
Appeal Decision

Site visit made on 28 November 2016

by Mike Hayden BSc DipTP MRTPI

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

Decision date: 23 December 2016

Appeal Ref: APP/N2535/W/16/3159209

Chiltern, Scothern Lane, Langworth, Lincoln LN3 5BH

- 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 John Dearman against the decision of West Lindsey District Council.
 - The application Ref 134318, dated 17 April 2016, was refused by notice dated 21 June 2016.
 - The development proposed is a dormer style bungalow.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is whether or not the proposal represents an acceptable form of development having regard to its flood zone location and the provisions of the National Planning Policy Framework.

Reasons

Flood Risk

3. The appeal site is located within Flood Zone 3a, as detailed on the Environment Agency's (EA) flood maps, where there is a 'high probability' of flooding from fluvial sources. The site lays approximately 400 from the Barlings Eau river and 80 metres from its tributary, the Sudbrooke Beck. Although both watercourses are provided with flood protection embankments, these would not prevent flooding of the appeal site and the surrounding area in the event of failure or overtopping of the flood defences. The EA's historic flood maps confirm that the appeal site was affected by flooding events in April 1981 and October 1993 from the Barlings Eau system.
4. Although saved Policy STRAT 6 of the adopted West Lindsey Local Plan First Review (2006) (the Local Plan) supports limited infill housing development in Langworth village, saved Policy STRAT 1 of the Local Plan also requires that development must avoid utilising land subject to flood risk. In addition, national policies controlling development in areas at risk of flooding have been updated since the adoption of the Local Plan, including the introduction of the Sequential and Exception Tests to be applied to the location of development.
5. Paragraph 101 of the National Planning Policy Framework (the Framework) explains that the aim of the Sequential Test is to steer new development to

areas with the lowest probability of flooding. The Flood Risk Assessment submitted with the appeal suggests that as the appeal site had planning permission for housing in 2003 the Sequential Test is satisfied. However, paragraph 101 of the Framework makes clear that, in applying the Sequential Test, development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. It is evident from the EA's flood maps that there are areas of Langworth village which lay outside of Flood Zones 2 and 3 in areas at low risk of flooding, where an infill housing development of the type proposed could be accommodated. Therefore, the proposed development fails to satisfy the Sequential Test.

6. I have considered the arguments advanced in respect of the Exception Test, including the flood risk vulnerability classification of the proposed development set out in Table 3 at paragraph 067 of the Planning Practice Guidance (Ref ID: 7-067-20140306). However, it is clear from paragraph 102 of the Framework that the Exception Test should only be applied if, following the application of the Sequential Test, it is not possible for the proposed development to be located in zones with a lower probability of flooding. Given my conclusion in respect of the Sequential Test, it follows that the Exception Test should not be applied in this case.
7. Accordingly, I conclude that the proposal would not be an acceptable form of development having regard to the location of the appeal site in Flood Zone 3a and the Sequential Test set out in paragraph 101 of the Framework. It would also fail to comply with Policy STRAT 1 of the Local Plan.

Other Matters

8. The appellant maintains that the local planning authority is unable to demonstrate a 5-year supply of deliverable housing sites and therefore that the presumption in favour of sustainable development in paragraph 14 of the Framework should apply to the appeal proposal. Whether or not there is a 5-year housing land supply within central Lincolnshire is disputed between the main parties. However, even if I were to conclude that the Council could not demonstrate a 5-year supply of housing land and therefore, under paragraph 49 of the Framework, that the relevant policies for the supply of housing were out-of-date, paragraph 14 of the Framework makes clear that the presumption in favour of granting permission does not apply where specific policies in the Framework indicate development should be restricted. Footnote 9 to the Framework cites locations at risk of flooding as an example.
9. The appeal site is in a location which is at the highest risk of flooding and I have concluded that the proposals would not satisfy the Sequential Test as set out in the Framework. On this basis the presumption in favour of sustainable development does not apply to the appeal proposals.

Conclusion

10. For the reasons given above and taking all other matters into account, I conclude that the appeal should be dismissed.

M Hayden

INSPECTOR