



Appeal Decision

Site visit made on 31 January 2023

by J Downs BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2023

Appeal Ref: APP/Y2620/W/22/3291295

Plot next to Kingdom Hall of Jehovah's Witnesses, The Street, Swafeld NR28 0RQ

- 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 Neville Watts against the decision of North Norfolk District Council.
 - The application Ref PO/21/1525, dated 1 June 2021, was refused by notice dated 11 August 2021.
 - The development proposed is 3 Bedroom Chalet Bungalow with Garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have amended the site address to remove grid references as the postal address is sufficient to identify the site.
3. The appeal is submitted in outline with all matters reserved for future consideration and I have treated the details shown on the submitted plan as indicative. Notwithstanding access is a reserved matter, it would be taken from The Street as the site location plan shows only one location for connection to the highway.
4. The Council has confirmed it is no longer able to demonstrate a five year supply of housing land, and has provided additional comments on how this should be considered in the context of this appeal. A copy of these comments was sent to the appellant who was given the opportunity to respond. No such comments were received. I have taken this additional information into account in determining this appeal.

Main Issues

5. The main issues are:
 - whether the site is a suitable location for development with regard to the Council's spatial strategy and access to services and facilities;
 - the living conditions for future occupiers of the property with regard to noise and disturbance;
 - whether the proposal would comply with local and national policies to ensure that development is located away from areas at the highest risk of flooding and would be safe from the effects of flooding; and

- whether the development would have an acceptable effect on highway safety.

Reasons

Suitable location

6. North Norfolk Local Development Framework Core Strategy adopted September 2008 (CS) Policy SS 1 establishes the spatial strategy for the district. It confirms that land outside of defined settlements will be designated as Countryside where development will be restricted to particular types. CS Policy SS 2 expands on this, setting out that development in the Countryside will be limited to that which requires a rural location and is of a specified type. Market housing is not identified as such a type. The policies of the development plan therefore do not indicate that the site is an appropriate location for a dwelling in principle.
7. It has not been put to me that Swafeld would be capable of meeting the day to day needs of future occupiers. At my site visit, I observed that there was no footpath on the road leading to North Walsham, and that much of the road was subject to the national speed limit. This would be unlikely to provide an attractive route for many using means of transport other than the private car.
8. CS Policy SS 1 and its supporting text are clear that the Countryside designation does include settlements not identified within the spatial strategy. It is not for this appeal to seek to redefine how settlements are classified.
9. There is an extensive planning history to this site. Planning permission may have been granted in 1990 for development. However that was a considerable time ago and no details of that permission have been placed before me. There have been a number of further decisions taken in the intervening period, including an appeal decision for a development with the same description as that before me¹. The presence of a historic, lapsed permission would not outweigh the conflict with the current development plan I have identified.
10. I therefore conclude that the appeal site would not be a suitable location for development, with regard to the Council's spatial strategy and access to services and facilities. This would be contrary to CS Policies SS 1 and SS 2 which taken together seek to direct development to the most sustainable settlements within the area. It would also be contrary to paragraph 79 of the National Planning Policy Framework (the Framework) which requires development to be sited where it will maintain or enhance the vitality of rural communities.
11. I have not been provided with a copy of Norfolk's 3rd Local Transport Plan, however this does not form part of the development plan, nor has either party directly referenced it in the appeal submissions.

Living conditions

12. The appeal site is located between a place of worship and a farm shop. The Council has set out that there are services on Sunday mornings and in the evening. The operator of the adjoining commercial property has advised it is in operation from 5am. They also set out that there are commercial deliveries

¹ PP/Y2620/W/18/3214119 dismissed 10 May 2019.

throughout the day and trips by refuse collection vehicles in addition to visits by customers. At my site visit, I also saw and heard equipment which appeared to be for fume extraction and/or refrigeration.

13. There is no evidence before me in form of a noise assessment establishing the current noise environment of the site, the effect of this on the living conditions of future occupiers of the property and if any mitigation would be capable of overcoming any harm. I therefore cannot be certain that the existing uses would not give rise to an adverse effect on the living conditions of future occupiers of the proposed dwelling.
14. There is therefore insufficient evidence before me to demonstrate that there would be acceptable living conditions for future occupiers of the property with regard to noise and disturbance. The proposal would therefore be contrary to CS Policy EN 4 which requires new dwellings to provide acceptable residential amenity.
15. The Council have referred to CS Policy EN 13 in their decision, however this relates to pollution arising from development which has not been identified as an issue in this appeal.

