
Appeal Decision

Site visit made on 6 September 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 September 2024

Appeal Ref: APP/B3030/W/24/3338777

Land to the south of Sand Lane and west of Chapel Lane, Spalford, Newark on Trent, NG23 7HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by J&D Quibell against the decision of Newark and Sherwood District Council.
 - The application Ref is 22/02430/FUL.
 - The development proposed is provision of two new live/work dwellings including a separate building containing detached work spaces and under cover parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the site is an appropriate location for new residential development, having regard to the accessibility of services and facilities for future occupiers, its risk of flooding, and the effect of the development on the character and appearance of the area.

Reasons

Access to services and facilities

3. The small settlement of Spalford is not defined as a service centre or principal village. It has no local services of its own and lacks basic infrastructure such as public sewers. Whilst I noted that there is a bus stop close to the site, I am advised that services are limited.
4. Paragraph 83 of the National Planning Policy Framework (the Framework) recognises that where there are groups of smaller settlements, development in one village may support services in another village nearby. However, I have not been advised what services and facilities are available in the other villages nearby or where, for example, the nearest convenience store, Doctors surgery or train station is. From my own observations, the other villages nearby have very limited services and facilities and are not safely or conveniently accessible by means other than private car due to the lack of footpaths, street lighting and public transport connecting them. As such it is more likely that future occupiers of the proposal would drive to larger settlements further afield to access supermarkets, secondary education and healthcare. The addition of two new dwellings would not therefore be of any significant benefit to the limited services in other nearby villages.

5. Although the proposed dwellings would each have an office to facilitate the opportunity for home working, this could not be enforced or required of all future residents. It would also not avoid the need for future occupiers of the proposed family houses to travel for shopping, education, healthcare and leisure purposes, in addition to travelling for any employment needs not met by the home office.
6. I therefore conclude that the site is not an appropriate location for new residential development. Consequently, the proposal would conflict with Spatial Policy 3 of the Newark and Sherwood Amended Core Strategy 2019 (the CS), which requires new development in rural areas to be in villages which have sustainable access to larger settlements and to have a range of local services themselves to meet day to day needs. The proposal would also conflict with the Framework in this respect.

Flood risk

7. The submitted flood risk assessment identifies the site as falling within flood zone 2 on the Environment Agency flood map. It is widely surrounded by land which is also in flood zones 2 and 3.
8. The site not being affected by the most recent floods is not a sign that it is not at risk or that it is at low risk. The cause and effect of each flooding incident will be different. Regardless of the level of risk, the likelihood of the site flooding, or of any mitigation measures that could be incorporated into the development to reduce the risk of flooding to the site or of increasing the risk of flooding to others, the starting point is to direct new development to areas at the lowest risk of flooding, i.e. to flood zone 1. The onus is on the applicant to demonstrate that there are no reasonably available sites on which the development could be located in lower risk flood zones. This is otherwise known as the sequential test. It is the responsibility of the decision maker, not the Environment Agency, to decide whether or not the sequential test, which is a policy matter rather than a technical matter, has been passed.
9. The starting point for the sequential test is generally district wide, with smaller search areas being applied to those areas where it can be justified, for example in large towns or regeneration areas, where it is important to allow development to support other wider sustainability objectives. An example referred to in the PPG of where the sequential test search area might be reduced, is in relation to a planning application for a new school, for which there is evidence of need for within a specific catchment area to serve pupils in that area. It does not recommend reducing the sequential test search area for new houses on the basis that future occupiers of them may support existing schools or other facilities.
10. There are no circumstances in this case which would justify a reduced search area and it is not unusual for a district wide sequential test to be applied to housing development on unallocated sites outside of main settlements.
11. Planning Practice Guidance is clear that the presence of flood risk management infrastructure should be ignored as its future funding and maintenance cannot be guaranteed. It is also clear that lower-risk sites do not need to be owned by the applicant to be considered reasonably available.
12. It has not been demonstrated that there are no other sites available, for example land for sale on the open market in flood zone 1, on which the two proposed houses could be located. As such the sequential test fails.

13. I therefore conclude that the site is not a suitable location for new residential development having regard to flood risk. The proposal would therefore be contrary to Core Policy 10 of the CS, Policy DM5 of the Newark and Sherwood Allocations and Development Management DPD (the DPD) and paragraph 168 of the Framework. These policies seek to steer new development away from those areas at the highest risk of flooding, applying a sequential approach to its location.

Character and appearance

14. I understand that historically the site may have been used as garden to the dwelling known as 'Pasadena', but it is no longer in the same ownership. At the time of my visit, it was apparent that the site is now completely separated from 'Pasadena' by an outbuilding conversion development 'Rabbit Hill Barn' and an orchard. The site is not currently in use as domestic garden and does not have the appearance of such a use. Whilst it contains a small, dilapidated shed, it is otherwise an undeveloped parcel of land bound by trees and hedges and containing many semi-mature trees and shrubs. It would not in my view fall within the definition of previously developed land as set out in the Framework.
15. The site is slightly higher than the road, which has banked verges, and is visually prominent when approaching the village along either Sand Lane or Eagle Road. The undeveloped nature and verdant appearance of the site makes a positive contribution to the rural character of this small settlement.
16. The proposed dwellings would be similar in scale, form and materials to others in the area. However, their design due to the fenestration detail, the bland elevation facing the road, and the front elevation and sitting room window facing the parking area, would not be of high quality and would fail to reflect the traditional character and appearance of the area.
17. Although the development would be partially screened by the existing boundary landscaping, and new landscaping could be required by condition, this would be less effective in winter and its long-term future cannot be guaranteed. New planting would also take some time to become effective. Furthermore, the development would involve opening up the site frontage, and cutting back the boundary hedges to provide and maintain the required visibility splays. This together with the provision of a formal widened and surfaced access and large area of hardstanding for parking and turning would open up views into the site. These views would be of suburban appearance dominated by car parking, shared access and turning facilities.
18. Due to the location of the site in the centre of the settlement the development would not encroach into the countryside. However, it would erode the character of this rural hamlet, which with the exception of the old farmhouse and brick farm buildings directly opposite the site on Sand Lane, is bound by open land on either side of the main route through the village.
19. I therefore conclude that the development would result in harm to the character and appearance of the area contrary to Spatial Policy 3 and Core Policy 9 of the CS, Policy DM5 of the DPD and the Framework, which require new development to be of high-quality design that protects and enhances the natural environment and would not be detrimental to the character of the location.

Other Matters

20. I acknowledge that sites at lower risk of flooding elsewhere in the same local authority area would not support the appellants in meeting their personal desire to live and work from home close to family in the local area, funded by the sale of the second plot. However, the personal circumstances of the appellants do not outweigh my concerns and the planning system does not exist to benefit private interests.
21. My attention is drawn to other relatively new dwellings on Chapel Lane; however, I am unaware of the circumstances that led to the approval of these and as such I afford their presence limited weight.
22. Reference has been made to a barn conversion that was permitted development and to a gypsy and traveller site, which would be subject to different needs and policies. As such these cases are not comparable to the one before me for new open market housing. Whilst I acknowledge that families moving into conversion schemes in the area would also have limited access to services, the sustainability benefits of reusing existing buildings are considered to justify this. As it is recognised that redundant agricultural buildings will generally be located in the countryside, access to services and facilities is not a consideration in such schemes. Likewise, as such proposals relate to existing as opposed to new buildings, the flood risk sequential test does not apply to conversions.
23. The proposal would contribute to an identified need for 3 and 4 bedroom family houses in the Collingham sub-area. Due to its small scale, it could be delivered relatively quickly, and future occupiers of it may assist in supporting services in other nearby villages. However, these benefits would be very modest and as such would not outweigh the conflict with national and local planning policies.

Conclusion

24. I therefore conclude that the proposal would conflict with the development plan and there are no other material considerations before me that would persuade me to make a decision other than in accordance with this.
25. For the reasons given above and having had regard to all issues raised, the appeal is dismissed.

R Bartlett

INSPECTOR