

Appeal Decision

Site visit made on 22 September 2021

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2021

Appeal Ref: APP/D1265/W/21/3274108

Part Garden of The Heathers, Village Road, Hilton DT11 0DE

- 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 Dominic Read against the decision of Dorset Council.
 - The application Ref 2/2020/1080/FUL, dated 29 July 2020, was refused by notice dated 21 March 2021.
 - The development proposed is to erect a new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was submitted the Government has published a new National Planning Policy Framework (the Framework). The main parties have had the opportunity to provide comments on the revisions therein.
3. The evidence I received about the subject of flood risk during the appeal necessitated its elevation to a main issue. Further comments from the main and interested parties about the issue of flood risk were sought during the appeal, and I took the comments made into account in my decision.
4. During the appeal the appellant also submitted revised plans which omit the basement of the dwelling. These revisions would lead to a scheme which is materially different with regard to the issue of flood risk. As such, I have determined the appeal on the basis of the development subject to the Council's decision and upon which interested people's views were originally sought.

Main Issues

5. The main issues are therefore:
 - whether or not the site would be suitable for the dwelling, having regard to the spatial strategy of the development plan; and,
 - whether or not the site represents an appropriate location for the dwelling, having regard to flood risk.

Reasons

Spatial strategy

6. The site comprises an open area of grassland which was formerly the lower reaches of the garden of the bungalow The Heathers, which is to the north west, within the small village of Hilton. The site has a vehicular access taken from Village Road to the south, and a small stream flows across its north edge.

7. Policy 2 of the North Dorset Local Plan Part 1 (adopted 2016) (NDLP) sets out the spatial strategy for the area. In order to focus growth in the most sustainable locations where homes, jobs and facilities are easily accessible, it adopts a hierarchical approach to the location of development. Hilton, as a small village without services, a settlement boundary or neighbourhood development plan, sits at the bottom of this hierarchy and is within designated countryside.
8. In such locations, Policy 20 of the NDLP states that development will only be permitted under the circumstances within Figure 8.5 of the NDLP, or if it can be demonstrated that the proposal has an 'overriding need' to be located in the countryside. There is no evidence of an overriding need for the proposal here, and the scheme would not meet any of the circumstances within Figure 8.5.
9. Accordingly, I conclude on this issue that the site would not be suitable for the dwelling, having regard to the spatial strategy of the development plan. The scheme would conflict with Policies 2 and 20 of the NDLP.

Flood risk

10. There has been at least one significant flood event at the appeal site, in 2006, photographs of which have been supplied by an interested party. A 2012 Flood Risk Assessment (FRA) modelled the hydrology of the stream and identifies a notional flood zone within the site for a 1 in 100-year fluvial flood event, taking into account climate change. This establishes that a section of the site around the stream and at the entrance is actually within Flood Zone 3.
11. It is suggested that the 2006 flood event was precipitated by a blocked culvert downstream. Even if this happened, the FRA and the engineer's notes on the FRA suggest it would have been an aggravating, not causal, factor. I also have no reason to discount it happening again. The appellant has drawn on anecdotal evidence that there has been little to no flooding at the site aside from the 2006 event, and I am also led to believe that an extreme storm in October this year did not cause flooding at the site. However, this evidence is circumstantial compared to the detailed hydrological modelling which underpins the FRA. The greater weight therefore attaches to the FRA.
12. Paragraph 159 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. This is the Sequential Test, the aim of which is to steer development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposal in areas with a lower risk of flooding.
13. The appellant has undertaken a Sequential Test, but it focuses on the site layout and does not explore the prospect of preferable sites elsewhere. An interested party has identified other sites in Hilton which may be preferable. In any event, it appears that the dwelling would not be entirely sited beyond the extent of Flood Zone 3, when the site plan is cross referenced with the plan which accompanies the FRA. For these reasons, the Sequential Test is not passed. Given that it must be passed before the decision maker goes on to take account of mitigation within the Exception Test, it is not necessary for me to do so.
14. This leads me to conclude on this issue that the site would be an inappropriate location for the dwelling, having regard to flood risk. The proposal would conflict with the flood risk aspects of Policy 3 of the NDLP and the Framework.

Other Matters

15. The site is within the Hilton Conservation Area (the CA) and the setting of the Grade I listed Parish Church of All Saints. This places upon me respective duties to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and to consider the impact of the scheme on the special architectural and historic interest of the church.
16. The significance of the CA derives from its vernacular housing set in a loose pattern. The village is also no stranger to modern housing, much of which has inoffensively infilled spaces between the older buildings. The site contains modest structures but overall is quite verdant, with a neutral presence inside the CA. It also reads as an infill plot, and the scale and pattern of development within the village would be maintained by the proposed dwelling. Overall, the effect on the significance of the CA would be neutral. The significance that the Church takes from its setting is partly drawn from its elevated position from where it presides over Hilton. This would be unchanged by the dwelling.
17. Given the position of the site well within the Hilton, there would be no harm to the landscape and scenic beauty of the Dorset Area of Outstanding Natural Beauty, a designation which washes over the village and its environs.

Planning Balance

18. The conflict with the spatial strategy and the inappropriateness of the site's location for a dwelling having regard to flood risk brings the proposal into conflict with the development plan when read as a whole.
19. The Council cannot demonstrate a five-year supply of deliverable housing sites. Paragraph 11 d) i) of the Framework states that in such situations permission should be granted unless the application of policies in the Framework that protect areas of particular importance provides a clear reason for refusing the development. This includes policies relating to areas at risk of flooding. As such, the Framework provides a clear reason for refusing the scheme and the presumption in favour of sustainable development does not apply.
20. Nonetheless, the scheme must be considered within the context of the housing under supply. I am also mindful that the Framework accepts that opportunities to maximise sustainable transport will vary between urban and rural areas and that where there are smaller settlements, development in one village may support services in a village nearby. In this case, there are a public house and grocery outlet close by at Anstey, and also a public house in nearby Milton Abbas. As the dwelling could house a family, there is a likelihood that children would attend the school at Cheselbourne, a settlement proximate to Hilton.
21. The Framework further provides that, in rural areas, decisions should respond to local circumstances and support housing that reflects local needs. The circumstances of the appellant, a former resident seeking to return to Hilton with a family, indicates a need for such housing in the area. Given these circumstances, the conflict with the spatial strategy attracts limited weight.
22. On the other hand, the inappropriateness of the location with regard to flood risk attracts significant weight. It outweighs the modest social, economic and environmental benefits to the area through the reuse of the site to provide a single, energy efficient, family home to the local housing supply. Any absence of harm to the living conditions of neighbouring occupants, the character and

appearance of the area, highway safety and biodiversity are neutral in the balance. Drawing my assessment together, there are no other considerations that outweigh the conflict with the development plan in this case.

Conclusion

23. For the reasons outlined above, and taking all other matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR