



Appeal Decision

Site visit made on 12 November 2019

by Robert Hitchcock BSc DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2020

Appeal Ref: APP/W0530/W/19/3235592

Rhee Valley Works, Barrington Road, Shepreth SG8 6QB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr C Onslow against South Cambridgeshire District Council.
 - The application Ref S/4688/18/OL, is dated 10 December 2018.
 - The development proposed is the residential development of 8 dwellings with some matters reserved.
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Decision

1. The appeal is dismissed and outline planning permission for the residential development of 8 dwellings with some matters reserved is refused.

Procedural Matters

2. The appeal relates to a planning application that was not determined by the Council within the prescribed period. The Council have subsequently issued a statement for the purposes of this appeal highlighting that it would have refused the application for planning permission on four grounds. I have had regard to this statement for the residential development of the site in framing the main issues.
3. The description of development is taken from the appeal form which differs from that on the original application form. Section 15 of the application form and description of development on the appeal form state that the proposal is for eight dwellings.
4. The application was submitted in outline with all matters reserved with the exception of access. I have had regard to the location plan and proposed site plan showing the access point and indicative layout. I have determined the appeal on that basis.

Main Issues

5. The main issues are:
 - Whether the proposed development would provide a suitable location for housing having regard to accessibility to services and facilities;
 - The effect of the location on the standard of living conditions of future occupiers and an existing local business operator with particular regard to odour;

- The effect of the proposed development on highway safety with regard to vehicle user visibility; and,
- The effect of the proposed development on flood risk in the locality.

Reasons

Services and facilities

6. The appeal site accommodates a number of existing buildings, grassed and tree areas, and a large area of hardstanding. The use of the site at the time of my site inspection appeared to be limited to that of the general storage of items, vehicles and materials. The site is surrounded by dwellings, a fishing lake and open countryside.
7. Although close to the village of Shepreth, the site lies outside of the village boundary and is therefore considered to be within the open countryside. Policy S/7 of the South Cambridgeshire Local Plan (2018) (SCLP) restricts development in the countryside to that required in association with agriculture, horticulture, forestry and outdoor recreation amongst other things. None of the listed exceptions apply to the proposed development.
8. The policy also seeks to prevent the incremental growth of villages in unsustainable locations to ensure housing is directed to areas well-served by services. Whilst there are a number of businesses and some community amenities, there is little in the way of day-to-day services or facilities within Shepreth. The settlement is defined as an Infill Village within the SCLP, a low-rating rural settlement in terms of relative sustainability.
9. In support of the appeal, the appellant suggest that the location would be economically sustainable due to its proximity to public transport services and I have been directed to an appeal decision¹ in that respect. However, in that appeal, the proposal was for the conversion of listed buildings and therefore it is not directly comparable to the appeal before me. Although the area benefits from public transport facilities these are relatively infrequent and, as such, future occupants of the development would be largely reliant on private motor vehicle modes of travel to access the significant majority of services and facilities. Additionally, any economic benefit would be undermined by the loss of the existing commercial use of the site.
10. The location of the proposed development is such that it would be close to other development but would be physically separate from the settlement area. Whilst it would recycle previously developed land and some environmental benefit could accrue through the increased greening of the site, there would be negative environmental and social effects arising from the location in terms of the use of natural resources and the accessibility to local services.
11. The appellant has also drawn my attention to a previous approval² allowing the conversion of two of the existing buildings on the site into two residential units under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Additionally, reference is made to appeal decisions³ and an Administrative Court ruling⁴ establishing the

¹ APP/W0530/W/16/3152125

² S/2980/16/PN

³ APP/E2530/W/17/317513 and APP/K0235/W/17/3189914.

⁴ *Michael Mansell v Tonbridge and Malling Borough Council* [2017] EWCA Civ1314 (Admin)

principle of a fall-back position as a material consideration in the determination of planning permissions.

12. It is an acknowledged principle that a fall-back position can be attributed weight in planning decision making. In this instance, the implementation of the Class Q development would deliver two residential units on part of the appeal site. However, this simply establishes the basis for two units within a limited area. It does not establish a principle for a greater amount of residential development on the Class Q site or the wider appeal site where Class Q provisions could not apply. The weight in support of the proposed development is therefore limited.
13. I am also directed to an appeal decision⁵ providing an example of where planning permission was granted for development outside a settlement boundary, where, similar to this appeal case, the Council was able to demonstrate a five-year housing land supply. Whilst I am not provided with the full details of the case, it is notable that the settlement in that instance was described as having a wide range of services; it is therefore distinct from the circumstances of this case, a case which I have determined on its own merits.
14. For the reasons set out above, I conclude the proposed development would not provide a suitable location for housing and would conflict with Policies S/7 and S/11 of the SCLP which, amongst other matters, seek to direct housing development to existing settlement areas with access to services and facilities, and prevent the incremental growth of settlements in low-rating sustainable locations.

