



Appeal Decision

Site visit made on 17 May 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd June 2022

Appeal Ref: APP/A3010/W/22/3290525

Chestnut Farm and land, Main Street, West Stockwith, Doncaster DN10 4HA

- 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 Mrs McGuire against the decision of Bassetlaw District Council.
 - The application Ref 21/00893/OUT, dated 2 June 2021, was refused by notice dated 4 August 2021.
 - The development proposed is 9 dwellings in a landscaped setting behind existing frontage buildings on Main Street.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with all matters reserved for future consideration, except for access. I have had regard to the site location plan and the indicative site section and street view drawings but have considered all elements as indicative, apart from the access.
3. Bassetlaw District Council Local Development Framework (LDF) was adopted in 2011. Policies within its Core Strategy seek to direct the location of houses and do not support new housing in locations such as West Stockwith which have limited service provision. Despite this, the Council acknowledge that these policies have not been reviewed within the last 5 years and are out of step with the National Planning Policy Framework (the Framework) so any conflict with them can be afforded only limited weight. However, the application was not refused on the basis of these housing location policies in the LDF and hence this does not form part of the main issues. There is an emerging Local Plan, but as it is at an early stage, I afford it very limited weight.
4. The Framework sets out that existing policies should not be considered out-of-date simply because they were adopted prior to its publication and that due weight should be given to them according to their degree of consistency with the Framework. The most important LDP policies in determining this appeal are DM12, DM8 and DM4, which respectively relate to managing flood risk, protecting the historic environment, and securing good design including protecting highway safety. With regard to the main issues of this appeal, the aims of these policies remain broadly consistent with the Framework. Therefore, I do not consider them to be out of date and afford substantial weight to any conflict with these policies in the determination of this appeal.

Main Issues

5. The main issues are:

- Whether the appeal site would be an appropriate location for new dwellings with regards to flood risk;
- The effect of the proposed development on the character and appearance of the surrounding area, with particular regard to the extent to which it would preserve or enhance the character or appearance of the West Stockwith Conservation Area and preserve the setting of nearby Listed Buildings;
- The effect of the proposed access on highway safety; and
- The effect of the proposed development on biodiversity.

Reasons

Flooding

6. The site is located within Flood Zone 3¹ so is considered to be at high risk of flooding. The Framework requires a site-specific flood risk assessment (FRA) for all development in Flood Zones 2 and 3. Whilst a FRA has been provided, the Environment Agency commented that it did not meet the requirements set out in Planning Practice Guidance (PPG) so did not adequately assess the flood risks posed by the development. I have no reason to disagree with this.
7. Policy DM12 of the LDF does not support new development in Flood Zones 2 or 3 while sites are available in sequentially superior locations across the District. This reflects policy in paragraphs 159 to 163 of the Framework which stipulates that a sequential, risk based approach to the location of development should be applied, with development not being permitted if there are reasonably available sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test must therefore be applied in this case, despite the presence of flood defences on the nearby River Trent.
8. The appellant says that the majority of West Stockwith lies in flood zone 3, so there are no suitable sites within the village that are not within the same flood zone. No details have been provided, but this may well be the case. Regardless of this, policy DM12 of the LDF clearly states that the sequential test should be applied across the District, so not just within an individual village. No assessment has been provided of potential sites elsewhere in the District that might be at lower flood risk. The appellant asserts that housing is needed in West Stockwith but no specific evidence of this localised need has been given. The Council state they can provide in excess of a 10 year supply of deliverable housing sites and this has not been contested by the appellant. In addition, whilst I can attach only limited weight to the emerging local plan², it does not identify any new housing within West Stockwith.
9. The sequential test lacks detail and is focused on too small an area. It has not been demonstrated that the development cannot be directed towards land at lower risk of flooding. Consequently, the proposal fails the sequential test.

¹ The appellant states that the site is within flood zone 3b, but as it benefits from flood defences on the River Trent it is not within the active floodplain so is considered to be zone 3a. PPG defines zone 3a as being at high probability of flooding (more than 1:100 annual probability of river flooding) and zone 3b as functional floodplain (the area where water is stored or flows in times of flood).

