

Parish:	Terrington St Clement	
Proposal:	Outline Application for 2 storey dwelling in association with adjacent manufacturing and retail window business	
Location:	Waterlow Nursery Waterlow Road Terrington St Clement King's Lynn	
Applicant:	Client of Hereward Services	
Case No:	19/00743/O (Outline Application)	
Case Officer:	Mr K Wilkinson	Date for Determination: 19 June 2019 Extension of Time Expiry Date: 5 July 2019

Reason for Referral to Planning Committee – Appeal history relating to this overall site

Neighbourhood Plan: No

Case Summary

The site comprises an area of 0.19Ha of land with frontage onto the eastern side of Waterlow Road, Terrington St Clement. It lies approx. 300m south of the junction with Hay Green Road, and within an area classed as 'countryside' in the Development Plan. The site abuts an access and private drive which serves Jon Chambers Windows and associated dwelling.

Outline permission is sought with all matters reserved for future consideration for a 2 storey dwelling in association with the adjacent manufacturing and retail window business. Indicative plans submitted with this application however show access off the existing driveway to the business, and a 4 bedroomed house with integral garage sited broadly central on the proposed plot.

The site lies within Flood Zones 2 & 3a plus Hazard Zone of the adopted Strategic Flood Risk Assessment (SFRA), and the application was accompanied by a site specific Flood Risk Assessment (FRA).

Key Issues

- Planning history
- Principle of development
- Impact upon appearance and character of the countryside
- Flood risk
- Other material considerations

Recommendation

REFUSE

THE APPLICATION

Outline permission is sought with all matters reserved for future consideration for a 2 storey dwelling in association with the adjacent manufacturing and retail window business. Indicative plans submitted with this application however show access off the existing driveway to the business, and a 4 bedroomed house with integral garage sited broadly central on the proposed plot.

The site lies within Flood Zones 2 & 3 plus Hazard Zone of the adopted Strategic Flood Risk Assessment, and the application was accompanied by a site specific Flood Risk Assessment (FRA).

The application is also accompanied by a Design & Access Statement (DAS).

SUPPORTING CASE

The agent has submitted the following case in support of this application:

“Mr Paul Clarke has worked for Jon Chambers Windows Ltd at this site, since 1998, and in 2013 joined Jon as a partner in the firm, and since that point the company has gone from employing 3 full-time workers to 12 in total, including part-time, with Mr Clarke being the principal catalyst for this significant expansion.

Mr Clarke is 40 years old, with a young family, and at the time of application residing in Tydd St Giles, which results in a 20 mile round trip to his workplace, or more importantly 45 mins during peak times. This is often duplicated by Mrs Clarke, who also requires to attend to the business premises, and is often unable to travel jointly due to family commitments.

Mr Clarke now wishes to add more services in expanding the business, in particular to reduce the business's reliance on the residential market, including serving commercial clients, working towards offering a 24 hour call-out service.

The application site does not provide a visually important gap, as public views into it are obscured by boundary treatments; visibility of the site would be limited to glances. Moreover, the proposal does not appear to cause any highway safety issues.

Mr Clarke has worked hard to liaise and explain his plans the local Parish Council, by way of telephone call, emails and attendance at meetings. From this engagement he has taken on-board their views, which have resulted in their full support, along with that of the Ward Councillors, in submitting this application, and hopes that Members can continue to support this small rural employer.”

PLANNING HISTORY

This application site:

2/01/0778/O: Application Refused: 30/08/01 - Site for construction of dwelling and garage (Delegated decision)

2/02/0957/O: Application Refused: 23/07/02 - Site for construction of dwelling and garage (Delegated decision)

Planning Committee
1 July 2019

Adjoining site:

2/00/1348/LD: Application Refused: 10/01/01 - Use as domestic single storey dwelling (Delegated decision)

2/01/0574/LD: Application Permitted: 16/08/01 - Use as domestic single storey dwelling (Delegated decision)

2/01/0779/CU: Application Permitted: 30/08/01 - Continued use of former agricultural storage building to manufacture of UPVC windows and doors (Delegated decision)

06/01315/O: Application Refused: 15/08/06 - Outline Application: construction of bungalow - Appeal Dismissed 23/03/07 (Delegated decision)

RESPONSE TO CONSULTATION

Parish Council: SUPPORT – provided the dwelling is on the building line.

