



Appeal Decision

Site visit made on 12 July 2023

by L Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2023

Appeal Ref: APP/B3030/W/23/3316678

Holly Farm, Great North Road, Cromwell, Nottinghamshire NG23 6JE

- 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 and Mrs David Elliot against the decision of Newark and Sherwood District Council.
 - The application Ref 22/01205/FUL, dated 16 June 2022, was refused by notice dated 16 August 2022.
 - The development proposed is the erection of detached dwelling with new access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. My site visit identified that a section of the front hedgerow has been removed and replaced with a wooden gate. I have assessed the proposal on this basis.

Main Issues

3. The main issues are:
 - whether the proposed development would be an appropriate location for housing having regard to matters of flood risk; and
 - the effect of the proposed development on the character and biodiversity of the area, with particular regard to vegetation.

Reasons

Flood Risk

4. The appeal site comprises an area of garden belonging to Holly Farm. According to Environment Agency mapping some of the site is located with Flood Zone 1 and so would have a minimal impact on flooding, however, the majority lies within Flood Zone 2. A sequential test is therefore required in line with the National Planning Policy Framework ('the Framework') (2021), which identifies 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. Core Policy 10 of the Newark and Sherwood Amended Core Strategy (ACS) (2019), and Policy DM5 of the Newark and Sherwood Allocations and Development Management Development Plan Document (ADMDPD) (2013) reiterate this approach. They aim to steer new development away from those areas at highest risk of flooding, by applying the sequential approach to its location.

5. The largest site size considered within the sequential test evidence could accommodate up to 3 dwellings, and several of those sites are then discounted owing to higher yield than the appeal site. However, while the Planning Practice Guidance (PPG) advises that a pragmatic approach should be taken for minor developments relating to the scope and level of detail of the assessment, neither the PPG nor the Framework suggests that larger sites should be discounted in this way. Indeed, the PPG specifically identifies that a reasonably available site could include part of a larger site if these would be capable of accommodating the proposed development.
6. Therefore, the sequential test should assess sites which could accommodate more than 1 dwelling, as potential sites may be sub-divided to accommodate the size of the proposed development within them. For example, the evidence does not address why a builder or individual could not develop a single dwelling on part of a site after planning permission were gained. The use of larger sites for the proposed development would therefore not be contrary to the Framework's support for making effective use of land. I have insufficient evidence before me as to the status of larger sites across the District so as to confidently discount the possibility that none would be reasonably available.
7. Furthermore, 3 of the larger sites in the sequential test are in addition discounted for being in a different housing market area than Cromwell, and therefore not within the catchment area to meet the needs of those seeking a rural, village location. However, the PPG identifies that an appropriate area of search should be based on the development type proposed and relevant spatial policies. If only a local search were undertaken, or only a search of villages, then this would take no real account of the spatial strategy for new housing upon which the development plan is founded. No development plan policy has been cited which would support the restriction of the search area on this basis. It is therefore reasonable to apply a District-wide sequential test.
8. The Strategic Flood Risk Assessment example submitted in support is not directly relevant to this planning appeal sequential test. Furthermore, while it identifies the size of some sites as a reason for suitability concerns, there is no information as to whether this was because the site was too big or too small. While other sequential tests nationally are suggested as taking a similar approach to site size, I have no specific details of these before me.
9. The sequential test is intended to establish whether the principle of development is acceptable in terms of flood risk, and so it is not appropriate to delay this consideration to a condition. The lack of objection from the Environment Agency does not equate to a lack of harm.
10. In conclusion, there is insufficient evidence before me to demonstrate that there are no sequentially preferable locations available at a lower risk of flooding. Therefore, the sequential test has not been sufficiently demonstrated, and so the proposed development would not be an appropriate location for housing having regard to matters of flood risk. The occupiers of the proposed dwelling would thus be put at unnecessary risk of flooding contrary to Core Policies 9 and 10 of the ACS, and Policy DM5 of the ADMDPD. The proposal would also conflict with advice within the Framework section 14 relating to flood risk.

