
Appeal Decision

Site visit made on 4 October 2016

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 2nd November 2016

Appeal Ref: APP/D2510/W/16/3151694

14 Ivel Grove, Mablethorpe, Lincolnshire, LN12 1LY

- 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 John Mowberry against the decision of East Lindsey District Council.
 - The application Ref N/110/00297/14, dated 14 February 2014, was refused by notice dated 4 December 2015.
 - The development proposed is described as: "*Provision of dormer bungalow and garage on existing building plot.*"
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Amended plans were submitted during the course of the application, along with an amended Flood Risk Assessment (FRA). For clarity, I have determined the appeal based upon these amended documents and plans.

Main Issues

3. The main issues are:
 - (a) Whether or not the proposal would provide a suitable site for housing having particular regard to its location within Flood Zone 3; and,
 - (b) the effect of the proposed development upon the character and appearance of the area.

Reasons

Flood Risk

4. The appeal site is located within Mablethorpe, a small coastal town. Although sea defences are in place, the appeal site is an area at a high risk of flooding, located within Flood Zone 3, as defined by the Environment Agency (EA) mapping. There is also a drainage ditch located adjacent to the boundaries of the site. Relevant policies in respect of flood risk in the East Lindsey Local Plan (LP) 1999 have not been saved and therefore the National Planning Policy Framework (the Framework) applies.
 5. Paragraph 101 of the Framework states that development should not be permitted if the Sequential Test demonstrates that there are reasonably available sites appropriate for the proposed development in areas with a lower
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- probability of flooding. The principle behind the sequential approach is to direct development away from areas at highest risk.
6. The Sequential Test has been applied in the Mablethorpe area and concludes that as the whole of this area is within Flood Zone 3, there are no sites at lesser risk. The EA Hazard Maps illustrate that there are small areas of Mablethorpe which would be inundated to a lesser depth as a 'danger to most' than the appeal site which identified 'danger to all' if flooding was to occur. However, it is stated that such areas are limited and that inadequate land is available to provide the level of housing proposed.
 7. I am mindful that Planning Practice Guidance ¹ states that a pragmatic approach on the availability of alternative sites should be taken. I am also aware that the site has previously benefitted from a lapsed planning permission.
 8. However, the evidence provided in the FRA is limited in its scope and its reliance on all sites simply in Mablethorpe being within Flood Zone 3 falls significantly short of a robust case necessary to demonstrate that the Sequential Test is passed. Furthermore, a search for reasonable available sites should not be based just upon land that the appellant owns.
 9. I therefore cannot be satisfied that there are no reasonable alternatives for such development where flood risk would be lower. Without such information, and given the seriousness of the consequences of flooding identified above, it cannot be demonstrated that the development of the appeal site for housing would be acceptable, or indeed in accordance with the Framework.
 10. In respect of the exception test, the proposed increase in height of the ground floor living areas is acknowledged. I note that there would be some benefits of the scheme in respect of its location within Mablethorpe which is identified as a settlement to which development is generally supported in terms of access to services and facilities. I am also mindful that the Local Planning Authority is unable to demonstrate a 5 year supply of housing.
 11. However as the Sequential Test has failed, the exception test does not fall to be considered. As it has not been adequately demonstrated that there are other available sites with a lower probability of flooding, the proposed development would be contrary to the Framework.
 12. I acknowledge the efforts of the appellant in trying to overcome concerns raised during the extended period of determination of the application. I also note that the EA withdrew their initial objections, based on the amended plans submitted. However, the comments of the EA relate to the safety of the proposed development and it is for the Council to consider the extent to which Sequential Test considerations have been satisfied, taking into account the particular circumstances in any given case.
 13. It has been put to me that other similar developments in Mablethorpe have been approved. However, no information is given in respect of any such development and thus I am unable to come to any view on whether the other such development in the area is comparable to the proposals before me, including in respect of the application of the Sequential Test. In any case, I have determined the appeal on its own merits, based on the evidence put to

¹ Reference ID: 7-033-20140306

me. Neither is my concern outweighed by there being some local support for the development, including from the Town Council.

14. I therefore conclude that, in the absence of any robust evidence to demonstrate that the dwelling could not be located in an area with a lower risk of flooding, the proposal would not provide a suitable site for housing. As a consequence, it would be contrary to paragraphs 100 and 101 of the Framework which seeks to direct development away from areas of highest flood risk.

Character and Appearance

15. The appeal site is located in a residential area, characterised by suburban semi-detached, detached and terraced dwellings. Adjacent to the site are bungalows, and opposite are two-storey properties.
16. The design of the proposed development was amended to remove habitable accommodation at ground floor level for flood safety reasons. The result of these amendments is a proposed dwelling which would be around 8.3metres to ridge, with garaging to basement level.
17. I accept that the proposals would give rise to a development which would be of a greater height and scale to the neighbouring bungalows. However, the use of a gabled roof and its positioning set back into the plot would help to minimise any impacts. Based on the mixed character of the area, and the proximity of 2-storey properties across the road from the appeal site, I am satisfied that the proposed dwelling would not dominate or cause harm to the street scene.
18. Therefore I conclude that the proposed development would complement the character and appearance of the area. As a result it would comply with saved Policies A5 and H12 which seek to secure development that does not detract from the distinctive character of the locality.

Conclusion

19. I have found no harm to character and appearance of the area. Furthermore, I recognise the wider benefits of the scheme, including the supply of an additional dwelling in an area of undersupply. However, I conclude that the failure of the Sequential Test and the risk posed by locating development in an area of higher flood risk represents a substantial harm which would demonstrably outweigh such benefits.
20. Moreover, in the absence of a demonstrable 5-year housing land supply, as set out within paragraph 49 of the Framework, this renders policies relevant to the supply of housing not being up to date. Paragraph 14 therefore applies which requires granting permission unless specific policies in the Framework indicate development should be restricted. Footnote 9 appended to this makes clear that coastal erosion and flooding is such an explicit policy. Given the conflict with those policies of the Framework identified above, the proposals cannot therefore be considered sustainable development for which the Framework presumes in favour.
21. For these reasons, and having regard to all other matters raised, the appeal should be dismissed.

C Searson INSPECTOR