
Appeal Decision

Site visit made on 7 November 2016

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 5 December 2016

Appeal Ref: APP/V3120/W/16/3148759

Church Lane, Steventon, Oxfordshire OX13 6SN

- 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 Robert Tyrell against the decision of Vale of White Horse District Council.
 - The application Ref P14/V2348/FUL, dated 13 October 2014, was refused by notice dated 24 March 2016.
 - The development proposed is demolition of two Dutch barns and the erection of four detached dwellings with landscaping and access from Vicarage Road.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have not been referred to any specific development plan policies by the Council and the reason for refusal relates to the National Planning Policy Framework ('the Framework') only. Consequently, I have determined the appeal on this basis.

Main Issue

3. The main issue is whether the site is suitable for housing having regard to national policies relating to development in areas at risk of flooding.

Reasons

4. The appeal site forms part of what was once the farmyard for Manor Farm but has since been changed to a commercial use and includes two substantial Dutch barn buildings. The site is located on the periphery of Steventon and access to the site is from Vicarage Road. The surrounding area is predominantly residential in character giving way to open countryside beyond the settlement boundary further along Vicarage Road.
 5. There is no dispute that the site lies predominantly within Flood Zone 2 with a small part in Flood Zone 3. It was evident from my visit that this part of Steventon has a network of brooks and ditches and the flood modelling undertaken demonstrates that the majority of the site is within the 1 in 100 year flood extent (plus allowance for climate change) and that there is a high probability of flooding at the site.
 6. Paragraph 100 of the Framework makes it clear that the overall aim is to avoid inappropriate development in areas at risk of flooding by directing it away from
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areas at highest risk but, where development is necessary, making it safe without increasing flood risk elsewhere. Paragraph 101 of that same document explains that development should not be permitted in areas at serious risk from flooding if there are reasonably available sites, appropriate for the proposed development, in areas with a lower probability of flooding, as identified through a 'Sequential Test' ('ST').

7. The Planning Practice Guidance ('PPG') provides that it is for the developer of an individual application to justify, with evidence, the area of search used to perform the ST¹. The PPG provides that the area to apply the ST across will be defined by local circumstances relating to the catchment area for the type of development proposed. It acknowledges that for some developments this may be clear but that in other cases other criteria may apply and that, overall, a pragmatic approach on the availability of alternatives should be taken.
8. I have been provided with little evidence from the appellant in terms of the ST and alternative sites. However, the Council have referred me to seven applications for residential development that have been granted permission within Steventon alone, ranging from one dwelling to 65 dwellings and the Council contend that the list is not exhaustive. All appear to be in areas with a lower probability of flooding, a point which does not appear to be disputed by the appellant and there is no substantive evidence before me to suggest that they are not reasonably available.
9. The appellant contends that very significant delays in dealing with the proposal have meant that because the Council cannot demonstrate a five year supply of housing land, a number of sites have come forward which would have been previously rejected as being outside the settlement boundary. Nevertheless, as the decision maker in this appeal, I must satisfy myself in relation to the requirements of the ST on the evidence before me at the time that I determine the appeal. In my view, there are reasonably available sites appropriate for the proposed residential development in areas with a lower probability of flooding and therefore development should not be permitted.
10. With regard to the Exception Test, the Framework makes it clear that this second test should only be applied when the ST is passed. Given that I conclude that the first test has not been passed it is not necessary for me to go on to consider the second.
11. For these reasons, the proposal fails to satisfy the ST and in this particular case, the site would not therefore be suitable for housing and the proposal would conflict with the aims and objectives of the Framework in terms of directing development to areas of lower flood risk.

Other Matters

12. I note the appellant's reference to the presumption in favour of sustainable development that it is not in dispute that the Council cannot demonstrate a five year supply of housing land. However, the presumption in favour of sustainable development requires that in individual decision taking, where relevant development plan policies are out-of-date, planning permission should be granted unless any adverse impacts significantly and demonstrably outweigh the benefits when assessed against the Framework policies as a

¹ Paragraph 034 - PPG

whole; or specific Framework policies indicate that development should be restricted. The footnote to the second limb of this part of the presumption gives 'locations at risk of flooding' as an example of such a policy.

13. Such matters do not obviate the requirement for the proposal before me to pass the ST at this moment in time and the lack of a five year supply is not determinative in this instance. This is because there are specific Framework policies relating to flood risk which seek to restrict development unless the relevant tests are satisfied.
14. Consequently, given my conclusions on the ST and the conflict with national policy the proposal would not be subject to the weighted balance of paragraph 14 of the Framework. In the normal planning balance, the limited benefits from the provision of four detached dwellings in a not unsustainable location and the compliance with other aspects of the LP in terms of the effect on character and appearance, living conditions, heritage assets and highway safety do not outweigh the conflict with national planning policy relating to flooding.
15. The site also lies partly within the Steventon Conservation Area ('SCA') but I note that the Council do not raise any concerns in this regard. I share the Council's view that the proposal would be acceptable in design terms and therefore the proposal would preserve the character and appearance of the SCA.
16. I have been referred by the appellant to a planning permission for three dwellings at Kings Farm Cottage, East Hanney² which was granted by the Council in 2014. The appellant contends that the issues are similar to the appeal before me. However, it is clear from the officer report that there were no alternative sites with a lower probability of flooding that were reasonably available and therefore the ST, in that particular case, was passed. It is not therefore directly comparable to the proposal before me and does not alter my view in relation to the main issue. In any event each case must be determined on its own merits.

Conclusion

17. For the reasons set out above, the proposal would conflict with the Framework and would not be sustainable development. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR

² P13/V2708/FUL