The Planning Inspectorate

Appeal Decision

Site visit made on 10 December 2019

by Peter Mark Sturgess BSs (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State.

Decision date: 23rd December 2019

Appeal Ref: APP/H0520/W/19/3237835
Land south of 177 Ugg Mere Court Road, Ramsey Heights PE26 2RJ

- 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 Halden against the decision of Huntingdonshire District Council.
- The application Ref 18/02566/OUT, dated 7 November 2018, was refused by notice dated 16 August 2019.
- The development proposed is infill of land between existing residential properties to erect 3 detached dwellings with integral garages.

Decision

1. The appeal is dismissed.

Procedural Issues

2. The application has been made in outline with all matters reserved. I have treated the submitted plans as being for illustrated purposes only.

Main Issue

3. Whether the proposal would comply with national and local planning policy which seeks to steer new development away from areas at highest risk of flooding.

Reasons

Flooding and Flood Risk

4. The site lies within a flat, fenland, landscape with long views across open farmland. It is arable agricultural land.

5. The site currently forms part of a larger field and there is no physical boundary between it and the rest of the field, either to the south or east. On the north side of the site lies 177 Ugg Mere Court Road, which is divided from the site by a close boarded fence, approximately 2m in height and raised above the level of the appeal site.

6. Ugg Mere Court Road is set above the surrounding agricultural land with some of the dwellings which lie along it set at the level of the road.

7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states the starting point for the consideration of development proposals is the development plan.

8. The development plan for the area is the Huntingdon Local Plan to 2036 (HLP), adopted May 2019. Policy LP5 seeks to manage where development is located in relation to flood risks, so that only proposals that pass the sequential test and, if necessary, the exception test, will be supported.

9. The council has produced an updated Strategic Flood Risk Assessment (SFRA) in 2017. The SFRA defines the whole of Ramsey Heights, the settlement within which the appeal site is located, as being within Flood Zone 3. The Environment Agency (EA) flood zone mapping also shows Ramsey Heights, including the appeal site, as being wholly located within Flood Zone 3.

10. Flood Zone 3 is defined as having the highest risk of flooding in the government's Planning Practice Guidance (PPG). The National Planning Policy Framework (the Framework) seeks to direct inappropriate development away from areas at the highest risk of flooding (whether existing or future).

11. Where development is proposed in areas that are at the highest risk of flooding, the Framework requires a sequential, risk-based, approach to the location of development, so as to avoid, where possible flood risk to people and property. This means that in seeking to locate new housing development, areas at the lowest risks of flooding (Flood Zone 1) should be considered first and only where there are no sites available in these lower risk areas should the higher risk areas be considered.

12. The council has applied the sequential test to the proposal. It does not consider the proposal passes the sequential test, as there are sites available for open market housing elsewhere in the District, in areas that have a lower risk of flooding. I am satisfied that the proposal fails the sequential test required by the Framework.

13. The Framework refers, at paragraph 159, to a further, exception test, that should be applied, if it is not possible for development to be located in zones with a lower risk of flooding. It is not necessary to apply the exception test as the proposal could be located elsewhere in the District in areas that have a lower risk of flooding.

14. The council has attempted to be flexible in its approach to development in settlements which are wholly within Flood Zone 3, by seeking to define certain areas of land within these settlements as lying outside Flood Zone 3, if these areas are protected by flood defences (these areas are defined in a 2010 SFRA). This is to help enhance or maintain the vitality of rural communities that lie wholly within Flood Zone 3 as defined in the 2017 SFRA.

15. This flexibility would apply to land which would have been classified as Flood Zone 1 in the 2010 SFRA. The appellant argues through a flood risk assessment (FRA) for the site, on this definition, the appeal site is within Flood Zone 1. The council argue that at least part of the site is within Flood Zone 3a and so would still not be suitable for housing development when the flexibility is applied. But in any case, it has not been demonstrated that the

development would enhance or maintain the vitality of the rural community, such that there is not the justification for the flexible approach. I note also the 2010 SFRA is not the most up to date assessment of flood risk. I am satisfied therefore, notwithstanding the appellants FRA and the council's 'flexible approach', that with regard to the definition of Flood Zone 3 in the PPG, the 2017 SFRA (the most up to date) and the EA flood mapping the site should be treated as lying within Flood Zone 3, hence the guidance in the PPG and the Framework policy should be followed.

16. The appellant has referred to a development taking place on the west side of Ugg Mere Court Road adjacent to No180. Whilst I can understand why the appellant would bring this development to my attention, I can afford it very little weight in my decision as I don't have the full details before me so I can fully compare the characteristics of the two sites.

17. The EA in their consultation response to this application have raised no objection to the proposal. The EA has assumed, in their response, that the sequential test has been applied to the proposal and it has passed. It is for the council, as local planning authority, to decide whether the application passes the sequential test. It is clear that the council have applied the sequential test to the proposal, and it has failed. I concluded earlier that I consider the proposal fails the sequential test.

18. In conclusion I find that the proposal is in conflict with Policy LP5 – Flood Risk – of the development plan, the HLP, as it would lead to development being located on land which is at a high risk of flooding. The council has applied the sequential test to the proposal, as they are required to do in accordance with the Framework and consider that it fails the test. I have also had regard to the sequential test as it applies to this proposal and am satisfied that it does not pass the sequential test, as required by the Framework.

Other Matters

19. The appellant, council and those making representations on the proposal have referred to the design, layout, siting and access arrangements for the proposed dwellings. As I stated at the beginning of this decision this is an outline application and these matters are not before me. I am dealing with the principle of development on this land.

Conclusion

20. I find that, having regard to all matters before me, including the policies of the development plan, when read as a whole, the appeal should be dismissed.

Peter Mark Sturgess

Inspector