



Appeal Decision

Site visit made on 9 June 2020

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2020

Appeal Ref: APP/E2734/W/20/3244990

Site of existing garage, Finden Gardens, Hampsthwaite, Harrogate, North Yorkshire HG3 2EN

- 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 William Atkinson against the decision of Harrogate Borough Council.
 - The application Ref 18/04884/FUL, dated 22 November 2018, was refused by notice dated 23 July 2019.
 - The development proposed is Demolition of existing garage and erection of single storey detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposal has been amended by the Council and described as, Demolition of existing garage and erection of 1 no. dwelling. I concur that this accurately describes the proposal.
3. No development plan policies were cited within the Council's reason for refusal. During the determination of the appeal, the Harrogate District Local Plan (LP) was adopted on 4 March 2020. The Council have drawn my attention to a number of policies from the new LP including Policy CC1. Both main parties were consulted on this issue and comments were invited. I am therefore satisfied that the interests of the parties have not been prejudiced by my determining this appeal in accordance with the up to date policy framework, as I am required to do in any event.

Main Issue

4. The main issue is whether or not the proposal is inappropriate development in this location in regard to flood risk.

Reasons

5. Finden Gardens is divided into two cul-du-sacs, both with their own vehicular accesses located off Hollins Lane. The appeal site is a pair of garages located close to the main entrance and associated with the dwelling of No. 11. The only matter in dispute by the parties relates to flood risk.

6. The Council consider the site to be located within both Flood Risk 2 and 3 although the Environment Agency confirms within their consultation response that the site is partially located within Flood Zone 2. The probability of the risk of flooding in Flood Zone 2 is medium. A 'more vulnerable' class of development according to the Planning Practice Guidance (PPG) are buildings used for residential dwellings. The PPG emphasises the requirement to direct this type of development to areas within Flood Zone 1 at lower risk of flooding.
7. A site specific flood risk assessment was submitted by the appellant together with a sequential test. As agreed by the Council, the test included a four to five mile radius from the site to be an acceptable distance to sequentially test for sites that are reasonably available, appropriate for the proposed development in areas with a lower risk of flooding.
8. It explored and discounted the potential of five available and for sale sites consisting of industrial, retail, office and commercial units. I would however question how 'appropriate' these sites are for residential development given their current land use. Furthermore, I have no reason to doubt the Council's statement that there are potential sites to explore in Flood Zone 1 of their five year housing land supply.
9. I am not of the view that the sequential test has been acceptably satisfied. The proposal would not accord with the requirements of Policy CC1 of the LP 2020 to prevent development where it would increase the risk of flooding elsewhere, including sequential testing to permit development in areas of low risk to flooding, amongst other criteria. The proposal also constitutes inappropriate development in accordance with paragraph 158 of the Framework to steer new developments to areas with the lowest risk of flooding.

Other Matters

10. I appreciate the benefits of the site currently within the appellant's ownership, and the costs associated with developing this site in favour of other land, however, this does not by itself make the development acceptable.
11. Economic benefits of developing this site for housing is recognised, however, a single dwelling would provide a very limited economic contribution.
12. The site may be considered as previously developed land, within a settlement boundary with good access to services and facilities, an acceptable design solution, with living conditions and highway safety not in contention by the parties. However, these factors do not outweigh the strict tests of the Framework to protect people and property from flooding.
13. Flood risk management and mitigation measures can be applied to the proposal, and whilst these would provide some flood resilience, they do not overcome the fact that the development represents inappropriate development in an area at risk of flooding.
14. There may be personal needs of the appellant and his family as to why they require the proposed dwelling, however there is limited information presented regarding this to justify the proposal in this location.
15. Issues regarding the Council's pre-application advice service should be first directed to them, and is not within my domain to comment.

Conclusion

16. The appeal is dismissed.

Alison Scott

INSPECTOR