² The November 2020 version.

10. The Framework sets out that if it is not possible for development to be located in areas with a lower risk of flooding, the exception test may have to be applied. The exception test is therefore to be applied only if the sequential test has been passed, which is not the case here.
11. Even if the exception test were to be applied, the Framework requires development to be informed by a FRA, provide benefits to the community which outweigh the flood risk, and be safe for its lifetime. As set out above, the FRA is inadequate. In terms of benefits, the proposal would provide a temporary contribution to the rural economy during the construction phase, as well as contributing to the support of local infrastructure. It would provide new housing in a rural community with additional households likely to use local services and facilities. The proposal would also tidy up a site that is currently overgrown. These benefits are reflected in the support for the proposal from some local residents. However, due to the modest scale of the proposal, the public benefits would also be modest. Housing is classified as more vulnerable³ to flood risk and the site is located in the highest risk flood zone. Therefore, the benefits would be insufficient to outweigh the flood risk.
12. The submitted FRA includes a range of proposed mitigation measures and states the development would not increase flooding elsewhere. This cannot overcome the fact that the proposal has failed the sequential test and would not pass the first stage of the exception test.
13. The appellant has drawn my attention to the permission granted at Chestnut Farm, adjacent to this site, under application reference 19/00477/FUL. That permission relates predominantly to the conversion of existing buildings to form 2 dwellings. It is evidently not possible to relocate existing buildings to a site at lower flood risk, so the consideration of the sequential test in that case was fundamentally different to the site and proposal subject to this appeal.
14. The appellant makes reference to an appeal from 2010. Details of this are not before me and I note that national policy on flood risk management has changed significantly since then. They also refer to other developments in the area at similar flood risk. These cases are not before me and I have no details so can make no comment. This appeal has been determined on the basis of current policy, the submitted details and the individual merits of the proposal.
15. I conclude that it has not been demonstrated that the appeal site would be an appropriate location for new dwellings with regards to flood risk. It would therefore not comply with Policy DM12 of the LDF or Paragraphs 159 to 163 of the Framework, both of which seek to direct development away from areas at highest risk of flooding.

Character and appearance

16. The site is part of a former farmyard, within the West Stockwith Conservation Area. It is accessed off Main Street but the body of the site is set back from the street to the rear of existing built form. It is currently an open space, undeveloped apart from a track and a small area of hard standing. The surrounding conservation area is characterised by dwellings which predominantly front directly onto Main Street. Some dwellings are side on to Main Street, or modestly set back, but maintain the strong relationship with the

³ Framework Annex 3 Flood Risk Vulnerability, classes standard housing as 'more vulnerable'.

street. Plots are generally relatively narrow, with long rear gardens, and oriented perpendicular to the street. Together, this results in an area with a strong and consistent building line and a distinctive pattern of development.

