



Appeal Decision

Site visit made on 2 August 2023

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 15 September 2023

Appeal Ref: APP/V2635/W/23/3314647

Land adjacent to Roseville, Chalk Road, Walpole St Peter, Norfolk

PE14 7PN

- 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 J Heavey against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 22/01496/O, dated 19 August 2022, was refused by notice dated 7 November 2022.
 - The development proposed is outline application for a new residential development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal seeks outline planning permission with all matters reserved. I have considered the appeal on this basis and have treated any details in relation to the reserved matters as indicative.

Main Issues

3. The main issues are:
 - whether the appeal site is an appropriate location for the proposed development, having regard to the development plan and accessibility of services and facilities; and
 - the effect of the proposed development on the character and appearance of the area; and
 - whether the appeal proposal would comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

Appropriate location

4. It is not disputed by either party that the appeal site is located outside of the development boundary and is therefore considered to be in the countryside for the purposes of the development plan.
5. Policy CS06 of the Local Development Framework – Core Strategy (CS), July 2011, indicates that in the countryside, the development of greenfield sites will be resisted unless essential for agricultural or forestry needs. Likewise, Policy DM2 of the Site Allocations and Development Management Policies Plan (SADMPP), September 2016, outlines that development will be more restricted

and will be limited to that identified as suitable in rural areas, by other policies in the local plan. Based on the evidence provided, the appeal proposal does not conform with any of the types of development considered suitable in rural areas.

6. CS Policy CS09 supports small scale infilling or affordable housing allocations or potential exceptions housing to meet identified needs of the local community in rural villages. As the appeal site is not located within a 'rural village' as designated by CS Policy CS02, these exceptions do not apply. CS Policy CS09 does not make provisions for new residential development outside of development boundaries, except for allocations, as such, it neither weighs in favour or against the proposed development.
7. For the reasons given above, the appeal proposal does not conform with the development strategy as outlined within the development plan.
8. Paragraph 78 of the National Planning Policy Framework (the Framework) outlines that local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs. This also includes the provision of market housing to help facilitate this. The appeal proposal includes the provision of a financial contribution toward local affordable housing provision, so would not represent a rural exception site.
9. Notwithstanding, the appellant has indicated that they have offered for two of the proposed dwellings to be affordable which is above the requirements of the development plan. Although the evidence indicates nationally there has been a shortfall in the delivery of affordable housing, there is no substantive evidence that there is a local need for affordable houses in this location. Likewise, the need to provide five open market dwellings to facilitate the delivery of affordable housing has also not been demonstrated. The appeal proposal is therefore not in accordance with paragraph 78 of the Framework.
10. The appeal site adjoins the development boundary for both Walpole St Peter and Walpole St Andrew. This section of Chalk Road does not include a footpath or street lighting; but is a wide road, which is lightly trafficked and subject to a 30mph speed limit. It is also in proximity to Church Road which accommodates a footpath and limited street lighting, and sections of Chalk Road to the north accommodate a footpath. For these reasons, I do not consider that future residents would be overly disincentivised from walking or cycling to use nearby facilities and services in the adjoining villages.
11. I acknowledge that the proposed development, immediately adjacent to the settlement boundaries, would help support local services and facilities, due to an increase in the resident population, which is consistent with paragraph 79 of the Framework. Likewise, paragraph 85 of the Framework indicates that planning decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to the existing settlements and in locations not well served by public transport. Moreover, the Council does not dispute that the appeal site is an accessible location. However, these material considerations do not overcome the identified conflict with Policies CS06 of the CS and DM2 of the SADMPP which are an important element of the spatial strategy at the heart of the development plan.

12. Overall, the appeal site is not an appropriate location for the proposed development, having regard to the development plan; despite facilities and services in the adjoining villages being accessible from the appeal site. The proposed development would be contrary to CS Policy CS06 and SADMPP Policy DM2 which indicate that in the countryside the strategy will be to protect the countryside for its intrinsic character and beauty; and, outside development boundaries new development will be restricted.

