



Appeal Decision

Site visit made on 20 May 2020

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th July 2020

Appeal Ref: APP/V2635/W/19/3243402

Land north of 1-4 Bates Drive, Bates Drive, Clenchwarton PE34 4BG

- 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 L Bates against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 19/01494/O, dated 22 August 2019, was refused by notice dated 17 October 2019.
 - The development proposed is construction of 4 chalet type dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Outline planning permission is sought, but with only access to be considered at this stage. Therefore, the site layout provided by the appellant is only indicative at this stage and I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - whether the proposed development would provide a suitable location for housing, having regard to the character and appearance of the area; and
 - whether the proposed development would be at an unacceptable risk of flooding.

Reasons

Location

4. The appeal site is located off Main Road in Clenchwarton, towards the end of Bates Drive. The site is a vacant field situated outside the village boundary between existing residential dwellings and a horticultural nursery. There are also a number of fields either side of the site, which give this location a verdant character.
5. Policies CS01 and CS02 of the Core Strategy (CS) (2011) set out the spatial strategy for the Borough with a hierarchy of defined centres. Clenchwarton is classified by the Council as being a Key Rural Service Centre (KRSC), where growth within the development limits is supported. However, the appeal site lies outside the settlement boundary for Clenchwarton.

6. Policy CS06 of the CS and Policy DM2 of the Site Allocations and Development Management Policies Plan (SADMPP) (2016), states that land outside development limits will be treated as countryside, where new development will be restricted, and that in rural areas, the countryside will be protected for its intrinsic character and beauty. The site is not allocated for development in the SADMPP. Although there is built development near the site, for the purposes of planning policy, the site is located within a countryside location. Consequently, the site is limited to the uses identified as being suitable in rural areas. None of the exceptions set out in Policy DM2 have been put forward in support of the appeal.
7. The proposal would introduce 4 dwellings into a field which is currently open and free from development. This would erode the verdant character which currently exists at the edge of the village as it transitions to the more rural countryside. The appellant has suggested that this area is suitable for housing due to the land adjacent to the site being allocated for development, as well as the land having a previous outline approval for development¹. However, the appellant has stated that the approval has since expired, and I have no information before me to suggest whether any conditions have been discharged, and at the time of my site visit the land was undeveloped. Whilst the adjacent land has been allocated as a housing site in the SADMPP, the final form, landscaping and character of the site, has not yet been determined. In any case, whilst I acknowledge the adjacent site is a housing allocation, this does not necessarily mean the appeal site is suitable for development and the appeal site must be determined on its own merits.
8. I note that the appellant has advocated the sustainability of the site in terms of its access to the village centre, shops, school and other nearby amenities, as well as buses running regularly past the site. Be that as it may, the Council can demonstrate a supply of housing of 8 years, which is not disputed by the appellant. The planning system is designed to be plan-led. The SADMPP has allocated land for residential development, which does not include the appeal site, which has been excluded from the development boundary for Clenchwarton. The benefit of 4 new dwellings would not outweigh the harm of unrestricted development in the countryside, and the subsequent harm to the character and appearance of the area.
9. Consequently, the proposed development would not be located in a suitable location for housing. It would be contrary to policies CS01, CS02 and CS06 of the CS and Policy DM2 of the SADMPP. These policies, amongst other things, seek to ensure that new development follows a sustainable pattern within defined settlements and that housing is distributed across the settlements in a hierarchical manner.

Flooding

10. Paragraph 155 of the National Planning Policy Framework (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Further advice is contained within the Planning Practice Guidance (PPG).

¹ 15/01269/OM

11. The appellant has submitted a Flood Risk Assessment² (FRA) which clarifies that the site is located within Flood Zone 3. It is understood that in this area it is not functional floodplain and as such constitutes the classification of Flood Zone 3a. The FRA states that with the recommended measures in the report that the site would be safe for its lifetime and provide wider sustainability benefits.
12. The proposed dwellings and the access would fall within Flood Zone 3a. Table 2 of the PPG indicates that dwelling houses are deemed to be a 'more vulnerable' use. Table 3 of the PPG is clear that for the appeal proposal to be acceptable with regard to flood risk, both the sequential test and exceptions test are required to be passed.
13. The submitted FRA does not provide substantive evidence to demonstrate that there are no other sequentially preferable sites. The appellant has only considered sites within Clenchwarton capable of accommodating the 4 dwellings. However, in the particular circumstances of this case, I consider that such an area of search is unnecessarily restrictive. One of the aims of Policy CS08 of the CS to steer new development away from areas of high risk flooding. Such an approach is consistent with the Framework. Paragraph 158 states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. It also states that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
14. I note that the adjoining allocated site has the same flood zone designations and that there are little areas that are not within Flood Zone 3 within Clenchwarton. I acknowledge that the proposed development would represent development at the same risk of flooding as the housing allocations. However, the allocations have been deemed acceptable as part of a plan-led process for future development in this village. I note Clenchwarton is likely to remain within a flood zone and it would be difficult to be able to direct development towards areas at the lowest risk. However, this does not obviate the necessity to undertake and satisfy the sequential test. Therefore, a wider area of search would be more reasonable given that no factors have been presented to me to demonstrate that the sequential test should not be applied across the whole of King's Lynn and West Norfolk Borough. Consequently, I find that the proposal has failed to meet the requirements of the sequential test, and as such there is no need for me to consider compliance with the Exception Test.
15. The appellant has suggested that a range of conditions could be attached to any approval to restrict the configuration of the dwellings with no ground floor sleeping accommodation, first floor refuge and to sign up the flood warning system. However, as I have found that the development would not be sequentially appropriate, these conditions do not overcome this conflict.
16. I find that the proposed development would be an unacceptable risk of flooding. Therefore, it would be contrary to section 14 of the Framework and Policy CS08 of the CS. These policies, amongst other things, seek to ensure that development is directed away from areas at the highest risk of flooding and steered towards areas at lowest risk.

² Flood Risk Assessment for a proposed development at Bates Drive, Clenchwarton, Kings Lynn, PE34 4EG – Engineering Support Practice Ltd

Conclusion

17. For the reasons set out above, I conclude that the appeal is dismissed.

D Peppitt

INSPECTOR