
Appeal Decision

Site visit made on 15 February 2022

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17/05/2022

Appeal Ref: APP/G2713/W/21/3283809

Dromonby Grange Farm, Apple Tree Cottage, Thirsk Road to Dromonby Grange Farm Track, Stokesley TS9 5LD

- 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 David Kelly against the decision of Hambleton District Council.
 - The application Ref 20/01760/FUL, dated 10 August 2020, was refused by notice dated 29 April 2021.
 - The development proposed is Proposed Holiday Cottage, comprising a single 3 bedroom building, timber framed and in "dormer" style with 2 bedrooms within the roof.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Hambleton District Council adopted a new Local Plan on 22 February 2022 and the main parties have been provided with an opportunity to comment on this matter. As a result, I am satisfied that neither party has been prejudiced in this regard.

Main Issues

3. The main issues are:
 - whether the site is a suitable location for holiday accommodation having regard to flood risk; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Whether a suitable location – flood risk

4. The appeal site is located within Flood Risk Zone 3, which has a high probability of flood risk with the proposed use being categorised as 'more vulnerable' as per Annex 3 of the National Planning Policy Framework (the Framework). Paragraph 162 of the Framework states that development should not be permitted in an area of high flood risk if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding i.e. the Sequential Test.

5. Paragraph 163 of the Framework states that the Exceptions Test may have to be applied if it is not possible for development to be located in areas with lower flood risk and that this test should also be informed by a site-specific FRA. The Planning Practice Guidance (the Guidance) also highlights that a Flood Risk Assessment (FRA) should establish the evidence to allow the local planning authority to apply the Sequential Test, if necessary and in relation to the Exception Test, if applicable¹. The Guidance also states that in the first place it is the responsibility of the Local Planning Authority (LPA) to consider if the Sequential Test has been satisfied, informed by evidence provided by the developer².
6. The FRA dated 6 August 2020 submitted by the appellant states that all the land within the appellant's ownership is within flood zone 3 meaning that there are no suitable alternative sites that are reasonably available and that as a result the Sequential Test had been met. However, the submitted FRA does not assess any other suitable sites in lower flood risk areas outside the appellant's ownership locally or indeed within the wider area. Consequently, there is insufficient evidence before me to allow the Sequential Test to be applied. Furthermore, as the Sequential Test cannot be applied, the Exceptions Test is therefore not applicable in this case. As a result, I am not satisfied that the proposed development would not be at a high risk from flooding.
7. I therefore conclude that the appeal site would not be a suitable location for holiday accommodation development having regard to flood risk. Accordingly, it would fail to meet the relevant requirements of policy RM 2 of the adopted Hambleton Local Plan (HLP). It would also conflict with paragraphs 162 and 163 of the Framework.

Character and Appearance

8. The appeal site is located next to several converted former agricultural buildings that are now in use as holiday accommodation. These properties comprise detached and terraced two and single storey buildings with red brick and rendered façades with red pantile roof tiles that have an overall traditional form and design reflecting their agricultural past.
9. The proposal would be a detached two storey holiday cottage with an aluminium standing seam roof and natural finish vertical timber cladding on its elevations. As a result, its external material finish would be markedly different from these nearby buildings meaning that it would look starkly out of place. As a result, the proposal would be visually jarring thereby having a significant adverse impact in this regard.
10. I note the appellant's point that the proposal would not be visible from a public vantage point. However, according to the Council's evidence the appeal site is directly adjacent to a public right of way (PROW). Indeed, when on my visit, I observed that there appeared to be a well-worn path to the rear of the appeal site. Consequently, I consider that the proposal would be highly visible to users of the PROW who would be adversely affected by it.
11. I therefore conclude that the proposed development would materially harm the character and appearance of the area thereby failing to meet the relevant requirements of policy E 1 of the HLP.

¹ Paragraph: 030 Reference ID: 7-030-20140306

² Paragraph: 034 Reference ID: 7-034-20140306

Other Matters

12. In support of the proposal the appellant has referred to positive pre-application advice that was given by the Council in relation to its design. However, this is not binding, and it is clearly unfortunate if proposals are adjusted to suit but then the final outcome is an adverse one. Nevertheless, at appeal the proposal is considered afresh. As a consequence, the positive feedback given does not warrant allowing the appeal scheme before me.
13. I note that the Environment Agency did not raise an objection to the proposal and suggested that the imposition of a suitably worded condition would allow it to comply with the Framework's requirements in relation to flood risk. However, as stated by the Council in their officer report, and as highlighted by the Guidance, it is the responsibility of the LPA in the first instance to be satisfied that the Sequential Test is appropriately applied and that the Exceptions Test is applicable, or not, nonetheless. In this case the LPA found that the proposal did not meet the Sequential Test and that as a result the Exceptions Test was not applicable. As set out above, from the evidence before me I see no reason to disagree with this assessment. Consequently, I afford this matter limited weight.
14. I also note the appellant's point that flood risk alleviation scheme works for Stokesley are planned to be implemented at a future date. However, I have no details of this scheme before me so I cannot be certain how or if these planned works would impact on the flood risk of the appeal site. As a result, this matter is not of sufficient weight to overcome or outweigh the harm I have identified above.

Conclusion

15. The proposal would not accord with the relevant development plan for the area when read as a whole and there are no material considerations which indicate a decision otherwise than in accordance with it. Accordingly, and for the reasons set out above I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR