
Appeal Decision

Site visit made on 5 July 2016

by Elaine Worthington BA (Hons) MTP MUED MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5th September 2016

Appeal Ref: APP/J0540/W/16/3144991

Land off Woolfellhill Road, Eye, Peterborough, PE6 7YJ

- 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 Mr Guy Barron against the decision of Peterborough City Council.
 - The application Ref 15/00369/OUT, dated 9 March 2015, was refused by notice dated 17 November 2015.
 - The development proposed is the development of agricultural land to provide an eco community of eleven self sufficient dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline with all matters except access reserved for future consideration. I have dealt with the appeal on this basis but have also had regard to the proposed site layout and eco-residence plans showing elevations and floor plans which formed part of the planning application (and which the Council considered as illustrative).

Main Issues

3. The main issues in this case are:
 - whether the proposal would be a suitable site for development having regard to policies which seek to protect the countryside and achieve sustainable patterns of growth; and
 - the effect of the proposal on archaeological remains; and
 - the effect of the proposal on highway safety; and
 - whether the proposal represents an acceptable form of development having regard to its flood zone location and the provisions of the National Planning Policy Framework (the Framework).

Reasons

Countryside protection and sustainable patterns of growth

4. The appeal site is an open area of land enclosed by hedgerows to its road frontages on Green Road and Woolfellhill Road. The Council confirms that the village of Eye is designated as a Key Service Centre in the Peterborough Core
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- Strategy (Core Strategy) and there is a policy preference for higher growth within these areas. However, the appeal site is outside the village settlement boundary of Eye and is therefore in the countryside in policy terms.
5. Core Strategy Policy CS1 sets out the Council's approach to the settlement hierarchy and restricts residential development in the countryside to that which satisfies the exception test set out in Policy CS8. Policy SA4 of the Peterborough Site Allocations Development Plan Document concerns village envelopes and advises that decisions on the type and scale of development within and outside these will be based on Core Strategy Policy CS1.
 6. Paragraph 55 of the Framework indicates that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It advises that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances.
 7. The appeal site is set apart from the settlement by fields and is somewhat out on a limb in relation to the main extent of the built up area. It is also separated from Eye by the A47 which presents a substantial physical barrier between the site and the village. As such, it is somewhat isolated in relation to the settlement and relates closely to the surrounding open countryside. It is around 800 metres west of the village settlement boundary of Eye Green and is estimated by the appellant to be around 250 metres from Eye to the south east.
 8. The appellant regards the site to be closer to the centre of the village than many existing houses in the settlement. He advises that the shops and facilities there would be accessible on foot and bicycle via the footbridge over the A47, which he also considers would allow parents and children to walk and cycle to primary school. Eye Green could also be reached from the site along Green Road. The distances to these facilities have not been provided, but from my own observations I consider that whilst they would not be in particularly close proximity to the site, it would be possible to reach them on foot or cycle.
 9. That said, the pedestrian route to the footbridge from the site would in part be along the southern section of Woolfellhill Road which is unlit and without a footpath. This would be so even given the proposed footpath within the site. Similarly the route along Green Road to Eye Green is without a footpath or lighting. As a result, I have some reservations that the future occupiers of the proposed houses would feel safe using these routes and would also question whether they would be likely to walk such distances, particularly during bad weather and at times of darkness.
 10. The appellant indicates that there is a regular bus service through Eye and commuting to Peterborough for work and secondary schools is realistic. Whilst reference is made to a bus stop that is 300 metres away via the footbridge on Hodney Road, no further details have been provided as to the frequency of the services from there. I am aware from my own observations that there are bus stops on High Street and Peterborough Road and others on Crowland Road in Eye Green. However these would also be reached on foot via Green Lane and Woolfellhill Road.

