
Appeal Decision

Site visit made on 3 February 2017

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 21st March 2017

Appeal Ref: APP/F2605/W/16/3163411
34 Swaffham Road, Mundford, IP26 5HR

- 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 Ray Nelson against the decision of Breckland District Council.
 - The application Ref 3PL/2016/0755/F, dated 17 June 2016, was refused by notice dated 12 September 2016.
 - The development proposed is new 3 bedroom bungalow with detached garage and modified access to the highway.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would be at risk from flooding or would increase flood risk elsewhere.

Reasons

3. The site would be formed from part of the garden of the existing dwelling No 34 Swaffham Road. No 34 is a detached bungalow and is identified as being located outside of any defined settlement boundary within the development plan. The site plan shows that part of the proposed building and a large part of its garden area would be in Flood Zone 3. The remaining part of the new dwelling and garden area would be in Flood Zone 2 whilst the access and garage would be in Flood Zone 1. The proposed development for housing is classed as a 'More Vulnerable' use. As such the Technical Guidance to the National Planning Policy Framework (the Framework) requires the sequential and exception tests to be passed.
 4. Paragraph 100 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere, and Local Plans should apply a sequential, risk based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account of the impacts of climate change, by applying the sequential test.
 5. Paragraph 101 of the Framework further states that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas
-

- with a lower probability of flooding, and a sequential approach should be used in areas known to be at risk from any form of flooding.
6. The appellant has referred to policy DC13 of the Breckland Core Strategy and Development Control Policies DPD which makes it clear that new development should be located in areas at least risk of flooding and that it will be expected to minimise floor risk to people property and places.
 7. The appellant has undertaken a sequential and exception test and provided a site specific Flood Risk Assessment (FRA). Within the FRA it is submitted that paragraph 104 of the Framework can be applied and therefore there is no requirement to apply the sequential or exception test. However, the Planning Practice Guidance (PPG)¹ is unambiguous in what can be considered to be 'minor' development. This does not exclude a new dwelling. As such on this matter I agree with the Council and the sequential test is applicable in this case.
 8. The PPG is also clear that the sequential test should be applied to guide development to Flood Zone 1, then Zone 2, then Zone 3; only when there are no reasonably available sites in Flood Zone 1 should sites within Flood Zone 2 be considered. The aim being to keep development out of medium and high flood risk areas (Flood Zones 2 and 3).
 9. In this case the Council are clear that there are other sites outside of Flood Zones 2 and 3 within Mundford and the wider District that could accommodate a single dwelling. The PPG is also clear that the area to apply the sequential test will be defined by local circumstances for the type of development proposed. In this case it is reasonable that sites within Mundford and the wider District could be considered as a reasonable alternative for a single dwelling. In addition to this the site does not sit within an identified settlement boundary. Whilst I note the diagram in the appellant's sequential and exception test this ²relates to the application of the test for the purposes of Local Plan preparation.
 10. It appears to me that there are other sites at lower risk of flooding in the area which could provide for residential development. Whilst the Environment Agency (EA) does not object on this point, the comments go on to note that it is for the Local Planning Authority to make the sequential test assessment, this is reinforced in the PPG³. In this case, I agree with its view and I do not consider that the scheme passes the Sequential Test.
 11. I understand that a FRA has been submitted and the EA consider that it would be acceptable subject to conditions that secure minimum ground and first floor levels. Further I note that the appellant has considered the Breckland Strategic Flood Risk Assessment. Nevertheless, where the Sequential Test has not been satisfied there is no need to progress to the Exception Test which refers to these documents.
 12. I therefore conclude that the proposed development would not be acceptable in terms of flood risk because it would locate a dwelling within a high risk flood risk area, where the Sequential Test indicates that there are safer locations

¹ Paragraph: 046 Reference ID: 7-046-20140306

² Paragraph: 021 Reference ID: 7-021-20140306

³ Paragraph: 034 Reference ID: 7-034-20140306

available for residential use. Thus the development would not accord with the Framework.

Other matters

13. I note that the scheme would not harm the living conditions of existing occupiers, trees or landscape, would be compatible with the character of the area, have appropriate access, parking and turning, would be close to the settlement boundary and have access to and support existing local services. There is dispute between the parties regarding whether a five year supply of deliverable housing land can be identified in the area. I acknowledge that the provision of a dwelling is a benefit that weighs in favour of the scheme. In addition paragraph 14 of the Framework states that there should be a presumption in favour of sustainable development. However, irrespective of the issue of housing land supply, it is also clear that planning permission should not be granted where specific policies, which include locations at risk of flooding, indicate development should be restricted. Therefore none of these matters alter or outweigh my findings on the main issue.

Conclusion

14. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed

D J Board

INSPECTOR