



Appeal Decision

Site visit made on 10 January 2022

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2022

Appeal Ref: APP/B3030/W/21/3281474

Land associated with 30 Mill Lane, Edwinstowe, Notts, NG21 9QY

- 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 Mark Whittaker against the decision of Newark & Sherwood District Council.
 - The application Ref: 21/00197/FUL dated 25 January 2021, was refused by notice dated 23 March 2021.
 - The development proposed is the erection of 1 No dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken into account the revised *National Planning Policy Framework* (the Framework), published on 20 July 2021. Any reference to the Framework in this decision consequently refers to this latest revised version.
3. Although it differs from that given on the application form, I have taken the site address from that given on the decision notice as it more accurately identifies the location.

Main Issues

4. The main issues are:
 - i) Whether the development would represent a suitable location for the proposed housing development with specific regard to the settlement strategy and the principles of sustainable development.
 - ii) The effect of the development on the character and appearance of the area.
 - iii) Whether the proposed development would comply with local policies and national guidance in respect of flood risk.
 - iv) The effect of the development on the site's trees and hedges.

Reasons

5. The site, which covers about 400 sqm, is currently used as a detached garden plot in association with No 30 Mill Lane. It contains a former stable building, polytunnel and poultry enclosure. To the south-west of the site is a substantial shed and storage facility, and to the north-east the roadside garage and garden for No 34 Mill Lane. On the opposite side of the road is an area of woodland.

Development Strategy-Location of New Development

6. The *Newark & Sherwood Amended Core Strategy (CS) 2019*, sets out the settlement hierarchy that will help deliver sustainable growth and development in the District. Its intentions (Spatial Policy 1) are to direct new development to the Sub-Regional Centre, Service Centres, and Principal villages. Edwinstowe is classed as a Service Centre within this hierarchy and has a village envelope shown on the Local Development Framework Policies Map.
7. Although close to the edge of the main built-up area of Edwinstowe the site is outside the village envelope, and is therefore, by definition, located in the countryside for policy purposes. In such circumstances, DPD Policy DM8 of the *Newark & Sherwood Local Development Framework Allocations & Site Management Development Plan Document 2013* (DPD) applies. This says that in accordance with CS Spatial Policy 3, development away from the built-up areas of villages, in the open countryside, will be strictly controlled and new dwellings restricted to a number of specific exceptions including rural workers dwellings and replacement dwellings.
8. The proposal would not satisfy any of the exceptions, and no special circumstances have been put forward. In my view the presence of dwellings further along Mill Lane and the storage yard to the south-west do not serve to justify the proposal in any way. Nor can I accept the appellant's argument that the proposal would amount to the infilling of a small gap in an otherwise built-up frontage. Whilst the site is not remote from the village and has a functional relationship with No 30 Mill Lane, these factors do not overcome the policy objections to the proposal.
9. 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 semi-rural feel prevails in the section of Mill Lane beyond No 34.
10. The appellant asserts that the need for local housing has been overlooked. However, the only local needs referred to in DPD Policy DM8 are those relating to rural workers, which do not apply in this case. Although I accept there is a demand for rural housing and note that the Council's policies are supportive of housing growth to meet identified need, this is clearly directed to sites within the main built-up areas of settlements (in this case the Service Centre of Edwinstowe), and which are clearly defined by the villages envelopes.
11. Although Paragraph 69 of the Framework says small and medium sized sites can make an important contribution to meeting the housing requirements of an area, paragraph 80 makes it clear that planning decisions should avoid the development of isolated houses in the countryside. I therefore conclude on this issue that the development would not represent a suitable location for new housing having regard to local and national policies and the principles of sustainable development. It would conflict with CS Spatial Policy 1, DPD Policy DM8, and national Policy in the Framework.

Character and Appearance of the Area

12. In terms of the impact of the proposed dwelling on the character and appearance of the area, CS Core Policy 9 and DPD Policy DM4 require new development to achieve a high standard of sustainable design and reflect the

local distinctiveness of the District's landscape and character. The site is also within the Sherwood Landscape Character Area and the River Maun 'Meadowlands with Plantations' policy zone as identified in the *Landscape Character Assessment Supplementary Planning Document* (SPD). Amongst other things this requires development to conserve the sparsely settled character of the river corridor by avoiding development within the immediate flood plan of the river. I consider that the appeal proposal would conflict with these various policy objectives.