Character and appearance

13. The appeal site is irregularly shaped and has a long site frontage along Chalk Road, in between two residential properties. It is largely free from development other than boundary treatments, including a low barbed wire fence to the front of the site. Tall, dense vegetation separates most of the site into rectangular parcels of land.
14. Opposite is a site which is partially bounded by a tall hedgerow, but there are views across this site toward flat open land which is largely free from development. Either side of the appeal site is residential development that appears as ribbon development, with occasional development behind. The appeal site and the immediate surrounding area is verdant in character and provides a visual break from residential development aligning Chalk Road.
15. It is acknowledged that the street signs identify the area as 'The Walpoles' and the parish council governs Walpole St Peter and Walpole St Andrew. Also, the character and appearance of both villages is similar, as such, some locals may consider them to be one settlement. Nevertheless, the appeal site's long verdant frontage and a lack of development opposite with views across open fields provide a break in development and create a rural character.
16. Whilst the appeal is outline with all matters reserved, given the shape of the site it is likely that the proposed development would be linear and similar in appearance to other properties on Chalk Road. The proposed development would lead to the coalescence of Walpole St Peter and Walpole St Andrew on this side of the road and would remove the break in development. It would have a suburbanising effect on the prevailing countryside character, which would be incongruous to the current pattern of development and the separation between the two villages. Similarly, an interested party has indicated that the proposal would enhance the village landscape; however, this section of land is outside of the villages and is rural in character.
17. The proposal would lead to the loss of the majority of trees, but the appellant has indicated they would commit to a scheme of replanting, including the creation of two new hedgerows. Notwithstanding, any replanting would take time to establish itself and mature. Also, the proposed development would introduce significant amounts of built development to the site. The proposed development would be at odds with the verdant character. The proposed replanting would take time to have an effect and would not fully mitigate the proposed development's harmful effect on the verdant character of the area.
18. The appellant has indicated that the Council has permitted continuous development between Walpole St Peter and Walpole St Andrew on the other side of the village, as well as similar development between North Wotton and South Wotton and Pott Row and Grimston. The most pertinent details of these applications have not been provided. Without substantive evidence, I cannot

conclude that they set a precedent for the proposed development. Notwithstanding, each proposal is assessed on its own planning merit.

19. The proposed development would have a harmful effect on the character and appearance of the area. It would be contrary to CS Policy CS06 which indicates that the strategy for rural areas is to maintain local character and a high quality environment.

Flood Risk

20. The appeal site is located within Flood Zone 3a. Paragraph 159 of the Framework indicates that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk; and, where necessary, the development should be made safe for its lifetime without increasing flood risk elsewhere.
21. Paragraph 164 of the Framework outlines the requirements of the exception test. The first requirement is that the development would provide wider sustainability benefits to the community that outweigh the flood risk.
22. As above, the proposal would provide sustainability benefits as it would lead to an increased population which would enhance the vitality of local facilities and services. It would also provide seven dwellings and a financial contribution would be made towards affordable housing provision. Only modest weight can be ascribed to these benefits, given the scale of development and as the Council are able to demonstrate more than five years' worth of deliverable housing land supply. These modest benefits would not outweigh the high flood risk.
23. The second requirement of the exception test is for the development to be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere. There is no substantive evidence before me that would indicate that the appeal proposal would fail to meet this requirement. Moreover, the Council and external consultees do not dispute that the appeal proposal would meet this requirement.
24. The exception test is partially a spatial planning test. Therefore, a lack of objection from the Environment Agency and King Lynn's Internal Drainage Board does not mean these organisations thought the proposed development is acceptable in terms of national planning policy, when considered as a whole.
25. It is the appellant's contention that the Council has been inconsistent in their decision making in terms of flood risk as they granted planning permission (Ref. 15/01520/OM) for residential development nearby, in the same flood zone. However, that development was an allocation in the development plan therefore it contributed to the Council's deliverable housing land supply, which would lead to significant sustainability benefits, which would have outweighed the flood risk.
26. The appeal proposal would not comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding. It would be contrary to paragraphs 163-165 of the Framework, which state that both elements of the exception test should be satisfied for development to be allocated or permitted, amongst other things.

27. Within the third reason for refusal the Council has indicated that the proposal would be contrary to paragraphs 161-165 of the NPPF. However, the appeal proposal would not be contrary to paragraph 161 as that concerns development plans, or paragraph 162 as that concerns the sequential test, which the appeal proposal passes.
28. The appeal proposal would also not accord with CS Policy CS08 which indicates that if the development vulnerability type is not compatible with the flood zone, proposal will need to demonstrate that the development contributes to the regeneration objectives of the wider area.

Other Matters

29. The provision of additional habitat to enhance biodiversity on the site and the potential for the specification of the proposed dwellings to include high environmental credentials are benefits of the scheme. The proposed development would also benefit local services and facilities through an increased resident population. The proposed development not harmfully affecting highway safety is a neutral factor. These factors do not outweigh the identified harm.
30. Support of the scheme from the Parish Council, local residents, as well as county and borough councillors, alongside a lack of objection from consultees is noted. However, this does not lead me to a different conclusion on my assessment of the acceptability of the appeal scheme based on its planning merit.
31. Regarding paragraph 120 of the Framework, whilst the land may be under-utilised, there is no substantive evidence that it could not be used in combination with other land in the area to form part of a wider viable agricultural operation.

Conclusion

32. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
33. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

J Hobbs

INSPECTOR