11. In practical terms it seems to me that some facilities and bus stops are within walking distance of the site. However, these would require the occupants of the proposed houses to walk not inconsiderable distances along routes that are in part without footpaths or lighting to access them. Thus, although the future occupants of the proposed houses would have some opportunities for bus travel on reaching Eye or Eye Green (and opportunities for cycling also exist), in my view these factors would to some extent deter the future occupiers of the proposed dwellings from using these sustainable modes of transport.
12. This being so, even having regard to the proposed production areas for the houses and the aspiration for self-sufficiency, along with the possibility of home working that would be facilitated by the site's connection to 4G and high speed fibre broadband, I consider that the future occupiers of the houses would have only limited alternatives to the use of a private vehicle to meet their day to day requirements.
13. The appeal site is a short drive from the main road network and motorway system. However, even in this context, I cannot see that the proposal would minimise the need to travel or reduce reliance on the car. This reliance of the future occupiers of the proposed houses on the use of the private car to meet their day to day household, leisure and employment needs would be at odds with the aim of the Framework to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development in locations which are, or can be made sustainable.
14. Thus, whilst the proposal would bring additional residents to the area who would be likely to use the nearby facilities, the somewhat isolated location of the site, along with the relatively small scale of the scheme for eleven dwellings, would limit the proposal's role in terms of its contribution to enhancing or maintaining the vitality of the rural community as required by paragraph 55 of the Framework.
15. The Council confirms that it restricts development in the countryside in order to avoid harm to the character and appearance of such areas. There is a dwelling at West Acres to the west of the site and other sporadic development on the west side of Woolfellhill Road along with an agricultural business on Green Road to the north. Nevertheless, despite this nearby development, the site relates closely to the surrounding open countryside. Even taking into account the existing and proposed boundary planting and the spacious layout envisaged, the scheme would introduce a number of homes to the site which would inevitably appear as an intrusion of residential development that would detract from its currently open rural character along with that of the surrounding countryside. This would be appreciated from both Green Road and Woolfellhill Road.
16. The appellant advises that Policy LP3 of the emerging Draft Peterborough Local Plan (emerging Draft Local Plan) categorises Eye as a larger village where dwellings are intended to be located. Whilst I note the appellant's view that dwellings are planned on land to the edge of Eye such as the appeal site. I have seen no firm evidence in this regard. I am also aware that the appeal site was discounted as a potential housing allocation in the Site Allocations Development Plan Document submission stage version since it was found that it would create an isolated block of development in the countryside, unrelated to the remainder of Eye village.

17. Bullet point 4 of paragraph 55 of the Framework indicates that the exceptional quality or innovative nature of the design of a dwelling could be a special circumstance that would justify new isolated homes in the countryside. Whist not argued as part of the appeal, the submitted Design and Access Statement (DAS) considers the proposal to meet this exception.
18. The self sufficient eco-dwellings would incorporate Passivhaus design principles with low energy use and a reduction in carbon footprint. They would be constructed using the highest levels of insulation minimising thermal bridging and maximising natural heat gain through their orientation on the site. The buildings would be air tight with ventilation air passing through a heat exchange unit. They would have biomass boilers (which would utilise timber from the surrounding landscape belt to the site). The proposal also includes allotments for vegetable production, solar panels, along with the use of renewable materials, recycled aggregates and traditional building techniques. Sustainable drainage systems are proposed and grey water would be used for toilet flushing and allotment watering. The scheme aims to provide nil fossil fuel use, lower running costs, reduced demand on services, increased biodiversity, along with reduced CO2 emissions.
19. The Council accepts that the development would have environmentally friendly credentials, but considers that there are now higher standards for reducing carbon emissions. Core Strategy Policy CS10 expects proposals to demonstrate what contribution they would make over and above that which would be required by the building regulations in force at the time. The Council acknowledges that the development proposes a significant contribution to reducing carbon emissions but considers these would not be substantially over and above that which would be required on any development.
20. The aim is to provide executive sustainable housing the likes of which has never been seen before in Peterborough. The appellant considers the proposal would be a unique opportunity for a truly prestigious cluster of homes where executives could live and work from home with space to be almost self sufficient in a landscaped setting. However, to my mind the proposal's design principles, energy saving features and use of materials are well established and I am not convinced that the scheme would be particularly unique or unusual in this regard. Since it would be based on the Passivhaus model which has been successfully used elsewhere, the scheme would not be ground breaking in its design or exceptionally innovative in nature.
21. Even if this were to be the case, given the site's rural location, in practical terms, it is hard to see what opportunities the proposal presents to act as an exemplar. It has not been put to me that the development would be publicised or made available to view by local developers or the public. As such, I am not persuaded that it would be widely seen or appreciated to the extent that it would lead the way in the area by demonstrating energy efficient construction and design. On this basis, in my view the proposal would not serve as a model, or increase consciousness to a point where wider standards of design would be improved as a result of it. Based on the evidence submitted, nor have I have seen anything to demonstrate that it would necessarily reflect the highest standards in architecture.