13. Whilst it is proposed to remove the chicken run and polytunnel, the existing outbuilding would remain, and the footprint of the proposed dwelling would significantly add to the amount of built form on the site and detract from its present fairly open character. Any sense of a semi-rural feeling would be further eroded by the proposed parking/turning area.
14. I accept that the dwelling has been designed to complement the existing outbuilding, with something of the appearance of a stable block, albeit with a turf/moss living roof, but in my view, this does not come close to meeting the exception in DPD Policy DM8(3) which permits dwellings of 'exceptional quality or innovative design' in locations away from the main built-up areas of villages. Although the appellant says the dwelling would be constructed using 'passive house' principles for insulation, low energy use, and a sustainable drainage system, no specific details are shown on the submitted plans. Whilst the appellant's intentions are noted, the benefits arising from such features and technology would not outweigh the harm I have identified above.
15. I therefore conclude on this issue that the proposed development would harm the character and appearance of the surrounding area. It would conflict with CS Core Policy 9, DPD Policies DM4, DM8, and guidance in the SPD.

Flood Risk

16. The site is adjacent to the River Maun and is within Flood Zones 2 and 3 (medium/high risk) as shown on the Environmental Agency's Flood Map. This is not disputed by the appellant.
17. The appellant has submitted a 'Sequential Test' (ST), the aim of which, is to steer new development to areas with the lowest risk of flooding. This is confirmed in CS Core Policy 10 and with DPD Policy DM5 which says development within Flood Zone 2 will only be considered where it constitutes appropriate development and it can be demonstrated, by application of the sequential test, that there are no reasonably available sites in lower risk Flood Zones. It is only when the ST is passed then consideration is given as to whether the proposal passes the Exception Test, which is also necessary for the development to be considered acceptable in this regard.
18. Planning Policy Guidance (PPG) provides advice on the application of a ST, and states that the area the test will be applied to will be defined by local circumstances relating to the catchment area for the type of development. The PPG states that it is the decision taker's responsibility to consider if the ST has been satisfied, informed by evidence provided by the developer. It explains that, for housing, the coverage area of the test will often extend across a town or District area. The ST supplied by the appellant was restricted to Edwinstowe, only, which includes lower risk flood zones. However, it is my view that the search area should be set significantly wider taking in other settlements of the

District which are covered by the Council's housing policies. The ST concludes that the proposal would not preclude the development of larger sites in the search area or affect small scale schemes which are not in lower flood risk areas in the village. This may be the case, but it is not appropriate for the appellant to limit the ST search area to just one settlement nor identify other site characteristics or constraints to reduce the scope of alternative sites.

19. Overall, whilst I acknowledge the mitigation measures identified in the site-specific Flood Risk Assessment, (including raised floor levels for the proposed dwelling), the ST has not been passed as it is not possible from the evidence before me to conclude that there are no reasonably available potential alternative sites in Flood Zone 1 such that development of in the medium/high risk Flood Zones 2/3 could be considered. As I have found that the ST has not been met, there is no requirement to consider the Exception Test. I therefore conclude on this issue that the development would fail to comply with local policies and national guidance in respect of flood risk and would therefore be contrary to CS Core Policy 10, DPD Policy DM5, and the Framework.

The Site's Trees and Hedges

20. The Council refers to several mature trees and hedgerows within and around the site which it considers may be affected by the proposed development, saying that no tree survey or constraints plan has been submitted with the application. However, the positions of the trees and roadside hedge are shown on the plans. The trees are not large or particularly notable specimens and are located in the corners of the site, and I am satisfied that the proposed dwelling could be accommodated without encroaching on their root protection areas or canopies. I note that the plans indicate that the low roadside hedge would be retained, other than the removal of a short section to accommodate the access.
21. The Council also says the application was not accompanied by an ecological survey to assess the likely impacts arising from the proposed development on any breeding Nightjar and Woodlark in the Sherwood Forest area, both identified as a rare/vulnerable species. However, I accept the Council's point that given its policy objections to the principle of residential development on the site, a requirement to submit a survey would have incurred the applicant unnecessary time and expense. Given my decision to dismiss the appeal for other substantive reasons I have no need to consider this matter further.

Other Matters

22. I note that the Parish Council fully support the proposal and that no objections have been made by local residents. However, this does not overcome the issues regarding the harmful effect of the proposal in terms of the suitability of the site for housing having regard to national and local policy, the effect on the character and appearance of the area, and flood risk.

Conclusion

23. The proposal conflicts with the development plan as a whole and there are no other considerations, including the Framework's provisions, which outweigh this finding. 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