Highways Authority (NCC): Concerns expressed regarding sustainability, but raise **NO OBJECTION** subject to conditions relating to surfacing and gradient of access.

Environment Agency: Initial submission: Initial submission: **OBJECTION** – Unacceptable FRA; the site is located within Flood Zone 3 of our Flood Map for Planning within an Area Benefitting from Defences. The site is shown to flood to a depth of 0.5m on the Tidal Hazard Mapping which shows the likely flood depth from a breach of the Tidal defences in a 0.5% AEP plus climate change event.

Response to subsequent amended FRA awaited, but expected to be reported as Late Correspondence.

Environmental Health & Housing – Environmental Quality: NO COMMENTS

REPRESENTATIONS None received from third parties.

Cllr Sandra Squire: Requested that the application be called in to be determined by the Planning Committee. The request was made beyond the 'call in' period; however the application had in the interim been referred to the Sifting Panel, who chose to refer it to the Planning Committee for determination.

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS06 - Development in Rural Areas

CS08 - Sustainable Development

CS11 - Transport

Planning Committee
1 July 2019

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM6 - Housing Needs of Rural Workers

DM15 – Environment, Design and Amenity

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)

National Planning Policy Framework – sets out the Government’s planning policies for England and how these are expected to be applied.

National Planning Practice Guidance - Provides National Planning Practice Guidance, in support of and in addition to the NPPF

PLANNING CONSIDERATIONS

The main issues to consider when determining this application are as follows:

Planning history
Principle of development
Impact upon appearance and character of the countryside
Flood risk
Other material considerations

Planning history

It will be noted from the History section above, that there have been previous attempts to develop this overall site with a dwelling dating back to 2001. The most recent refusal on the part of the overall site to the NE of the application site and adjoining the commercial buildings, (application ref: 06/01315/O), was the subject of an appeal (PINS ref: APP/V2635/A/06/2026734) which was dismissed on 23rd March 2007. A copy of the Inspector’s decision is attached to this report for reference.

Albeit some 12 years have passed and planning policies have changed in the interim, the issues relating to new dwellings in the countryside and functional need are similar, with the exception of flood risk which is a more recent, and indeed significant, consideration.

Principle of development

The National Planning Policy Framework (NPPF) 2018, specifically Paragraphs 78 and 79, states that ‘housing should be located where it will enhance or maintain the vitality of rural communities.’ Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;

Planning Committee
1 July 2019

- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential dwelling; or
- e) the design is of exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

Policy DM6 (Housing needs of rural workers) of the SADMP 2016 states inter alia:

“3. New permanent dwellings should only be allowed to support existing rural based activities on well-established rural based enterprises, providing:

- a. there is a clearly established existing functional need, requiring occupants to be adjacent to their enterprises in the day and at night,
- b. The need could not be met by existing dwellings within the locality,
- c. The application meets the requirements of a financial test demonstrating that:
- d. the enterprise(s) and the rural based activity concerned have been established for at least three years, have been profitable for at least one of them and; i. are currently financially sound, and have a clear prospect of remaining so and; ii. the rural based enterprise can sustain the size of the proposed dwelling; iii. acceptable in all other respects.”

Taking those policy criteria into consideration in the order posed:

a) Functional need

It is clear from the previous appeal decision that the Inspector considered in his opinion that a double glazing business was not an enterprise which needed to be sited in a rural area; it was not particularly dealing with rural activities and could be carried on within a settlement. He stated at Paragraph 8: “...it is not a rural enterprise that needs a dwelling nearby.”