Living conditions and effect upon operation of the pig farm

15. The site is located to the north of a pig farm situated on the edge of the settlement. The parties advise that the farm has, on occasions, been the subject of complaints from nearby residents and businesses due to odours arising from it. As an odour sensitive form of development that is proposed almost downwind of the prevailing south-westerly wind, future occupiers would be likely to experience a degree of odour from the farm.
16. An odour assessment has been provided by the appellant in support of the development. The report concludes that, in the location of the proposed dwellings, complaints about odour are unlikely. On other parts of the site the likelihood increases in closer proximity to the farm.
17. The report is based on modelling predictions alone and there is dispute between the parties as to the appropriateness and acceptability of this approach. The absence of any direct site measurement to verify or correlate the findings and any assumptions it is based upon, is considered contrary to best industry practice by the Council.
18. At the time of my site inspection, little odour was experienced on the part of the site shown for development. In close proximity to the farm a strong odour was apparent, however, this reduced over increasing distance on account of the strength of the wind on that particular occasion. The nature of the smell was such that it would be unpleasant to tolerate over any significant period of time and would inevitably reduce the standard of living conditions for future occupiers of the dwellings and associated garden areas if regularly experienced.

⁵ APP/L2630/W/18/3197272

19. In the event that complaints were generated in regard to odour, the nature of the pollutant means that opportunities for mitigation on the site would be significantly limited. This could impose an unwelcome pressure on an existing business if persistent complaints arose, a pressure which paragraph 182 of the National Planning Policy Framework (the Framework) seeks to avoid.
20. In the absence of verification by direct measurements on the site of the proposed development, or details of the frequency, location and nature of the complaints received by the Council, I have not been persuaded that prospective residents of the dwellings would be free from the risk of the effects of the poor odour from the nearby farm.
21. For the above reasons, I consider that there is insufficient information within the evidence to conclude that the development would deliver a suitable standard of living conditions for future occupiers and that the proposed development would comply with policy HQ/1 of the SCLP as it seeks to protect the health and amenity of occupiers and provide a harmonious integrated mix of uses.

Highway Safety

22. The Council has raised concerns over visibility at the site access. The proposed site access lies on Barrington Road within a 30 mph speed limit zone. However, the site lies close to the location of a reduction in the limit from 60 mph to 30 mph when travelling in to the village. On leaving the village, the road becomes more open in character. Consequently, vehicle speeds may exceed the local limit in either direction and examples of this are present within the survey data.
23. The parties subsequently disagree as to the necessary visibility splays required to facilitate safe access and egress at the site. However, I saw at my visit that ample visibility towards the village when emerging from the site is currently available to enable views of vehicles moving towards the site and away from the village.
24. Views to the right when emerging from the site are currently partially impeded by the presence of a solid fence. However, plan ref 210-1990-01 in appendix B of the Transport Statement indicates that a 2.4 x 43 m splay could be achieved within the site or over highway land; this would meet the standards defined within Manual for Streets⁶ for a 30 mph zone.
25. Being mindful of the fact that the development would displace some existing traffic movements to and from the site, including larger vehicle types; and, that there is sufficient site frontage to increase the existing level of visibility, I conclude that suitable safe access and egress for the proposed development could be achieved. The development would therefore be consistent with the aims of paragraphs 108 and 109 of the Framework which seek to secure safe and suitable standards of access.

Flood Risk

26. The site lies within Flood Zone 1 as identified in the Environment Agency's Flood Mapping. Under the terms of the Framework and national Planning Practice Guidance housing development within Flood Zone 1 is acceptable in

⁶ Manual for Streets 7.7

principle subject to assessment of individual site conditions. The submitted flood risk assessment (FRA) identifies that the site has not been and is unlikely to be subject of flooding issues. Whilst some further assessment of groundwater levels is recommended, this is to inform detailed design.

27. The Lead Local Flood Authority object due to the absence of assessment of the existing drainage regime. However, as a proposal for outline planning permission, given the findings of the FRA, I consider that there is no reasonable necessity to require detailed evidence at this juncture. For the above reason, I consider that the principle of development acceptable and consistent with the aims of Policy CC/9 of the SCLP and the Framework as they relate to matters of flood risk.

Other Matters

28. The appellant has highlighted the absence of substantial objections to the development on other grounds; however, the absence of objections is not a benefit in support of the proposed development.

Conclusion

29. Whilst I have found in favour of the appellant with regard to the Council's concerns relating to highway safety and flood risk, I do not consider that these are benefits that outweigh the harm I have identified with respect to accessibility to services and facilities or the potential for adverse conditions arising from odour. For the above reasons, the appeal is dismissed.

R Hitchcock

INSPECTOR