Flood risk

16. CS Policy EN 10 seeks to focus development within Flood Risk Zone 1 through the application of the sequential test and use of site-specific flood risk assessments. It also requires appropriate arrangements for dealing with surface water. This is broadly consistent with the requirements of the Framework, although it requires the sequential approach to consider all sources of flooding. It is not in dispute that part of the site lies within Flood Risk Zone 2.
17. There is no evidence before me of any sequential test or site-specific flood risk assessment having been undertaken. While it may be that the site has not flooded in the past 30 years, both local and national policy are clear that future climate change must be taken into account when considering if development would be acceptable.
18. There is therefore insufficient evidence before me to demonstrate that the proposal would comply with local and national policies to ensure that development is located away from areas at the highest risk, and would be safe from the effects, of flooding. The proposal is therefore contrary to CS Policy EN 10 and Section 14 of the Framework as it relates to planning and flood risk.

Highway safety

19. Notwithstanding the appeal is in outline, access to the site would be taken from The Street and would also serve the existing business and place of worship.
20. The Local Highway Authority has raised concerns that visibility at the junction would fall short of that recommended in Manual for Streets and refer to previous appeal decisions on the site to support their concerns². The appeal proposal would introduce a new 3 bedroom household which is forecast to increase the number of vehicles using the access by 6 per day.

² APP/Y2620/W/18/3214119 dismissed 10 May 2019 and APP/Y2620/A/12/2183191 dismissed 28 February 2013

21. At my site visit, I observed that visibility is restricted at the existing junction due to the alignment of the road and obstructions on land not shown as being controlled by the appellant. I do not have details of the proposed access from the previous appeal decisions. However, my observations on site are broadly consistent with those decisions that there are obstructions to visibility at the junction which would be harmful to highway safety. This would be the case, despite the numerically small increase in the number of vehicle movements associated with the development.
22. The appellant has referred to another, large scale development elsewhere, however no details have been put to me. In any event, each appeal is determined on its own merits.
23. I therefore conclude that the proposed development would have an unacceptable effect on highway safety and would be contrary to CS Policy CT 5 which requires new development to provide safe access.

Other matters

24. I note a further application on the site has been refused, however as this was for a different use to that before me, I have attached no weight to it in the determination of this appeal.
25. I am also mindful of the advice in paragraph 187 of the Framework which requires new development to integrate effectively with existing businesses and community facilities and that these should not have unreasonable restrictions placed on them as a result of development permitted after they were established.

Planning Balance

26. The Council has confirmed that it cannot demonstrate a five year supply of deliverable housing sites. Although the precise extent of this shortfall has not been quantified, it is likely that the supply is less than 4.9 years. Paragraph 11d of the Framework is therefore engaged. No areas or assets of particular importance have been identified, therefore paragraph 11d(i) is not engaged.
27. CS Policies SS 1 and SS 2 seek to locate housing in the most sustainable locations and be accessible by a range of modes of transport. CS Policy EN 4 requires development to provide an acceptable standard of residential amenity while CS Policy EN 10 seeks to direct development away from the areas most at risk of flooding. CS Policy CT 5 requires development to provide safe access. These policies are all consistent with the Framework in how it addresses each of these considerations. I therefore attach significant weight to the proposal's conflict with the development plan when read as a whole.
28. There would be social benefits from the delivery of an additional dwelling which could be delivered in the short term. There would be economic benefits during the construction stage and through expenditure by future occupiers of the dwellings. However these benefits would be limited given the proposal is for a single dwelling.
29. I find that the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. I therefore find that the proposal does not benefit from the presumption in favour of sustainable development.

Conclusion

30. For the reasons given above, I conclude that the proposal would not accord with the development plan for the area when read as a whole. There are no material considerations, including the Framework, that indicate the decision should be made other than in accordance with the development plan.
31. Therefore for the reasons given, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

J Downs

INSPECTOR