He went on to add at Paragraph 9: “The appellant says that there have been a number of break-ins, equipment has been stolen, and vandalism has occurred. The building is in a secluded and isolated position and I appreciate that the security risk would be lessened if someone was living on the site. Nevertheless, theft and vandalism are, unfortunately, common problems in rural areas and I conclude that security is not a material consideration of sufficient weight to justify allowing a new house in the countryside.”

The case put forward in support of this proposal is effectively based on similar grounds in that the existing owner/operator and his wife (Jon & Lynne Chambers) are seeking to retire, and a further presence is required on the site to cover their planned protracted absences on world travels. The new residents would provide security and also aim to cover a new service to deal with commercial clients including a 24 hour call-out. The partner Paul Clarke previously lived in Tydd St Giles some 10 miles away, but has moved onto the application site and is living in three conjoined static caravans. This is obviously a breach of planning control which would need to be addressed separately under enforcement action should planning permission be refused.

Any ‘functional need’ is considered to be met by the existing ‘caravans’ occupied by Mr & Mrs Chambers; albeit the residential use of the land is not tied to the commercial premises, as it was established by a Certificate of Lawful Development (ref: 2/01/0574/LD).

Planning Committee
1 July 2019

In researching the history of the overall site, it appears that certain changes have been made without the benefit of planning permission and will be addressed separately, but should not significantly affect the consideration of this proposal.

b) The need could not be met by existing dwellings within the locality

Putting aside the existing Chambers' residence, a quick search on Rightmove at the time of compiling this report, indicates that there are two 3 bedroomed detached bungalows on the market at Bullock Road and Greens Lane (0.56 & 0.83 miles away from the business respectively). These would meet any needs of the business (not necessarily the applicant) and the site could be accessed swiftly in an emergency. Modern day technology allows security measures to be installed and controlled remotely. Indeed the premises are already gated at the access point and controlled by an intercom.

c) The enterprise is financially profitable.

Financial figures have not been submitted with this proposal, so there is no proof that the business is financially sound and can support the construction of a new dwelling. The case submitted infers a 'majority control of the business by the applicant as referred to in Paragraph 79 a) with the retirement of Mr & Mrs Chambers.

On the basis of current information this criterion has not been met.

It is concluded that the proposal would indeed constitute a new dwelling in the countryside remote from services and facilities, which fails to meet the justification contained in Paragraphs 78 & 79 of the NPPF and Policies DM2 & DM6 of the SADMP.

Impact upon appearance and character of the countryside

Waterlow Road is characterised by agricultural land, interspersed by agricultural buildings, sporadic dwellings and mobile homes with associated outbuildings, set within established landscaping.

The application site is contained by hedging and trees, however it would be seen from the public highway and the introduction of a house and domestication of this area would consolidate the built form and erode the character and appearance of the countryside. Indeed in determining the previous appeal, the Inspector stated:

"A new dwelling would be well screened from public view and would not create undue additional activity. However, the fact that the site is well screened is not an argument in favour of allowing the appeal. It could be repeated too often, with the result that the cumulative impact of development of a number of unobtrusive sites could undermine longstanding national and local policies designed to protect the countryside."

The proposal therefore fails to accord with Paragraph 170 b) of the NPPF and Core Strategy Policy CS06 of the LDF.

Flood Risk

The application site is located within Flood Zones 2 and 3a, plus Hazard Zone of the Council-adopted SFRA (2018). The application seeks to introduce a new dwelling (classed as a more vulnerable use) within an area of high flood risk, so Sequential and Exception testing is required.

The premise that the proposed dwelling has to be sited in this location to serve the needs of the business could present the argument that the Sequential Test is not required, as it would not be possible to move the proposed dwelling to a different location. However looking at the plan showing the overall land holding of the applicant/business, it is evident that there is an area south of the commercial buildings and to the rear of the proposed site, which is not within the Hazard Zone. It is therefore concluded that the proposed development fails the Sequential Test and does not accord with the provisions of Paragraphs 155 & 158 of the NPPF plus Core Strategy Policy CS08 of the LDF.