22. Furthermore, given my findings in relation to the scheme's unacceptable impact on the character and appearance of the area, I am not persuaded that the proposal would significantly enhance its immediate setting, or that it would be sensitive to the defining characteristics of the local area. As a result, I do not regard the design of the scheme to be of exceptional quality or innovative nature, and the proposal would not meet the special circumstance set out at paragraph 55 (bullet point 4).
23. I have also considered whether the provision of executive homes would justify the scheme's countryside location. The proposal would provide large properties, set in spacious grounds to the edge of the village with easy access to the highway network. Whilst there is currently no specific policy requirement for executive homes, the appellant advises that there is a lack of prestigious homes in Eye and refers to emerging Draft Local Plan Policies LP8 and LP9 concerning meeting housing needs and self-build and prestigious homes.
24. The Council confirms that it has aspirations to provide large, top of the range houses that will enable business leaders to live locally. However, it indicates that sites will be allocated in sustainable locations within settlement boundaries either in the urban area or in villages to meet this aspiration. I am conscious that the emerging Draft Local Plan remains at an early stage of production and this limits the weight I can attribute its policies. In this context, I am not persuaded that the provision of executive homes would constitute a special circumstance in the context of paragraph 55 of the Framework.
25. I therefore conclude on this issue that the proposal would not provide a suitable site for development having regard to policies which seek to protect the countryside and achieve sustainable patterns of growth. It would thus be contrary to Core Strategy Policy CS1 and paragraph 55 of the Framework.

Archaeological remains

26. The site lies within an area considered by the Council to be of archaeological potential on the northern edge of the Eye gravel peninsula which was occupied from the prehistoric period. Although presently unknown, the Council's Archaeologist advises that remains of all periods may survive within the site (particularly within the southern part).
27. The Guidance advises that decision taking regarding assets of archaeological interest requires a proportionate response from local planning authorities. Where an initial assessment indicates that the site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, applicants should be required to submit an appropriate desk based assessment, and where necessary a field evaluation.
28. The Council's Archaeologist advises that a programme of test-pitting/trenching should be carried out prior to the determination of the application to better characterise the site (since a programme of geophysical survey would be unlikely to produce conclusive evidence due to the expected depth of the fen depositional sequences in parts of the site).
29. I am mindful that the Guidance estimates that following an initial assessment of archaeological interest, only a small proportion of planning applications justify a requirement for a detailed assessment of archaeological remains

following the initial assessment. Nevertheless, in this instance, despite the initial indication from the Council that the site may include remains, the appellant has provided no desk based assessment to indicate whether the further evaluation recommended by the Council is required. As such, I have seen no information to establish what the likelihood of the existence of any archaeological remains is, or what their potential significance might be.

30. Paragraph 203 of the Framework advises that local planning authorities should consider whether otherwise acceptable development could be made acceptable through the use of conditions. I have had regard to the condition suggested by the appellant to ensure that a scheme of investigation is undertaken in advance of development commencing. However, I share the Council's view that an evaluation should take place before the proposal is determined in order to predict the presence of remains and assess their potential significance.
31. As such, I agree with the Council that there is insufficient evidence for a confident assessment of the archaeological potential of the site to be made. I therefore conclude on this issue that I cannot be satisfied that the proposal would not have a harmful effect on archaeological remains. As such, the proposal would be contrary to Core Strategy Policy CS17 which indicates that the Council will protect, conserve and enhance the historic environment through the special protection afforded to (amongst other things) nationally important archaeological remains and other areas of archaeological potential or importance. It would also be at odds with the advice at Section 12 of the Framework and that in the Guidance.

