



Appeal Decision

Site visit made on 21 November 2022

by James Blackwell LLB (Hons) PgDip

an Inspector appointed by the Secretary of State

Decision date: 20 December 2022

Appeal Ref: APP/D0121/W/22/3302852

Cedar Farm, Chicken Barn, Wick Road, Wick St Lawrence BS22 7YP

- 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 Mrs A Jacobsen against the decision of North Somerset Council.
 - The application Ref 21/P/3522/FUL, dated 21 December 2021, was refused by notice dated 13 May 2022.
 - The development proposed is construction of two dwellings as an alternative to the two dwellings approved as per application reference 20/P/2439/FUL.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site includes an existing chicken shed, which benefits from planning permission for a change of use to two residential dwellings (Ref 20/2439/FUL). The appellant has indicated that this scheme will be brought forward in the event of dismissal of the appeal application, and there is no tangible reason before me to conclude otherwise. As such, I consider there is more than a theoretical possibility that this scheme would be implemented (but for the present appeal), and it therefore represents a legitimate fall-back. This factor is relevant to each of the main issues addressed in this appeal.

Main Issues

3. The main issues are:
 - whether the proposal has adequately addressed flood risk;
 - whether the location of the proposed development would be acceptable with regard to development plan policy; and
 - the effect of the proposal on the character and appearance of the area.

Reasons

Flood Risk

4. The appeal site is located within Flood Zone 3a, which means the development would be located in an area with a high probability of flooding. In such areas, Policy CS3 of the Council's Core Strategy (2017) (Core Strategy) says that development will only be permitted where it is demonstrated that it complies with the sequential test as set out in the National Planning Policy Framework (2021) (Framework), and where applicable, the exception test. The Framework

is clear that the objective of these tests is to avoid inappropriate development in areas at risk of flooding “*by directing development away from areas at highest risk*”.

5. I acknowledge that Policy CS3 does provide exceptions to these requirements, where proposals are brought forward on sites which are already allocated for development of a similar character and scale. However, notwithstanding the fall-back, the appeal site is not allocated, and these exception criteria would therefore not be applicable.
6. Whilst some types of minor development and changes of use are also exempt from the requirement for a sequential and exception test, the development would not fall within these exceptions. Indeed, the PPG classifies new dwellings as “*more vulnerable*” development, and is explicit that such development within Flood Zone 3a would be subject to these tests. The development would therefore need to pass both the sequential and exception tests, before it would be consistent with Policy CS3, the Framework and guidance in the PPG.
7. On account of the proposed fall-back, the appellant contends that the residential use of the appeal site is already established. In turn, it suggests that the search area for the purposes of the sequential test should be limited to the appeal site alone. I do not accept this position. The PPG says that the search area for alternative sites will be defined by local circumstances, and will relate to the catchment area for the type of development proposed. Policy CS3 is also explicit that the search area for the purpose of the test will be North Somerset wide (subject to exceptions), which is indicative of the demand for housing across the Council’s area. It would therefore be unreasonable to limit consideration of alternative sites to the appeal site alone.
8. Given that the appellant has failed to demonstrate that the sequential test has been properly carried out and passed, I cannot determine whether or not there would be any other more suitable alternative sites for the development, where there would be a lesser degree of flood risk. The development would therefore conflict with the requirements of Policy CS3, as well as Policy DM1 of the Council’s Development Management Policies, Sites and Policies Plan Part 1 (2016) (DMP), which also seeks to safeguard new development from unnecessary flood risk. The proposal would also conflict with the flood risk provisions in the Framework and guidance in the PPG.
9. Notwithstanding the policy position, the fall-back scheme does permit a change of use of the existing agricultural building to two dwellings. Whilst I agree that the fall-back is material to the appeal application, there are notable differences between the two schemes in this instance. In particular, and notwithstanding the proposal’s overall footprint, the dwellings under the proposed scheme would include a greater number of bedrooms, which means the proposed scheme has potential for a greater level of occupancy than the fall-back scheme. In turn, the appeal scheme could lead to an increased intensity of use when compared against the fall-back.
10. As a result, the impact of the proposed development would conceivably be different to the fall-back scheme with regard to flood risk, particularly given its location within an area that is highly vulnerable to flood risk. The current proposal therefore warrants proper and comprehensive analysis of any associated flood risk in its own right, which would necessitate a proper application of both the sequential and exception tests. In turn, whilst the fall-

back does carry weight, unfortunately it would not be sufficient to outweigh the policy conflicts with regards to flood risk requirements in this instance.

