
Appeal Decision

Site visit made on 7 November 2017

by Daniel Hartley BA Hons MTP MBA MRTPI

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

Decision date: 14 November 2017

Appeal Ref: APP/E2001/W/17/3181616

**Land west of 5 Bridge Hill Close, Rawcliffe Bridge, East Riding of Yorkshire
DN4 8RY**

- 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 Walter Bibby against the decision of East Riding of Yorkshire Council.
 - The application Ref DC/16/04277/PLF/WESTWW, dated 21 December 2016, was refused by notice dated 15 February 2017.
 - The development proposed is the erection of a dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development and appeal site address from the Council's decision notice as these are more precise.

Main Issue

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

Reasons

4. It is proposed to erect a detached dwelling with an attached double garage on open grassland within an existing cul-de-sac of five dwellings known as Bridge Hill Close. Access would be taken from the cul-de-sac turning head and the proposed property would be sited to the west of No 5 Bridge Hill Close. The dwelling would be three storeys in height (i.e. accommodation in the roofspace) and would be built in brick with concrete interlocking roof tiles.
5. It is a point of agreement between the Council and the appellant that the appeal site is located within Flood Zone 3a. Consequently, it is necessary for the appellant to demonstrate that both the sequential and exception test have been correctly applied to the proposal. The aim of the sequential test is set out in paragraph 101 of the National Planning Policy Framework (the Framework) which states that development should not be permitted if there are reasonably available sites that would be appropriate for the proposed development in areas with a lower probability of flooding.

6. The National Planning Practice Guide (NPPG) includes advice on applying the sequential test in paragraphs 033 and 034. It states that a pragmatic approach on the availability of alternative sites should be taken and the area over which the sequential test should be applied will be defined by local circumstances. Paragraph 033 of the PPG states that *"the developer should justify with evidence to the local planning authority what area of search has been used when making the application"*.
7. Policy ENV6 (Managing environmental hazards) of the adopted East Riding Local Plan Strategy Document 2016 (LP) states that *"the sequential test will, in the first instance, be undertaken on the basis of the Est Riding of Yorkshire Strategic Flood Risk Assessment (SFRA) and the Environment Agency's Flood Map, within appropriate search areas"*. The appellant has submitted a flood risk assessment and this considers three available sites within a 3 mile radius of the site. The appellant has not reasonably justified why they have opted to only look at sites within a 3 mile radius of the site and, in any event, such sites are at the same risk of flooding as the appeal site.
8. The LP identifies the site as falling within the Goole and Humberhead Levels sub-area and according to the Council within this area there are sequentially preferable sites which are included within flood zone 1. It says that such sites are at a lower risk of flooding. There is nothing of substance before me that would indicate that the appellant should not consider sites within the aforementioned area in terms of applying the sequential test.
9. For the above reasons, I conclude that the search area for considering sequentially preferable sites has not been robustly demonstrated or justified. As a consequence, the appellant has not established that there are not available sequentially preferable sites. Thus, the sequential test has not been passed. Therefore, and in accordance with paragraph 102 of the Framework, the exception test cannot be applied as a means of attempting to justify residential development in flood zone 3a. The site would be at risk of flooding and this risk has not been adequately justified. The proposal would therefore be contrary to the flood risk aims of Policy ENV6 of the LP, the Framework and the NPPG.
10. The appellant has provided me with evidence from the Environment Agency which suggests that the site has not flooded in the past and that flooding concerns relate to pluvial flooding rather than fluvial flooding. The appellant has also included details which would mitigate the risks associated with flooding including finished floor levels and specific measures as outlined in section 3.12 a-f of the appeal statement. However, it is necessary for the appellant to first pass the sequential test before considering whether or not any mitigation measures would be acceptable for this vulnerable use. Consequently, neither the proposed mitigation measures, nor the absence of any historic flooding events, outweigh my conclusion on the main issue.

Other Matters

11. I have taken into account representations made by other interested parties including supportive comments made by the occupier of Bankside Nurseries.
12. I acknowledge that the appeal site falls within the development limits of Rawcliffe Bridge and hence that the erection of a dwelling would be acceptable in land use principle terms. However, it is still necessary for any development

proposal on the site to be acceptable in terms of detailed matters: this includes a proper consideration and assessment of flooding matters.

13. I acknowledge that the site previously included a pylon and that following its removal the site is no longer in use. The erection of a dwelling in this location would make use of a previously developed site, would provide some additional housing choice in the area and would seek to boost the supply of housing. Furthermore, the occupiers of the dwelling would spend some money in the area and help to support local services and facilities. In addition, there would be some employment at construction stage, albeit that this would be short lived. However, these are not social and economic matters which outweigh or overcome my conclusion on the main issue.
14. I note the concerns raised by the occupiers of No 5 Bridge Hill Close in terms of the impact of the dwelling upon levels of privacy, light and outlook. I acknowledge that the dwelling would have some impact upon this property particularly when viewed from the rear garden area of No 5 Bridge Hill Close. However, the main part of the dwelling would be positioned some distance from the common boundary and the proposed garage would be relatively low in height. Furthermore, any windows on the side elevation of the proposed dwelling would serve landings and a planning condition could be imposed to ensure that these were fitted with opaque glass. Overall, I am satisfied that the proposal would not have a significantly detrimental impact upon the occupiers of any of the neighbouring residential properties, including Nos 1 and 5 Bridge Hill Close, in terms of levels of light, privacy and outlook.
15. Whilst the proposal would include a dwelling which includes accommodation in the roofspace, it would nonetheless be similar in height to other dwellings in the cul-de-sac. I am satisfied that the proposed dwelling would not look out of place in the locality where there is a mix of house styles.
16. Comments have been made that the proposal would result in a loss of views. However, the Courts have held that the loss of a view is not a material planning consideration.
17. None of the other matters raised outweigh or alter my conclusion on the main issue.

Conclusion

18. For the reasons outlined above, and taking into account all other matters raised, I conclude that the proposal would not deliver a sustainable form of development. Therefore, the appeal should be dismissed.

Daniel Hartley

INSPECTOR