17. There is a recent development to the south which does extend the depth of built form within the Conservation Area. However, this development appears to be on a previously developed site and it retains a strong street frontage, albeit fronting onto North Carr Road, rather than Main Street.
18. Appearance, landscaping, layout and scale are all reserved matters, so the submitted drawings showing plot layout and elevations are indicative only. However, the indicative drawings show dwellings set around 3 sides of a green, most with modest gardens, and a parking court and garages separate from the dwellings. This does not reflect the characteristic scale, layout or orientation of the established plots in the area.
19. Whilst the layout could be changed under reserved matters, the site does not include direct street frontage, other than the access point. As a result, any alternative layout would struggle to accommodate 9 dwellings whilst incorporating direct street frontage and a strong relationship to Main Street. Without this, the proposal would disrupt the historic development pattern of the area and break the strong building line. As such it would appear out of keeping with the surroundings and would be detrimental to the character and appearance of the Conservation Area, especially viewed from Main Street.
20. Policy DM8 of the LDF includes a stipulation that development will not be supported if it leads to the loss of important spaces. The site is currently overgrown and visually of little positive value to the area. Public views into and through the site from Main Street are restricted to the access opening as much of the surrounding frontage contains disused agricultural buildings. Views from the public footpath are currently screened by vegetation. The significance of the West Stockwith Conservation Area would seem to be derived from its distinctive and consistent built form, as set out above, which does not feature large gaps in the frontage. Within this context, I do not consider the site to be an important space and it does not make a significant contribution to the character and appearance of the Conservation Area. If all other elements were acceptable, a suitably designed scheme, with effective landscaping, could ensure that the countryside setting was not lost.
21. The site is also in relatively close proximity to Grade II listed buildings at Walnut Lodge and Grove House. However, both are set a reasonable distance away from the site, with a number of other buildings largely or entirely preventing intervisibility. Consequently, the proposal would preserve the setting of these nearby Listed Buildings.
22. The statutory duty in Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. In finding harm to the Conservation Area, due to the relatively modest scale of the proposal, I would quantify the harm as 'less than substantial'. Nonetheless, special attention must be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area, so I must attach considerable importance and weight to the identified harm. The Framework requires that where less than substantial harm is found, the harm should be weighed against any public benefits. As set out above, the benefits would be modest and insufficient to outweigh the identified harm.

23. I conclude that the proposed development would cause unacceptable harm to the character and appearance of the surrounding area and would fail to preserve or enhance the character or appearance of the West Stockwith Conservation Area. Consequently, the development would not comply with Policy DM8 of the LDF which includes a presumption against development that would be detrimental to the significance of a heritage asset. Furthermore, it would not accord with paragraphs 195 and 199 of the Framework which seek to protect heritage assets.

Highway safety

24. The suitability of the proposed access is not a reserved matter so is to be determined under this appeal. There is an existing double width field gate entrance to the site, which it is proposed to retain as the access to the development. No details have been provided of visibility splays. I note that the road around the proposed access is straight, but there are buildings and walls in close proximity and some of the land likely to be required to secure suitable visibility is outside of the site covered by this appeal.
25. The appellant states that the access would be the same as was approved under application reference 19/00477/FUL. Details of that scheme are not before me but I note that it relates to the conversion of existing buildings at Chestnut Farm to form 2 dwellings. The intensity of use would inevitably be higher for the proposal subject to this appeal, as the access would serve 9 dwellings, in addition to the 2 already approved.
26. The appellant says that the access has been used as part of a working farm, accommodating much larger and slower vehicles. Whilst this may be the case, it does not remove the need to demonstrate that the access would be suitable for the proposed development. Consequently, whilst it may be possible to provide a safe access, this has not been demonstrated. Vehicles using an access with insufficient visibility could result in highway safety issues for both drivers and pedestrians.
27. In the absence of sufficient details, I am unable to conclude that the proposed access would maintain highway safety. Consequently, the proposal would not comply with Policy DM4 of the LDF, which amongst other things, requires that new development is not detrimental to highway safety. Furthermore, it would not accord with paragraphs 110 and 111 of the Framework which state that schemes can be supported where they provide safe and suitable access and should be prevented if there would be unacceptable impact on highway safety.

Biodiversity

28. The site borders open countryside and is currently covered with vegetation and contains a large tree along with mature hedges at the boundaries. As such, there is the potential for the site to harbour protected species and habitats. No ecology assessment has been provided. The appellant says they are unaware of any protected species on site and suggests this matter could be covered by a planning condition and mitigation provided. However, the outcome of an ecology assessment could potentially have significant implications for the deliverability of the proposed development, so it is more appropriately dealt with at an early stage.

29. In the absence of sufficient details, I am unable to conclude that the proposal would avoid or adequately mitigate or compensate for significant harm to biodiversity. Consequently, the proposal would not accord with paragraph 180a of the Framework.

Other Matters

30. Comments were made about the need for affordable housing in the village, but the proposal is for open market dwellings rather than an affordable housing scheme.

Conclusion

31. For the reasons given above and taking into account the development plan as a whole and all other matters raised, I conclude that the appeal should be dismissed.

Helen Davies

INSPECTOR