Location

11. Policy CS14 of the Core strategy sets out the overarching settlement strategy for the district, which seeks to direct new development to the most sustainable locations. Policy SA2 of the Council's Site Allocations Plan (2018) (SAP) expands on this, and sets out the settlement boundaries for the towns, service and infill villages. The appeal site falls outside of any defined settlements, and is therefore classified as open countryside.
12. Policy CS33 of the Core Strategy limits new residential development within the countryside to replacement dwellings, subdivision of existing properties, dwellings for rural workers and conversions of existing buildings where alternative economic use is inappropriate. In terms of replacement dwellings, Policy DM44 of the DMP is explicit that such development will only be permitted if the dwelling has not been granted planning permission for the conversion of a non-residential building. Given that the proposal would introduce two new dwellings in place of an existing agricultural building, it would not fall properly within any of these exceptions. Strictly speaking, it would therefore conflict with Policies CS14 and CS33 of the Core Strategy, Policy SA2 of the SAP and Policy DM44 of the DMP.
13. Nonetheless, on account of the fall-back scheme, two residential dwellings could already lawfully be brought forward on the appeal site. In this context, there would be very little identifiable harm arising from these policy conflicts.

Character and Appearance

14. The appeal site is located on the southern side of Wick Road, and comprises an area of green field which is partly occupied by a large chicken shed. Whilst the land to the south and east of the site is broadly open and pastoral in character, land to the north and west is punctuated by a number of dwellings and ancillary outbuildings. Although the wider area is rural in nature, the surroundings are therefore typified by a scattering of built form in and around the appeal site.
15. The proposed development would introduce two detached dwellings in place of the existing chicken shed, together with a separate car port to serve each of the new homes. Although this would increase the coverage of built form across the appeal site, given the scattering of surrounding built form to the north and west of the site, the homes would integrate effectively, without leading to any notable degree of encroachment into the countryside.
16. The new homes have also been designed to a high standard, using a palette of materials that would echo the appearance of nearby properties, whilst remaining sympathetic to the surrounding rural landscape. Given the more austere and utilitarian appearance of the permitted conversion of the chicken shed, in design terms, the new homes would offer an improvement when considered against the backdrop of this fall-back scheme.
17. In this context, I am satisfied that the development would not harm the character and appearance of the area. It would be consistent with Policy CS12 of the Core Strategy and Policies DM32 and DM38 of the DMP, all of which promote high quality design, which is sensitive to the existing character of the

area. Broadly speaking, the development would also align with the design principles set out in the Council's Residential Design Guide.

Planning Balance

18. Whilst strictly speaking, the location of the proposal would conflict with the Council's overall settlement strategy, as set out above, I attach little weight to these policy conflicts, on account of the fall-back scheme. Moreover, I am satisfied that the development would not harm the character and appearance of the area, and would in fact, offer a more attractive design when compared against the fall-back. This would be a benefit of the scheme, which would weigh in its favour.
19. Nonetheless, given that the appeal site is located within Flood Zone 3a, where there is a high probability of flooding, I consider it imperative that flood risk is thoroughly and robustly assessed, in order to properly minimise associated risk. In turn, I attach significant weight to the policy conflicts in this regard. Unfortunately, the benefits of the scheme would not be sufficient to outweigh the potential harm in this regard.
20. Given that the Framework also requires a stringent approach to flood risk assessment, particularly in areas with a high vulnerability to flooding, this conclusion would be the same, irrespective of whether the Council can demonstrate a five-year supply of housing (thereby engaging the tilted balance). Given that the fall-back scheme would add two additional dwellings to the Council's housing stock, the proposed scheme would also not lead to any increased benefit in terms of housing numbers.

Conclusion

21. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

James Blackwell

INSPECTOR