



Appeal Decision

Site visit made on 2 March 2022

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 April 2022

Appeal Ref: APP/D0121/W/21/3282499

Land Adjoining Green Acres, Kenn Road, Kenn, Clevedon, North Somerset BS21 6TT

- 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 Michael Bell against the decision of North Somerset Council.
 - The application Ref 20/P/3253/FUL, dated 21 December 2020, was refused by notice dated 10 March 2021.
 - The development proposed is the erection of 2no. detached single storey dwellings and garages.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Within the documents accompanying the appeal, I found that the highway providing access to the site was referred to as the B3110, B3133 and B3119. For the sake of clarity, I have referred to it in my appeal decision as Kenn Road.

Main Issues

3. The main issues are:
 - Whether the site is an appropriate location for housing having regard to the accessibility of services and facilities;
 - Whether the site is an acceptable location for the development proposed with regards to its vulnerability to flooding;
 - The effect on the character and appearance of the area including trees; and
 - The effect of the proposed development on highway safety.

Reasons

Location

4. Policy CS14 of the North Somerset Council Core Strategy January 2017 (CS) sets out the strategy for the distribution of housing, giving priority to new housing development in the main towns and service villages with development outside settlement limits only being acceptable on allocated sites or where proposals comply with Policy CS33 of the CS. The appeal site is located beyond any recognised settlement limit where Policy CS33 only permits replacement

dwelling, residential subdivision, conversion and essential rural workers accommodation. As the appeal proposal relates to the erection of two new dwellings, I find that the proposal is contrary to Policies CS14 and CS33 of the CS.

5. The appeal site is located on Kenn Road between the settlements of Yatton and Kenn, being a well trafficked road with a speed limit of 40mph. I found that there were limited opportunities for pedestrian refuge along its length, with narrow verges in places dropping away to drainage ditches. With free-flowing traffic and being unlit for the most part, it was not conducive to pedestrians and therefore I do not find that walking to access services and facilities in Yatton or Kenn would be a reasonable prospect. For similar reasons I also find that whilst cycling to both settlements along the highway would be possible, it would be unlikely to be desirable.
6. I note that there is a bus service operating along Kenn Road, with a bus stop in very close proximity to the site. The appellant refers to there being 16 services a day providing links to Yatton and Clevedon. However, this is eight services each way with the service operating every one and a half hours. I do not consider that this frequency is sufficient to entice future residents away from their cars on a regular basis.
7. Whilst the site is 500m from the Yatton Neighbourhood Plan boundary, Yatton itself and the current services offered in the village are some distance away from the boundary such that, when taken together I conclude that the appeal site is in a location where future occupiers would be reliant on the private car for access to services and facilities.
8. My attention has been drawn to 'significant development' having been granted in Kenn and Yatton. However, I have not been provided with any details of the services and facilities contained therein and in the absence of further details, I give this very limited weight in the determination of this appeal.
9. I agree that the site is not isolated, being located close to existing dwellings and a commercial premises operated as an auction house. As such, there is no conflict with paragraph 80 of the NPPF. Nevertheless, I find that the site is poorly located in terms of the accessibility of services and facilities without the use of a private car and as such I find that it conflicts with policies CS14 and CS33 of the CS.

Flooding

10. The appellant's Flood Risk Assessment (FRA) identifies that the appeal site lies in an area of high probability flood risk and this is confirmed by the Council to be Flood Zone 3a which, in the Planning Practice Guidance (PPG) is second only in terms of potential vulnerability to the functional floodplain. Paragraph 159 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at higher risk. Paragraph 162 sets out the need for a sequential test (ST) to steer new development to areas with the lowest risk of flooding, and 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. Similarly, Policy CS3 of the CS states that development in areas vulnerable to flooding will only be permitted subject to compliance with the ST.

11. I have not been provided with any information to demonstrate that the appellant has considered whether there are 'reasonably available sites' such as those allocated in the development plan, extant planning permissions or windfall provision of housing. In this respect, I find that the submitted FRA is inadequate and does not robustly address this, merely stating that 'searches of the area for development sites of this type have resulted in none being found.' On the basis of this very limited information, I cannot conclude that the ST has been passed.
12. I accept that the appellant has sought to overcome the concerns raised by the Environment Agency in respect of the need to ensure the safety of future occupiers but this forms part of the exception test which can only be carried out once the ST has been passed.
13. I find therefore that it has not been demonstrated that the appeal site is an acceptable location for the development proposed with regards to its vulnerability to flooding. As a result, it is contrary to Policy DM1 of the North Somerset Council Development Management Policies Site and Policies Plan Part 1 (DMP) which seeks to discourage inappropriate development in flood risk areas and Policy CS3 of the CS which requires compliance with the ST, together with the advice in the PPG and paragraphs 159 and 162 of the Framework.

Character and appearance including trees

14. The appeal site is located in an area which is a relatively flat, lowland area typified by rural villages connected by a well trafficked road with interspersed groups of houses, commercial premises and farmsteads along it. The landscape setting is pastoral with boundaries formed by hedgerows, some of which include a number of trees.
15. The site itself is level and enclosed by mature hedgerows and trees. As a result, views into the site from Kenn Road are limited mainly to the existing point of access. There are a number of younger trees located more centrally within the site. The Arboricultural Impact Assessment dated May 2021 indicates that the proposed site layout would lead to the removal of three of these trees. Due to their limited size and distance from the road, they offer little in the way of wider visual amenity and as such, with the submitted plans which indicate replacement planting, I am satisfied that the loss of these trees will not adversely affect the character and appearance of the area.
16. In the area, I found that there was no uniformity with regards to the design of dwellings or their positioning within their plots, with some gable-on to the road and others set back with the principal elevation facing the road. In this respect, I am satisfied that the design of the two dwellings would not be so at odds with the general mix of development along Kenn Road so as to result in harm to its character. The Council consider that the tandem layout proposed, whereby one dwelling is located behind another, is also at odds with the general pattern of development along Kenn Road. Whilst I have not been directed to other examples of tandem development in the vicinity of the appeal site, I noted that there were many examples of dwellings with buildings to the rear and whilst these appeared to be outbuildings or farm buildings, I do not find that the positioning of the proposed dwellings would be in such stark contrast to the character and layout of surrounding development as to be harmful.

17. The appeal site forms part of the A1: Kingston Seymour and Puxton Moors landscape character type as set out in the North Somerset Council Landscape Character Assessment Supplementary Planning Document (LCA), where hedgerows are intermittent such that there is a need for greater management and enhancement of existing hedgerows. The plans accompanying the appeal indicate that the existing mature conifers along the southern boundary would be replaced by native hedgerow planting which would be a biodiversity net gain over time and enhance the hedgerow network.
18. However, the revised drawing (2955-68 Rev P01 site splay line set-out) indicates that the frontage of the site with Kenn Road, would be devoid of any landscaping, suggesting to me that all the existing hedgerow planting along the frontage would need to be removed to provide a visibility splay.
19. The loss of the frontage hedgerow would be at odds with the LCA strategy for enhancing the landscape character of the area and would also result in clear and unobstructed views into the site. Whilst a condition could be applied to require replacement planting in the event that the appeal was allowed, this could take many years to establish. This would lead to development on the site being highly prominent and dominant in the street scene, particularly due to the significant width of the site's road frontage.
20. I find therefore that the proposed development would significantly harm the character and appearance of the area. As such, it would conflict with Policies CS5 and CS12 of the CS and Policies DM10 and DM32 of the DMP which aim amongst other things seek to ensure that new development is sensitive to and protects existing landscape character.

Highways

21. I found that it was possible to travel at the speed limit along Kenn Road and therefore it is necessary to require a visibility at the proposed site entrance of 120m in both directions to ensure the safety of road users. However, I have doubts over whether it is possible to achieve visibility to the required standard.
22. Even if I agreed with the Council that the left-hand visibility splay would in practice only be 70m, from the information before me it would appear that the land required to provide the visibility splay is not wholly within the applicant's control. It is not wholly included within the red or blue land indicated on the submitted site location plan and equally, would not appear to be Council controlled land either. In this respect, I have doubts over whether it is even possible to provide visibility to the required standard as this would involve land in third party ownership.
23. Given my observations regarding traffic speeds and the well-trafficked nature of the road, I find that without a visibility splay to the required standard the proposal would have a harmful effect on the safety of road users due to the lack of adequate visibility at the site entrance. As such, I find that the proposal is contrary to Policy DM24 of the DMP which seeks to ensure that new development does not prejudice highway safety.

Planning Balance

24. The appellant has set out a number of benefits that the appeal scheme would bring including the economic benefits to the construction industry and the local economy through the construction and occupation of two family homes. The

use of ground source heat pumps and efficient internal fittings are also a benefit.

25. Paragraph 11 of the Framework states that where relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the framework taken as a whole or specific policies in the in the framework, including policies relating to areas at risk of flooding, indicate that development should be restricted.
26. At the time the planning application was determined, the Council acknowledged that it could not demonstrate a five year housing land supply. Even if I found that this was still the case, despite the Councils updated position as set out in its statement of case, I have concluded that the Framework policies relating to flood risk indicate that the development should be restricted and as such, the presumption in favour of sustainable development does not apply to this appeal.

Other Matters

27. The appeal site is within Consultation Zone C of the North Somerset and Mendip Bats Special Area of Conservation (SAC) which relates to horseshoe bats. However, as I am dismissing the appeal, further consideration of this and an appropriate assessment under Regulation 63 of the Habitats Regulations 2017 in terms of the impact of the proposal on the SAC is not required.

Conclusion

28. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alison Fish

INSPECTOR