



Appeal Decision

Site Visit made on 29 June 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2021

Appeal Ref: APP/A3010/W/21/3270760

Haughton Mill Cottages, Walesby Road, Haughton DN22 8DY

- 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 Victor Usher against the decision of Bassetlaw District Council.
 - The application Ref 20/01572/FUL, dated 2 December 2020, was refused by notice dated 26 January 2021.
 - The development proposed is conversion / change of use of the redundant mill building into a residential dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG) sets out when a Sequential Test does not need to be applied, this includes a change of use. From the evidence before me, it sets out that the submitted Flood Risk Assessment¹ (FRA) indicates that the application is for a change of use and a sequential test is therefore not required. However, the Council dealt with the proposals on the basis that *'there is very little of the original building remaining, and the remains of the building certainly are not suitable for conversion to habitable accommodation, and therefore the development would comprise a new-build dwelling'*.
3. Notwithstanding the appellant's contentions that the proposals are for a change of use rather than a new dwelling or the description of the development within the banner heading above. It was clearly evident, at the time of the site visit there was little building remaining. The existing remains of the structure were of a significant dilapidated condition, including limited walls, floor, and no roof, whilst any of the existing brickwork in situ was of a poor condition.
4. I consider that the works required would not constitute *'some renovations and rebuilding'*, it would be so extensive that they would be more than what can be considered a conversion, or a change of use and extensive, substantial rebuilding would be necessary to form any habitable accommodation. As such, I have no reason to disagree with the Council's assessment of the proposal. Therefore, I have dealt with the appeal on the basis that it is a new-build dwelling.

¹ Flood Risk Assessment, Roy Lobley Consulting; RLC/0522/FRA01; date of issue 30/11/2020

Main Issue

5. The main issue is whether the proposal would comply with national and local planning policy which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

6. The appeal site lies within the small hamlet of Haughton, with the River Maun towards the southern side. The site sits between existing residential development to both the south and north. It comprises of a portion of Haughton Mill which is a non-designated heritage asset. The appeal site is within an area designated as Flood Zone 2, medium probability of flooding, and the proposal as a dwelling is a 'more vulnerable' classification.
7. Paragraph 155 of the Framework sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
8. Paragraph 158 of the Framework states that the aim of the sequential test is to steer new development to areas with the lowest risk 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 risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.
9. Paragraph 163 of the Framework requires that when determining applications, local planning authorities should ensure flood risk is not increased elsewhere, applications should be supported by a site-specific flood risk-assessment. Development should only be allowed in areas at risk of flooding, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; appropriately flood resistant and resilient; incorporates sustainable drainage systems; any residual risk can be safely managed; and safe access and escape routes provided.
10. Policy DM12 of the Bassetlaw District Local Development Framework, Core Strategy & Development Management Policies DPD, 2011 (DPD) states that proposals for the development of new units in Flood Zones 2, 3a and 3b that are not defined by national planning guidance as being suitable for these zones will not be supported while development sites remain available in sequentially superior locations across the District. As such, it is consistent with the approach to Flood Risk within the Framework.
11. Despite the appellant submitting a site-specific FRA which includes setting out the risk to flooding from the proposed development and mitigation measures. The appeal proposal is not supported by a sequential test, as such there is insufficient evidence to demonstrate that the sequential test has been passed. Moreover, I am unable to conclude that there are no other reasonably available sites appropriate for the proposal in areas with a lower risk of flooding.

12. For the reasons given above, in the absence of insufficient evidence to demonstrate that other locations with a lower risk of flooding have been considered. I cannot conclude that the proposed development would accord with Policy DM12 of the DPD, which does not support development if sites remain sequentially superior.
13. The proposal would also not accord with paragraphs 155, 158 and 163 of the Framework and guidance within the PPG, as it fails to adequately demonstrate there are not reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding, and that the sequential test has been satisfied. As the sequential test has not been passed it is not necessary for me to consider the application of the exception test.

Other Matters

14. The site is located at Haughton Mill, a non-designated heritage asset and within the setting of Watermill Farmhouse, which is a Grade II listed building on the opposite side to the appeal site. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
15. In determining the application, the Council concluded that the proposal would preserve the setting and significance of the aforementioned non-designated heritage asset and listed building. Based on my site visit, which also included a consideration of the separation distance between the site and the listed building and the layout and height of the proposed development, I have no reason to disagree with the Council in respect of this matter. However, this is a matter of neutral consequence in the overall planning balance.
16. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions. The main parties have indicated that they consider the tilted balance should apply, paragraph 11 d) on the basis of the age of the DPD.
17. In such circumstances, paragraph 11(d)(i) of the Framework states that the presumption in favour of sustainable development should be engaged unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. This includes policies relating to development located within areas at risk of flooding or coastal change. Given my findings in relation to flooding and the conflict that I have identified with the Framework, which provides a clear reason for refusing planning permission, the presumption in favour of sustainable development does not apply.
18. I acknowledge there would be modest benefits, in regard to the redevelopment of this part of the non-designated heritage asset. However, due to the quantum of development proposed there would be limited social, economic and environmental benefits. Although the proposal would not cause harm to living conditions, ecology, archaeology, highway safety and design quality. These considerations do not outweigh the unacceptable effect on flood risk, with

regard to the application of the sequential test and the conflict with Policy DM12 of the DPD and the Framework.

Conclusion

19. The proposed development would have an unacceptable effect on flood risk, with particular regard to the application of a sequential test, and it has not been demonstrated that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. As a result, it would be contrary to the development plan taken as a whole. There are no material considerations that indicate that the appeal should be determined other than in accordance with the development plan.
20. For the reasons given above I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR