



Appeal Decision

Site visit made on 1 November 2022

by D Barlow BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2023

Appeal Ref: APP/B3030/W/22/3303664

Land To The Rear of 74 and 76 Fosse Road, Farndon, Newark On Trent, NG24 4SU

- 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 Philip and William Barker against the decision of Newark and Sherwood District Council.
 - The application Ref 22/00408/FUL dated 28 February 2022, was refused by notice dated 27 May 2022.
 - The development proposed is construction of residential development comprising two detached dwellings on land to the rear of 74 and 76 Fosse Road, Farndon (revised scheme of 21/01913/FUL).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the development proposed is acceptable given its flood zone location.

Procedural Matter

3. I have used the site address taken from the appeal form rather than the one on the application form in the interests of clarity.

Reasons

4. The site is situated to the rear of two detached brick and render houses, accessed off Long Lane which is characterised by a wide mix of two storey houses and bungalows, principally of the post war era. The village itself is suburban and linear in form and has a good range of facilities for its size.
5. According to the Environment Agency's Flood Map, the site is situated in Flood Zone 2 which has a medium probability of flooding. The National Planning Policy Framework's (NPPF) flood risk vulnerability classification identifies housing as 'more vulnerable' to flooding. The Planning Practice Guidance (PPG) advises that the sequential test should be applied to 'Major' and Non-major' development, such as that proposed, in areas at risk of flooding.
6. The NPPF sets out that the aim of the sequential test is to direct development to areas with the lowest risk of flooding from any source. It states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with lower risk of flooding.

7. Amended Core Strategy (ACS) Policy CP10 is consistent with the NPPF in this regard and seeks to steer new development away from those areas at highest risk of flooding, applying the sequential test to its location. Policy DM5 of the Newark and Sherwood Local Development Framework Allocations & Development Management Development Plan Document (DMDPD) clarifies that 'those areas at highest risk of flooding' are Environment Agency Zones 2 and 3.
8. Neither ACS Policy CP10 or DMDPD Policy DM5 indicate the area of search for the sequential test to be conducted. The PPG however indicates that the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed.
9. The Council has acknowledged that whilst the sequential test search area would normally be district wide, there may be circumstances where a smaller search area would be considered appropriate including where there was a settlement led housing needs assessment. A similar approach was considered appropriate in an appeal¹ where the Inspector considered that an up-to-date Housing Needs Survey for Farndon (2016) justified the test being on a small area.
10. The appellants have limited their search area to Farndon and contend that this accords with the Council's approach they took in 2017 on their own land. This was however, assessed on an up-to-date housing needs survey. I note that the Arc4 survey (December 2020) and the district wide assessment (January 2021) identified a need for housing in the Newark Sub Area and 'Rural South' sub area respectively, of which Farndon is part of and that there was an overall required need for 4 bed dwellings in the Rural South and the district as a whole, which the proposal would make a contribution to. However, there is no specific or up to date housing needs assessment for Farndon, or evidence to indicate that the proposal would support community facilities and local services, as required by Spatial Policy 3 of the ACS. Accordingly, I find that no local circumstances have been demonstrated to justify a smaller search area for the sequential test.
11. Whilst it is clear from the Appellant's FRA that measures could be taken to make the dwellings flood resistant and resilient and that the intended future occupiers would be likely to have safe access and escape routes in accordance with the draft flood warning and evacuation plan, these matters do not obviate the requirement for the sequential test to be applied. The restriction of the area of search to Farndon alone, without up-to-date evidence to suggest a specific need in the village, is too restrictive, and for that reason I am not satisfied that it has been demonstrated that there are no suitable sites with a lower risk of flooding. The Sequential Test fails.
12. Given my findings, I conclude that it has not been demonstrated that the development proposed is acceptable given its flood zone location and that there are no other sites of lesser flood risk to accommodate the proposal. Accordingly, the proposal is in conflict with Policy DM5 of the DMDPD and Policy CP10 of the ACS which seek to steer new development away from those areas at highest risk of flooding, applying the sequential test to its location.
13. There would also be conflict with the planning and flood risk objectives of the NPPF (Paragraph 162), which also states development should not be permitted

¹ Ref: APP/B3030/W/18/3205827

where there are reasonably suitable sites appropriate for the proposed development in areas with lower risk of flooding.

Other Matters

14. I note that the proposal would contribute two dwellings towards the Council's housing supply, and that it would broadly comply with Policy SP3 of the Amended Core Strategy. However, the development plan needs to be read as a whole. Although the Environment Agency did not comment on the planning application, it directed the Council to adhere to its standing advice and set out that it was for the Local Planning Authority to ensure planning submissions adhere to this advice. The comments of the Environment Agency do not lead me to reach a different conclusion.

Conclusion

15. Thus, for the above reasons and having considered all matters raised, the proposal conflicts with the development plan as a whole and there are no material considerations which indicate a decision other than in accordance with the development plan. The appeal is dismissed.

D Barlow

INSPECTOR