
Appeal Decision

Site visit made on 18 October 2016

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 1st December 2016

Appeal Ref: APP/D0515/W/16/3152429

**Land north of 146 Leverington Common, Leverington, Cambridgeshire
PE13 5BP**

- 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 John Buckle against the decision of Fenland District Council.
 - The application Ref F/YR16/0064/O, dated 29 January 2016, was refused by notice dated 4 April 2016.
 - The development proposed is an outline planning application for the erection of 1 x two storey chalet bungalow (plot 1) and 2 x single storey bungalows (plots 2 & 3).
-

Decision

1. The appeal is dismissed.

Procedural matter

2. The application is made in outline form with all detailed matters other than access reserved for future approval. The proposal is accompanied by a drawing showing an indicative layout for the dwellings. Whilst not formally part of the scheme, I have nevertheless treated it as a useful guide as to how the site could be developed.

Main Issues

3. The main issues are the effect on the character and appearance of the area and whether the proposal would comply with the spatial strategy of the National Planning Policy Framework (the Framework) and the Fenland Local Plan 2014 (LP) in terms of minimising flood risk.

Reasons

Character and appearance

4. The appeal site is located on the north side of Leverington Common which has a mixture of frontage and tandem developments. To the east of Mays Lane the extent of the tandem development along Leverington Common is significant and as such this now forms an integral part of the overall character of the area. Whilst there is not currently any tandem development on the west side of Mays Lane, the existence of such development in the vicinity of the site leads me to the conclusion that a further element of tandem development would not appear out of character in principle in this part of the village.
 5. However, as I saw from my site visit, the tandem developments at Top Field, Donnington Park, Orchard Gardens, Woolcroft Close, Pear Tree Crescent and
-

Waverely Gardens all exhibit different characteristics to the indicative layout submitted with the appeal application. In particular, with the exception of Orchard Gardens, all of the other developments have the character of a cul-de-sac. Whilst Orchard Gardens is less formalised, the two properties to the rear are readily visible from Leverington Common and have some street presence. I am also aware of a possible future development to the rear of No 122 Leverington Common, although I am unaware of the current status of that development or the specific details of it.

6. The appeal development would involve the demolition of the existing garage at No 146 to facilitate the access to the site. The access would be sited between the remainder of No 146 and the boundary to No 148 and would be approximately 4 metres in width. This would be narrower than the other developments which have been brought to my attention and given the juxtaposition between the two properties (including the boundary treatments immediately adjoining the new access driveway) would appear cramped.
7. Furthermore, the indicative positions shown for the new dwellings would not create a street as such, and would contrast with the existing pattern of development in the area, including the tandem development I have referred to. The restricted size of Plot 3, and the resultant reduction in the size of the garden of No 146 would also be contrary to the more spacious nature of the properties to the west of Mays Lane.
8. For the above reasons, I conclude that the development would lead to unacceptable harm to the character and appearance of the area. The development would therefore be in conflict with Policies LP12 Part A(d) and LP16(d) of the LP which amongst other matters seek to protect the character and appearance of the area.

Flood risk

9. The appellant has carried out a site specific Flood Risk Assessment (FRA) which indicates that the site lies within Flood Zones 1 and 2 as defined by the Environment Agency. Based upon this work the Environment Agency has not raised an objection to the development subject to a number of measures to ensure that the site would be safe from flooding. Nevertheless, as the Agency state in their letter of 2 March 2016, the sequential approach to site layout should be applied.
10. Paragraph 100 of the Framework advises that development in areas at risk from flooding should be avoided by directing development away from areas at highest risk. Paragraph 101 goes on to state that the aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding, and development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.
11. The Framework also makes it clear that only if there are no other sites with a lower flood risk should consideration be given to whether the development could be made safe without increasing the risk of flooding elsewhere.
12. The Appellant considers that the site is not located within Flood Zone 2 following further topographical work. However, the designation of Flood Zones

is a matter for the Environment Agency, and as far as I am aware, the Agency has not re-classified the site as entirely within Flood Zone 1.

13. Whilst the Sequential Test indicated that no other comparable sites are available to purchase within a 3 mile radius of the site (through an on-line search), it does not appear to identify or consider whether other sites are suitable or available within this radius. Additionally, the Council have identified a site at Begdale Road, Elm which has outline planning permission for two dwellings and another site which is for sale at Wisbech St Marys which has an extant permission for a further 14 dwellings.
14. Notwithstanding that, the Council have stated that following a recent appeal decision¹, the draft Cambridgeshire Flood and Water Supplementary Planning Document (SPD) is being amended in relation to the search area for sequential tests and it would now relate to the whole District and not just the settlement where the site is located. Whilst the SPD is still in draft form, and therefore carries limited weight, the principles outlined in the SPD, including the likely amendments suggested by the Council, follow the thrust of guidance in the Framework and the Planning Practice Guidance (PPG).
15. Whilst I am also mindful that the PPG states that a pragmatic approach on the availability of alternative sites should be taken, from the limited evidence before me, I am not persuaded that there are not other more suitable sites for the proposed development in the area.
16. For the above reasons, the proposed development would fail to minimise flood risk by locating new housing in an area of flood risk contrary to the aims of the Sequential Test. As a consequence, the development would be contrary to Policy LP14 Part B of the LP and the Framework which amongst other matters restricts new development in areas at risk from flooding.

Other matters

17. I have also had regard to the representations made both from during the Council's public consultation on the planning application and in relation to this appeal. Given that this is an outline application with only the access being considered at this stage, concerns relating to privacy, outlook, daylight and sunlight and noise would be considered at the reserved matters stage should the appeal succeed.
18. In relation to concerns over noise from the driveway, given the location of the access it is clear what the potential impacts would be. However, I note that development includes the provision of acoustic fences along the access driveway and any issues arising could be dealt with by means of a planning condition.

Conclusions

19. Taking all matters into consideration, including some local support for the proposal, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR

¹ APP/R3650/W/15/3136799