Notwithstanding the above, had the Exception Test been applied, the proposal would have failed criterion a) in that the proposed development would not provide wider sustainability benefits to the community that outweigh the flood risk. The second part of the test (b) could be passed in that the development could be made safe by raising the Finished Floor Level by some 500mm above existing ground level as demonstrated in the amended FRA. However both elements need to be passed in order for the exception test to be passed.

Other material considerations

There are no highway implications if the existing access is used to serve the proposed development, subject to certain conditions regarding upgrading the access to highway specifications and the gradient of the driveway.

There are no known relevant drainage or contamination issues.

Certain appeal cases referred to within the Planning Statement are not considered to be out of context and not directly relevant to this particular case. This application has been considered on its own merits as set out within this report.

There are no additional crime and disorder issues raised by the submission of this application. Whilst it may be preferable to site a further dwelling in close proximity to a commercial use, as already demonstrated by previous appeal decision, security in itself is not a reason to justify an additional dwelling.

CONCLUSION

The proposal constitutes a new dwelling in the countryside remote from services and facilities. Any 'functional need' is considered to be met by the existing 'caravans' occupied by Mr & Mrs Chambers; it has not been demonstrated that the need could not be met by existing dwellings available within the locality; and the enterprise is financially profitable and can sustain the development of a new dwelling.

The introduction of a house and domestication of this area would consolidate the built form and erode the character and appearance of the countryside.

The site lies within an area at high risk of flooding and it is evident that there is an area south of the commercial buildings, and to the rear of the proposed site, which is not within the Hazard Zone. It is therefore concluded that the proposed development fails the Sequential Test.

The proposed development therefore fails to accord with Paragraphs 78 & 79, 155, 158 & 170 b) of the NPPF, Core Strategy Policies CS06 & CS08 of the LDF and Policies DM2, DM6 & DM08 of the SADMP.

Planning Committee
1 July 2019

In light of the above, Members are requested to refuse the development as proposed.

RECOMMENDATION:

REFUSE for the following reason(s):

- 1 The Development Plan seeks to restrict residential development in the countryside to those dwellings essential to agriculture and other rural enterprises, where it can be demonstrated that the need for the proposed dwelling could not be met by an existing dwelling, or one within the locality or a nearby settlement. Any 'functional need' is considered to be met by the existing 'caravans' occupied by Mr & Mrs Chambers; there are properties available in the locality which would meet the needs of the business; and it is not proven that the enterprise is financially profitable and can sustain the development of a new dwelling.

It is therefore concluded that the proposal would indeed constitute a new dwelling in the countryside remote from services and facilities, which fails to meet the justification contained in Paragraphs 78 & 79 of the NPPF and Policies DM2 & DM6 of the SADMP.

- 2 The site lies within an area classed as 'countryside' in the Development Plan. Waterlow Road is characterised by agricultural land, interspersed by agricultural buildings, sporadic dwellings and mobile homes with associated outbuildings, set within established landscaping.

The application site is contained by hedging and trees, however it would be seen from the public highway and the introduction of a house and domestication of this area, would consolidate the built form and erode the character and appearance of the countryside.

The proposal therefore fails to accord with Paragraph 170 b) of the NPPF and Core Strategy Policy CS06 of the LDF.

- 3 The application site is located within Flood Zones 2 and 3a, plus Hazard Zone of the Council-adopted SFRA (2018). The application seeks to introduce a new dwelling (classed as a more vulnerable use) within an area of high flood risk, so Sequential and Exception testing is required.

The plan of the overall land holding of the applicant/business, shows that there is an area south of the commercial buildings and to the rear of the proposed site, which is not within the Hazard Zone. It is therefore concluded that the proposed development fails the Sequential Test and does not accord with the provisions of Paragraphs 155 & 158 of the NPPF plus Core Strategy Policy CS08 of the LDF.