonstrating that the dwelling itself would be flood resilient, no Sequential Test has been provided. The Council contends that there are a number of potential alternative sites comprising allocations, sites with planning permission and windfall sites. The appellant states that it cannot be agreed that there are other reasonably available sites in the Parish that will accommodate the proposal, stating that they are too small for the proposed development given that the site would need to be equal in size to that of the appeal site. However, no detailed assessment of any sites is provided to support this conclusion, in the absence of which it is not possible to conclude whether that would be the case. In addition, no specific justification has been provided in support of the contention that an alternative site needs to be the same size as the appeal site.
14. I therefore conclude that the Sequential Test has not been satisfied. Whilst I acknowledge that the flood defences in the area have been considerably improved in the recent past and that the appellant notes that flooding has been non-existent since that time, it is agreed that the site remains in flood zone 3 to which the above test applies. The National Planning Policy Guidance (PPG) also states that the Exception Test, which should be applied following the application of the Sequential Test, is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. The FRA makes reference to the use of the station as providing a wider sustainable benefit to the community, but in my view, this would be only a limited benefit. I consider that this does not demonstrate that the development would provide wider sustainability benefits to the community that outweigh the flood risk such as to pass the Exception Test, even had the Sequential Test been satisfied.
15. I find that the proposal would therefore be contrary to LP policy ENV8, the Council's SPD and to Framework paragraphs 155, 158 and 160.

Other Matters

16. It is agreed that the Council cannot currently demonstrate a five year supply of housing. However, whilst this would 'trigger' the application of Framework paragraph 11(d), I have also found that the application of policies in the Framework that protect areas or assets of particular importance, that is areas

at risk of flooding, provide a clear reason for refusing the development proposed. Therefore, the presumption in favour of sustainable development does not apply in these circumstances.

17. In seeking to deliver a sufficient supply of homes, the Framework, at paragraph 78, states that housing should be located where it will enhance or maintain the vitality of rural communities. I acknowledge that the proposal would provide a modest benefit of an additional house to local housing supply, and it would be likely to support the facilities of Littleport, albeit in a way that would involve the use of the car for the majority of journeys.
18. Framework paragraph 79 states that the development of isolated homes in the countryside should be avoided unless one of the listed circumstances apply. This includes where the design is of exceptional quality, defined as set out. The appellant argues that the design of the dwelling has been based on the intent of meeting the requirements of this paragraph, though in my view, the proposal would not be an 'isolated' home. However, whilst it would incorporate many 'sustainable design' features and would be a low carbon, energy efficient house in line with PassivHaus standards, and these features are to be welcomed, I do not consider them to result in a design of 'exceptional quality' nor would it, in my view, significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area, for the reasons given above. It does not therefore satisfy this paragraph in my view.
19. The appellants are life-long residents of the area and have close family connections; the proposal would also provide accessible accommodation for their elderly parents. This would provide for a local need; however, for the reasons set out above, it has not been demonstrated that the proposed development is the only way in which such needs could be met. It is also contended that the land is no longer economically viable for agricultural cultivation, though no detailed information is provided, nor is there any indication as to what other countryside uses have been considered.
20. The appellant also suggests that dwellings have been permitted recently in the vicinity of the site; however, I have not been provided with any detailed information in this respect and in any event, I am required to determine this application on the basis of the particular circumstances before me.
21. I have also noted the support for the development from local Councillors, but this does not lead me to alter my conclusions above regarding the main issues.
22. Overall, I attribute only limited weight to these factors.

Conclusions

23. For the reasons set out above, I find that there would be conflict with the development plan. Having regard to all material considerations, including the relevant policies of the Framework, it is my view that these do not indicate a decision other than in accordance with the development plan.
24. I therefore conclude that this appeal should be dismissed.

P Jarvis

INSPECTOR