



Appeal Decision

Site visit made on 6 October 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2022

Appeal Ref: APP/E2001/W/22/3295069

Land north of 36 Canal Side East, Newport, East Yorkshire HU15 2RL

- 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 William Ward against the decision of East Riding of Yorkshire Council.
 - The application Ref 21/03705/OUT, dated 16 September 2021, was refused by notice dated 17 December 2021.
 - The development proposed is the erection of two no. two-storey dwellings
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The application was in outline with all matters reserved. The appeal has been determined on this basis.

Main Issues

3. The main issues are whether or not the appeal site is in an appropriate location for housing development having regard to 1) development plan policy and the settlement strategy, and 2) flood risk.

Reasons

Development plan policy and settlement strategy

4. The appeal site is located to the east of the Market Weighton Canal and sits adjacent to no. 36 Canal Side East, which is a detached residential property. It is part of a larger area of open land that sits between nos. 36 and 41 Canal Side East and has open countryside to the rear.
5. There are residential properties sporadically sited on each side of the canal. When approaching the appeal site from Main Road, the properties begin to thin out towards the motorway and the area turns distinctly more rural and agricultural in character. The appeal site and its surroundings on this side of the canal display a distinct open character and the area has a more spacious feel.
6. Policy S3 of the East Riding Local Plan (2016) sets out the locations for focusing development. Although the appeal site is adjacent to the linear form of dwellings, it lies outside the defined settlement boundary and is in an area designated as countryside. Policy S4 part C outlines the forms of development that would be supported in countryside locations. For dwellings, this relates to

replacement dwellings; new dwellings of exceptional quality or of truly outstanding innovative design; affordable housing for local people; or agricultural, forestry or other rural-based occupational dwellings subject to demonstrating an essential need.

7. There is nothing before me to suggest that the proposed development would constitute one of the above criteria that is required for dwellings in the countryside.
8. The appellant considers that the site should be considered as an infill as the other side of the canal is developed along its length. Whether or not the development could be considered infill is not pertinent as this is not one of the exceptions to allowing residential development in the countryside. Either way, although the site sits adjacent to a dwelling on one side, it is open on the other. The fact that the other side of the canal has development opposite, does not lead me to conclude in favour of the appeal.
9. The proposed development would therefore be an inappropriate location for residential development and would be contrary to Policies S3 and S4 of the Local Plan as outlined above and would cause harm to the council's sustainable approach to housing delivery.

Flood risk

10. The appeal site is located within Flood Zone 3 which is an area defined as having a high probability of flooding. In dealing with flood risk, Policy ENV6 of the Local Plan sets out, amongst other things, that the risk of flooding to development will be managed by applying a sequential test to ensure that development is steered towards areas of lowest risk, as far as possible.
11. Footnote 55 of the National Planning Policy Framework (2021) (the Framework) sets out that a site-specific flood risk assessment should be provided for all development within Flood Zone 3.
12. The Framework also outlines that development should only be allowed in areas at risk of flooding where, in light of the assessment (and the sequential and exception tests, as applicable) it can be demonstrated that: a) 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; b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment; c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
13. The proposed development, comprising two dwellings, does not constitute an exclusion, as outlined in footnote 56 of the Framework, from the requirement to undertake a sequential or exception test.
14. Although the appellant has provided details of some mitigating measures and an assessment of flood risk, the information is not robust and does not include all of the details that are required by the Framework as set out above. Although the site may be in an area that benefits from flood defences, the presence of such defences does not mean that a development is 'safe', only that while the defence is maintained the risk is reduced.

15. I therefore cannot be certain over the flood risk the development is exposed to. Nor can I be certain that the development does not increase flood risk in the area. The development is therefore contrary to the requirements of Policy ENV6 of the Local Plan and the Framework.

Other Matters

16. As I have found the development to be contrary to an up-to-date development plan, the presumption in favour of sustainable development is not triggered in this case. There is also no evidence before me to suggest that the policies which are most important for determining the application are out-of-date.

Planning Balance and Conclusion

17. The Government's objective as set out in the Framework is to support housing growth. Although the proposed development would result in only a slight increase in the Council's overall housing number, this is nevertheless a factor of moderate weight in favour of the proposed development.
18. However, the location of the proposed development outside a settlement in the countryside would undermine the council's plan-led approach in seeking that development should be appropriately and sustainably located. When combined with the harm I have identified would be caused from the lack of certainty in terms of flood risk, collectively, these matters attract significant weight that outweighs the benefits associated with the proposed development.
19. The proposed development would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.
20. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR