

Appeal Decision

Site visit made on 20 June 2017

by Siobhan Watson BA(Hons) MCD MRTPI

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

Decision date: 29 June 2017

Appeal Ref: APP/C1055/W/17/3171458

83 St Albans Road, Normanton, Derby, DE22 3JN.

- 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 David Griffin against the decision of Derby City Council.
 - The application Ref DER/08/16/00992, dated 8 July 2016, was refused by notice dated 6 January 2017.
 - The development proposed is the demolition of the existing garage and the erection of one detached house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal application was determined under Policies GD3 and GD5 of the adopted City of Derby Local Plan Review (CDLPR). Since then the Derby City Local Plan Part 1 Core Strategy 2017 (CS) has been adopted. As a result, Policy GD3 of the CDLPR has been replaced by CS Policy CP2. Both CDLPR Policy GD3 and CS Policy CP2 relate to flooding and the appellant has been informed of these changes during the course of the appeal. Therefore, there has been no prejudice to the appellant by the adoption of the CS. CDLPR Policy GD5, which relates to general amenity, remains extant.

Application for costs

3. An application for costs was made by Mr David Griffin against Derby City Council. This application is the subject of a separate Decision.

Main Issue

4. The main issue is the effect of the development upon flood risk.

Reasons

5. The National Planning Policy Framework (The Framework) and the Planning Practice Guidance (PPG) indicate that residential development should be directed away from areas at risk of flooding, i.e., away from Flood Zones 2 and 3 and into Flood Zone 1, the area of lowest flood risk. Taking into account all sources of flooding, including the evidence within the Council's Strategic Flood Risk Assessment, the appellant's Flood Risk Assessment (FRA) identifies the site as being within Flood Zone 2.
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6. The PPG indicates that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. To demonstrate this, the appellant should have undertaken a Sequential Test (ST) to show that there are no reasonably available sites for development in Flood Zone 1. It is only where the appellant can demonstrate that there are no reasonably available sites in Flood Zone 1 that decision makers should take into account the flood risk vulnerability of a proposal and consider reasonably available sites in Flood Zone 2. CS Policy CP2 is consistent with this requirement.
7. The appellant has made a detailed argument that the site would not flood and that it could be developed in a safe manner for the lifetime of the development, without increasing the risk of flooding elsewhere. However, in the absence of a ST, the proposed development is unacceptable in principle, and therefore it is not necessary for me to consider such arguments. It is only if the appellant could demonstrate that there are no reasonably available sites in Flood Zone 1 that I should consider this detailed evidence.
8. As it has not been demonstrated that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding the proposal is contrary to the Framework, the PPG and CS Policy CP2.
9. I therefore conclude that the proposed development would be subject to unacceptable flood-risk and would therefore be contrary to CDLPR Policy GD5 and CS Policy CP2 which, among other matters, seek to ensure that development provides a good standard of amenity and that unacceptable harm would not be caused to people or property through flooding.
10. I have considered all other matters raised but none outweigh the conclusions I have reached and the appeal is dismissed.

Siobhan Watson

INSPECTOR