Character and Biodiversity

11. The thick vegetation fronting and within the site makes an important positive contribution to the leafy character of the wider streetscene, as a green oasis and break in the housing along the street. This is particularly due to the height of the frontage trees which are present in long distance views from both directions. The vegetation also contributes to the biodiversity of the area. The Council deems the importance of the trees on the site to be so valuable in this regard that it is considering protection through a Tree Preservation Order.
12. The appellants' Arboricultural Impact Assessment and Tree Protection Plan ('the survey') now address part of the reason for refusal that there was no appropriate tree survey. I note that several tree stumps remain within the middle of the site which were not identified in the survey.
13. The survey identifies that the proposal would cause a substantial loss of vegetation, with only 3 trees plus most of the front hedge remaining. Furthermore, the Council's Tree Officer considers it extremely likely that the front holly tree would die as a direct result, given the significant alterations to its root protection area. The driveway hardstanding would cut across this area, albeit a 'no-dig' construction method is proposed. While the survey categorises all trees to be lost as being lower quality specimens, this categorisation does not reflect their combined contribution to the streetscene as outlined above.
14. The appellants suggest that replanting could make a more meaningful contribution to the site's character and appearance, and biodiversity, than that which would be removed. However, I do not see how this could be achieved. Frontage planting is only identified for part of the side boundaries, and would not replace the height of existing vegetation. The remaining frontage would predominantly be hardstanding. The rear would have little space for meaningful tree provision alongside retention of an open area. Imposing a planning condition to secure replacement planting would therefore not overcome this issue. The proposed development would therefore overall have a significant harmful impact on the leafy character of the street.
15. Notwithstanding the above, as a private garden outside any designated area, the current trees on the site have no statutory protection. As such, the removal of the existing trees may be a fallback position open to the appellants, albeit they have not stated this as a specific intent. However, this would leave a very bare garden area. It would be a risk in the absence of the certainty of any planning permission, and particularly considering my findings above on the matter of principle with relation to flooding. This potential fallback therefore does not outweigh my findings regarding harm so as to weigh in favour of allowing the appeal.
16. In conclusion therefore, the proposed development would have a harmful impact on the character and biodiversity of the area, with particular regard to vegetation. It would conflict with the ACS Core Policies 12 and 13, and the ADMDPD Policy DM5. These expect proposals to protect ecological assets, seek to secure development that maximises the opportunities to conserve, enhance and restore biodiversity, and identify that local distinctiveness should be reflected alongside protection of natural features of importance. The need for retention and provision of trees is also reinforced by the Framework paragraphs 131 and 174b, including with particular reference to tree-lined streets, alongside the requirement of section 12 to achieve well-designed places.

Other Matters

17. The host dwelling of Holly Farm is a non-designated heritage asset, with its significance being as a good example of a local farmhouse which has architectural and historic interest, integrity, aesthetic appeal, and representativeness. Section 16 of the Framework requires consideration to be taken of the effect of a proposal on the significance of a non-designated heritage asset. The Council concludes that the form of the proposed dwelling and its design detailing would represent an acceptable traditional appearance such that no harm would be caused, and I see no reason to disagree. Moreover, while the proposed loss of vegetation would bring change to the setting of Holly Farm, due to its side positioning this would not be so significant so as to cause harm to the heritage asset.
18. Whilst the Framework provides support in that it seeks to significantly boost the supply of homes, the appellants do not contest that the Council can demonstrate a 5 year housing land supply. The development plan does not identify Cromwell as a settlement where additional residential development is required, including to sustain the existing community facilities. Furthermore, the economic and social benefits associated with the construction and occupation of one additional dwelling would be very limited. As a unit of open market housing the dwelling would not address any specific housing need identified in the development plan. These factors therefore do not outweigh the harm and the development plan conflict identified above.
19. That the Council did not raise the need for a tree survey earlier in the process does not reflect best practice, but it does not alter my conclusion.
20. Recent residential planning permissions for other small-scale sites in other villages is not determinative to the appeal before me. Each case must be assessed on its own merits, and I cannot be certain that any of the context for those permissions would similarly apply to the appeal site.

Conclusion

21. The proposal conflicts with the development plan as a whole. With no other material considerations outweighing this conflict, for the reasons given above I conclude that the appeal is dismissed.

L Hughes

INSPECTOR