
Appeal Decision

Site visit made on 12 October 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 November 2021

Appeal Ref: APP/N2739/W/21/3278540

Land Northwest of Croft Cottage, Garmancarr Lane, Wistow, Selby YO8 3UW

- 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 C Clark (C.E and J.E Clark) against the decision of Selby District Council.
 - The application Ref 2020/1319/OUT, dated 24 November 2020, was refused by notice dated 12 April 2021.
 - The development proposed is a detached dwelling to the North West of Croft Cottage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal scheme seeks outline planning permission with all matters reserved except access. I have determined the appeal accordingly, considering the submitted layout as illustrative.
3. During the course of the appeal, the revised National Planning Policy Framework (July 2021) (the Framework) was published. The main parties were provided with an opportunity to comment and I have taken into account any that were made.

Main Issues

4. The main issues are whether the appeal site would be a suitable location for the proposed development with specific regard to the spatial strategy for the area, and whether the proposed development would be at an unacceptable risk from flooding.

Reasons

Whether a Suitable Location

5. The appeal site comprises part of a field located off Garmancarr Lane within the village of Wistow. The forward section of the site has been granted planning permission¹ for a dwelling located closer to the road, while the proposal before me seeks outline permission for a further dwelling towards the rear of the site.

¹ 2017/1256/FUL

Generally speaking, the area is residential with dwellings laid out in a linear pattern along the road.

6. The settlement hierarchy set out in Policy SP2 of the Selby District Core Strategy Local Plan (adopted October 2013) (the CS), identifies Wistow as a Secondary Village. Policy SP2A(b) states that limited amounts of residential development inside Development Limits of Secondary Villages may be acceptable providing it conforms to Policies SP4 and SP10 of the CS. The proposal is for an open market dwelling and accordingly does not fall to be considered against Policy SP10. Policy SP4(a) lists development that would be acceptable in principle in Secondary Villages, which includes filling of small linear gaps in otherwise built-up residential frontages.
7. The proposed dwelling would be set back significantly in relation to the predominantly linear form of development along Garmancarr Lane, in particular the approved dwelling forward of the appeal site. As such, the development would not represent the filling of a small linear gap in an otherwise built-up frontage, nor would it meet any of the other exceptions where residential development will be supported in Secondary Villages under Policy SP4.
8. While I appreciate the approved dwelling is not yet built out, it has full planning permission and is therefore a material consideration in the determination of the proposal before me. It is argued the proposed dwelling would not appear cramped in the site, it would be screened by the boundary treatments for the approved dwelling and would provide suitable levels of outdoor amenity space for each dwelling. However, these matters are not in dispute between the parties. Moreover, the ease of access to services and facilities is not the only consideration when determining whether the location of development is suitable, particularly in this case with regard to Policy SP4. While landscaping would screen much of the dwelling from view, this would not overcome conflict with regards to the location when assessed against SP4.
9. Based on the above, I conclude that the development would not be in a suitable location having regard to the spatial development aims of Policies SP2 and SP4 of the CS. These seek, among other things, to ensure development contributes to sustainable development and the continued evolution of viable communities.

Flood Risk

10. The appeal site lies within Flood Zone 2. In accordance with the Framework, a site-specific Flood Risk Assessment (FRA) has been submitted. As per paragraph 162 of the Framework, the Strategic Flood Risk Assessment (SFRA) provides the basis for applying the Sequential Test (ST). The aim of which is to steer new development to areas with the lowest risk of flooding.
11. I have not seen the SFRA. I note however that the submitted FRA concludes the majority of Wistow is within flood zones 2 and 3. Not only does this limit the potential for sites to be within the lowest risk of flooding, but since the Council clearly have aspirations for some new development in the village as per their spatial strategy, evidently development within a flood zone could unlikely be avoided. The Council set out that the ST has been satisfied in regard to the proposed development and, with the above in mind, I have no reason to disagree.

12. If it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the Exception Test (ET) may have to be applied. The need therefore will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification (FRVC). The FRVC sets out that buildings to be used as dwellings are a more vulnerable use and thus appropriate in flood zone 2. The ET does not therefore need to be applied. Subject to the protection measures set out by the submitted FRA therefore, and taking into account my earlier findings, the appeal scheme would not be at an unacceptable risk of flooding.

Conclusion

13. I have found in the appellant's favour in regard to the second main issue, but this does not lessen the harm that would arise out of my findings on the first. This harm and subsequent conflict with the development plan carries substantial weight and there are no other relevant material considerations, including the Framework, worthy of sufficient weight that might tip the balance in favour of the proposed development. The appeal should therefore be dismissed.

C McDonagh

INSPECTOR