



Appeal Decision

Site visit made on 24 August 2021

by S Hunt BA (Hons) MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 14th September 2021

Appeal Ref: APP/Y2003/W/21/3268814

Old Railway Sidings, A18 from Althorpe to Gunness, Althorpe DN17 3HN

- 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 T Webster of WFW Developments Ltd against the decision of North Lincolnshire Council.
 - The application Ref PA/2019/1904, dated 1 November 2019, was refused by notice dated 28 January 2021.
 - The development proposed is Planning permission to erect 28 affordable dwellings with associated access and other works
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above differs from the application form which refers to 30 dwellings. I have used the description as set out on the appeal form which more accurately represents the proposals as amended and I have considered the appeal on this basis.
3. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. Whilst I did not receive any further comments from the parties, I have referred to the relevant paragraphs from the revised Framework where necessary in my decision.

Main Issues

4. The main issues are:
 - Whether sufficient information has been submitted to demonstrate that the proposed development could be made safe for its lifetime without increasing flood risk elsewhere, and whether a suitable and sustainable drainage scheme for the proposed development could be achieved; and
 - The effect of the proposed development on the character and appearance of the area with particular reference to raised levels.

Reasons

Flood Risk and Drainage Strategy

5. The Framework seeks to ensure that inappropriate development in areas at risk of flooding now, or in the future, should be avoided. Where development is

necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. The Environment Agency (EA) flood maps indicate the site is in flood zone (FZ) 3 where there is a high risk of flooding, and it does not lie within the area benefiting from defences. The submission includes a site-specific flood risk assessment (FRA) with application of the sequential and exceptions tests. The FRA includes data from the Strategic Flood Risk Assessment (2011) for North and North East Lincolnshire (SFRA) which indicates that the site lies in FZ 2/3(a). The River Trent, a tidal watercourse, is the primary source of flood risk to the site. There are also some small isolated patches of land within the site at medium and high risk of surface water flooding.

6. The settlement of Keadby alone has been used in the assessment of alternative sites as part of the sequential test. Whilst this search area is somewhat limited, the SFRA indicates that a large part of the surrounding area is also covered by FZ 2 and 3 including many nearby settlements. In view of this, and given the lack of evidence to the contrary from the Council, I am satisfied that the sequential test has been adequately applied. Consequently it is necessary to apply the exceptions test in accordance with paragraph 164 of the Framework.
7. In terms of part a) of the exceptions test, both parties have identified a number of sustainability benefits to the community and I have no reason to disagree. In particular, the provision of 100% affordable housing would meet an identified local need. There is no dispute about the site being in an accessible location within reasonable reach of local services and employment opportunities.
8. Turning to part b) of the exceptions test, given the proposed development is classed as 'more vulnerable', it is necessary to demonstrate that the development would be safe for its lifetime without increasing flood risk elsewhere and, where possible, reducing flood risk overall. Guidance is provided in paragraph 038 of the PPG. Taking each point in turn:
9. **The design of any flood defence infrastructure:** EA maintained flood defences are in place along the River Trent. The SFRA and 2013 modelling of the River Trent indicate that the defences offer wider protection than shown on the EA flood maps, including the area around the appeal site.
10. **Access and egress:** There is a risk that the A18 could be subject to rapid flooding if the River Trent flood defences were to breach during an extreme tidal surge flood event. There is no evidence before me to suggest a safe or an alternative safe access and egress route in the event of such a breach. The topographical plan at Appendix B of the FRA only indicates the existing levels to the site boundary and does not include levels within the site itself or on surrounding land, including the adjacent A18. This omission raises difficulties when evaluating the access.
11. **Operation and maintenance:** No such details have been provided.
12. **Design of development to manage and reduce flood risk wherever possible:** I have no reason to disagree with the EA's acceptance of the finished floor levels provided at Appendix E of the FRA, nonetheless I am unable to locate any other meaningful flood mitigation or resilience measures specified within the FRA, as required by paragraph 167 b) of the Framework.

13. **Resident awareness and flood warning and evacuation procedures:** The draft plan at Appendix F of the FRA includes flood warning details, but no site specific evacuation plan is incorporated into the document. A more detailed plan could be agreed by the suggested condition, but the lack of safe access/egress arrangements adds to my concerns in respect of evacuation.
14. **Any funding arrangements necessary for implementing the measures:** There are no such details before me.
15. Consequently, I conclude that part b) of the exceptions test has not been passed. Both elements of the exception test should be satisfied for development to be permitted.
16. Paragraphs 167 c) and 169 of the Framework require major developments to incorporate sustainable drainage systems (SuDs) unless there is clear evidence that this would be inappropriate, including taking account of advice from the Lead Local Flood Authority (LLFA). Part 4.2 of the FRA sets out the hierarchy of surface water discharge options considered for the development as required by paragraph 080 of the PPG. It rules out infiltration-based systems due to the bedrock geology of the site, referring to the British Geological Survey's mapping and the site's proximity to the River Trent, indicating that it is unlikely that permeable ground conditions are present at the site. However there is no evidence before me to demonstrate that soakaway tests have been carried out to properly exclude such a system.
17. It is proposed to direct surface water runoff to the existing field drain maintained by the Isle of Axholme and North Nottingham Shire Water Level Management Board (the IDB), at a restricted runoff rate. Calculations within the FRA indicate that surface water attenuation of 215.8 cubic metres is required to achieve this. There is no evidence to suggest this would be insufficient capacity, however the location of and type of storage attenuation is not detailed within the submission before me.
18. The siting of the dwellings would achieve a nine metre clearance from the drain in accordance with the IDB's advice, but their most recent response suggests that a range of outstanding information relating to surface water drainage is still required, including the suitability of soakaways (and such details should be agreed with the LLFA). The LLFA has raised objections based on lack of detail regarding surface water storage locations, requirements and consideration to SuDS, and taking account of Network Rail infrastructure.
19. It would be inappropriate to require details of the type and location of attenuation by condition, as I am unable to establish whether the proposed drainage strategy could be properly achieved within the space available.
20. In terms of foul water drainage, Keadby with Althorpe Parish Council have raised concerns regarding the adequacy of sewers in the locality. The appellant states that a new connection to the Severn Trent Water sewer network is required but no details are provided. There is no response from Severn Trent before me in respect of foul drainage. This omission adds to my overall concerns regarding the drainage strategy.
21. Part 2 of Core Strategy 2011 (CS) Policy CS19 supports development in areas of high flood risk where the development is on previously used land. The evidence from both parties indicates that the appeal site is '*transitional in its*

character with more in common to a cleared brownfield site’. I understand that the site was formerly used as railway sidings, and there is evidence of hardstandings on the site. Whilst the overgrown vegetation currently gives the site a more verdant appearance, I would agree that there is a clear distinction between the appeal site and the adjacent arable farmland. Notwithstanding these observations, the flood risk guidance set out in the Framework and PPG does not specifically prioritise brownfield land in areas of high flood risk, therefore I give this part of Policy CS19 limited weight.

22. The proposed development conflicts with CS Policy CS19 when read as a whole. Whilst I am satisfied that the sequential test has been passed, there is insufficient information before me to demonstrate the exceptions test, and the feasibility of SuDs has not been adequately investigated. Consequently, it has not been demonstrated that the proposed development would be safe from flooding without increasing flood risk elsewhere. The policy is generally consistent with section 14 of the Framework.
23. I give limited weight to North Lincolnshire Local Plan 2003 (NLLP) Policies DS14 and DS16 given that they significantly pre-date the Framework and relevant PPG, and are not fully consistent with such guidance. In particular, Policy DS14 does not refer to any need to incorporate SuDs and DS16 does not relate to the current categorisation of flood zones.

Character and Appearance

24. The surrounding area is flat and open with sparse vegetation, offering long distance views towards power station infrastructure and wind farms. The site is relatively exposed in the wider landscape, particularly from the direction of Althorpe towards Keadby. On the opposite side of the A18 there is industrial development and this provides a more urban context to the eastern end of the site. The site is both physically and visually separated from the settlement of Keadby by the railway embankment. A range of overgrown vegetation presently provides a degree of screening, but opportunities for further planting appears to be limited given the stipulations of the IDB with regard to clearances from the drain.
25. The Council do not raise concerns with the design of the dwellings or the layout and I have no reason to disagree, given the lack of context with other residential development in the area. The height of the dwellings is not in itself objectionable; if set on existing ground levels the buildings would be a similar height to others nearby and would not result in any significant visual harm. However, external ground levels and finished floor levels would be raised quite considerably.
26. The raised levels are necessary to satisfy the EA that the development would be safe from flooding, but the submitted evidence does not include cross sections detailing the proposed ground and finished floor levels. Nor do the plans show any differences between levels of the appeal site and adjoining land, including the railway embankment and the A18. Instead, the submitted elevations appear to indicate that the development would be uniformly level, giving an inaccurate and somewhat misleading representation of how the proposed development would appear in the landscape. Coupled with the insufficient detail on existing and surrounding levels on the topographical survey, I am unable to fully assess the visual impact of the dwellings on the site and its surroundings.

27. Consequently I am not satisfied that the appellant has demonstrated that the proposed development would not result in unacceptable harm to the character and appearance of the surrounding area. It conflicts with NLLP Policy RD2 c) in that it should not be detrimental to the character or appearance of the open countryside. The proposal is also contrary to CS Policy CS5 which seeks to ensure a high quality design including a respect for local context, and CS8 which (amongst other matters) seeks for development to not have an adverse impact on the environment or landscape. Whilst of some age, the Policies are generally consistent with section 12 of the Framework in seeking to achieve well-designed places, in particular paragraph 130 c) in ensuring developments are sympathetic to local character including the surrounding landscape setting.

Other Matters

28. The Council are currently unable to demonstrate a five year supply of deliverable housing sites. I have already found that the proposed development is contrary to policies within the Framework which relate to areas at risk of flooding, and this provides a clear reason for refusing the development proposed. Therefore the 'tilted balance' is not engaged by virtue of footnote 7 to paragraph 11(d) of the Framework, and I make no further deliberations on this matter.
29. The main issue in the previously allowed appeal decision¹ related to the location of development in the countryside; flood risk was not a main issue and therefore the Inspector made no conclusions in that respect. Those proposals were in outline form only, and for much fewer dwellings. Furthermore, there is no evidence before me to suggest that it is still extant (having been allowed in May 2018) so it does not represent a realistic fallback position. Such factors considerably reduce the weight I give to the previous decision.
30. I acknowledge the former allocation of the site and previous (unimplemented) consents for employment uses, and that the site has not achieved sufficient market interest for such development. Nonetheless, any application for such uses would also need to meet policy requirements in terms of flood risk and visual impact.
31. Planning obligations are necessary to secure the 100% affordable housing as well as contributions to open space and recreation. I have no reason to disagree that the obligations would satisfy the tests in Regulation 122(2) of the CIL Regulations 2010. However whilst a Section 106 Agreement has been submitted, it is not a final completed version signed by the Council. As I am dismissing the appeal for other reasons I make no further observations on this matter.

Conclusion

32. For the reasons given above I conclude that the appeal should be dismissed.

Susan Hunt

INSPECTOR

¹ APP/Y2003/W/17/3185421