Highway Safety

32. A new access would be created from Green Road at the northern end of the site and another from Woolfellhill Road. The Council requires the widening of the access points to 5.5 metres and the provision of appropriate visibility splays. Whilst a plan to show these arrangements has not been provided, the appellant confirms that these specific provisions could be secured via a planning condition. Additionally, to address the Council's concern that the scheme would not provide a separate pedestrian footway, the appellant advises that he could create a footpath link within the site on Woolfellhill Road.
33. I appreciate that the matter of access is sought for approval at this stage, and note the Council's view that these details should be provided to demonstrate that a satisfactory access can be achieved. That said, I have seen nothing to suggest that satisfactory access to the site could not be achieved or that the wider access points, appropriate visibility splays, and pedestrian link could not be accommodated. The Highway Authority raises no objections to the scheme on this basis. Paragraph 203 of the Framework advises that local planning authorities should consider whether otherwise acceptable development could be made acceptable through the use of conditions. As such, I do not regard these matters in themselves to be a reason to withhold planning permission.
34. Despite the concerns of local residents no objections are raised by the Council or the Highway Authority as to the increase in traffic that would arise from the appeal scheme. However, due to its narrow width, the provision of passing bays on Woolfellhill Road, along with the widening of both Woolfellhill Road and Green Road at the proposed site access points and at their junction are sought. The appellant is willing to provide these off site highway improvements but

questions the need for a planning condition in this regard since the works could be provided via a Section 278 Agreement.

35. However, as I see it, the proposed works to the public highway would need to be made a condition of the planning permission to ensure that the appellant and the Highway Authority enter into an agreement to provide the required new infrastructure. Whilst a Section 278 Agreement would be the mechanism by which it would be provided, it would be enforced as a condition of the planning permission. As such, I agree with the Council and the Highway Authority that such off site works would need to be secured by a planning condition to tie them to the proposed development.
36. I note the appellant's reference to the Guidance (in relation to the use of conditions) which advises that local planning authorities should not seek to control matters that are subject to specific control elsewhere in planning legislation. However, I am conscious that a Section 278 Agreement relates to the Highways Act, and am in any event satisfied that such a condition requiring the off site highway works would relate to planning objectives and fall within the scope of the permission to which it would be attached.
37. Therefore, subject to the imposition of the conditions discussed, I conclude on this issue that the proposal would not be harmful to highway safety. Thus, I see no conflict with Policy PP12 of the Peterborough Planning Policies Development Plan Document which is only permissive of development that has transport implications if (amongst other things) it would not result in an unacceptable impact on any element of the transport network including highway safety (b).

Flood risk

38. Parts of the site are within Flood Zones 2 and 3. The DAS indicates that these are at the extreme southern end of the site and at the north east corner. Paragraph 100 of the Framework advises that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. The Council is concerned that insufficient information has been submitted in relation to the Sequential Test.
39. However, the majority of the site is within Flood Zone 1 where the Sequential Test is not normally required. The appellant refers to the Guidance which recommends a pragmatic approach on the availability of alternative sites should be taken when applying the Sequential Test. He also advises that the proposed dwellings could be positioned in areas of lower flood risk with those parts of the site in Zones 2 and 3 being used as landscaped surface water handling swales and buffer areas only.
40. The appellant has submitted a site specific flood risk assessment (FRA) to which the Environment Agency raises no objections. Paragraph 103 of the Framework advises that it should be demonstrated that within the site the most vulnerable development is located in areas of lowest flood risk. The checklist table in relation to FRAs in the Guidance advises that where appropriate, appellants should demonstrate how land uses most sensitive to flood damage have been placed in areas within the site that are at least risk of flooding.

41. Having regard to the illustrative layout, I see no reason why it would not be possible to accommodate the proposed dwellings wholly within Flood Zone 1. I also note the intended mitigation measures included in the FRA and am mindful that the final site layout and design of the buildings would be the subject of a detailed scheme to be considered by the Council.
42. On this basis, overall I am satisfied that (subject to the imposition of conditions) future residents would not necessarily be at risk of flooding and neither would the development increase flooding elsewhere. I therefore conclude on this issue that the proposal represents an acceptable form of development having regard to its flood zone location and the provisions of the Framework. Accordingly I see no conflict with Core Strategy Policy CS22 which advises that the granting or refusal of planning permission will be informed by the Peterborough Strategic Flood Risk Assessment (Level 1 and Level 2), the Sequential Test and if necessary the Exception Test, and an appropriately detailed FRA.

Conclusions

43. The proposal would provide short term employment for construction workers and the occupiers would contribute to the local economy by using local shops and services which would be welcomed by local business owners. These are benefits of the scheme and would align with the economic role of sustainable development as described at paragraph 7 of the Framework.
44. The scheme's contribution to housing land supply would also be a benefit of the proposal and would align with paragraph 47 of the Framework which seeks to boost significantly the supply of housing. The proposal would provide uniquely designed executive eco-homes and deliver bespoke dwellings which would not necessarily be achieved via self-build projects. There is a perceived lack of prestigious homes in the area and local residents consider the scheme could encourage high earners to the village, enhance its status and help to stimulate the economy. In providing additional homes it is also anticipated that the proposal would release housing for first time buyers. This widening of housing mix and choice is a further benefit of the scheme. Thus, in terms of the social role of sustainability, the proposal would help to provide a supply of housing to meet the needs of present and future generations. The scheme would cause no harm to highway safety and would be well separated from nearby dwellings and I see no reason why it would not create a high quality built environment.
45. That said, given the relatively modest scale of the proposal for eleven dwellings, the extent of its contribution to the supply and mix of housing would not be great. Additionally, I have found that the future residents would be somewhat isolated from local facilities and services. Thus, the location of the site would to some extent limit the proposal's benefits in terms of the social and environmental roles of sustainable development.
46. I have concluded that the design of the proposed dwellings would not be of exceptional quality or innovative nature. Even so, the scheme's environmental credentials would help to use natural resources prudently, minimise waste and pollution and mitigate and adapt to climate change. Although this counts in the scheme's favour, because the measures would not generally go over and above what is normally expected, it does not add great weight in its favour. The proposal would be acceptable in terms of flood risk, but the absence of harm in this regard counts neither for, nor against the development.

47. The scheme would have an adverse impact on the character and appearance of the area and fails to demonstrate that it would not have a harmful effect on archaeological remains. Consequently it would fail to protect or enhance the natural and historic environment as required by the environmental role of sustainable development. Additionally, although the proposed houses would be energy efficient, since residents would be to some extent reliant on private car journeys for services and amenities, the proposal would not foster sustainable modes of travel. Thus, in this sense it would not help to minimise pollution or mitigate and adapt to climate change, including moving to a low carbon economy, as required by the environmental role of sustainable development. This would to some extent undermine the environmental benefits of the scheme outlined above.
48. Based on the information in the officer's report, the appellant considers that the Council cannot demonstrate a 5 year supply of housing land. However, the Council advises that it has since produced a 5 year housing land supply document (January 2016) to support the emerging Draft Local Plan. This supersedes the 5 year land supply document published in November 2015 and the Council considers that it demonstrates a 6.22 year supply. The appellant has provided no evidence to the contrary on this matter.
49. Notwithstanding this disagreement, I confirm that even if I were to find that there is a shortfall in 5 year supply of the scale suggested by the appellant and that relevant policies for the supply of housing should not be considered up to date, for the reasons set out, the adverse impacts of granting permission in this case would significantly and demonstrably outweigh the benefits and I do not regard the proposal to comprise sustainable development.
50. For the reasons set out above, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR