



Appeal Decision

Site visit made on 1 August 2023 by Andreea Spataru BA(Hons) MA MRTPI

Decision by S. Ashworth BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2023

Appeal Ref: APP/D2510/W/23/3315025

The Stables, Sloothby High Lane, Hogsthorpe, Lincolnshire PE24 5PG

- 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 and Mrs Bartle against the decision of East Lindsey District Council.
 - The application Ref N/084/01807/22, dated 16 September 2022, was refused by notice dated 5 December 2022.
 - The development proposed is for the erection of a two storey house including a detached garage.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary matter

3. An application for costs was made by Mr and Mrs Bartle against East Lindsey District Council. This application is subject of a separate decision.

Main Issue

4. The main issue is whether the proposal is in an appropriate location for residential development in respect of flood risk.

Reasons for the Recommendation

5. The appeal site is located in the village of Hogsthorpe, which is a large village under the settlement hierarchy as outlined within Policy SP1 of the East Lindsey Local Plan Core Strategy 2018 (LPCS). Hogsthorpe is not listed as a coastal settlement in Policy SP17 of the LPCS. However, it is undisputed by the main parties that the site is located within the East Lindsey Coastal Hazard Zone and flood zone 3 on the Environment Agency's map, where there is a high probability of flooding. Therefore, I consider that Policy SP18(2) of the LPCS is relevant to the appeal scheme, as it sets out the criteria that must be met for new open market housing in these areas.
 6. The justification for Policy SP18 explains that because of the threat of flood risk, unconstrained housing growth with its associated increase in population
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- cannot be justified. However, the LPCS acknowledges that there are identified circumstances where housing development may be considered appropriate. Policy SP18(2) sets out support for open market housing on sites in towns, large and medium villages which satisfy a number of criteria, including that the site is brownfield; it has become disused or empty and is causing harm; it has been actively marketed for a community, economic or leisure use for a period of 12 months and shown that the site is not viable for one of these uses.
7. The application form informs that the appeal site is currently used as a garden. Therefore, as the site cannot be considered brownfield, it does not meet the first criterion of Policy SP18(2). The appearance of the appeal site reflects its use as a garden. There is currently green open space that hosts several trees; a hedge and other vegetation wraps around part of the site. As such, the appeal site does not appear disused or empty and is not causing harm. It has not been demonstrated that the site has been actively marketed for community, economic or leisure use or that it would not be viable for a development of such uses. Criteria 2, 3 and 4 of Policy SP18(2) of the LPCS are therefore also not met.
 8. The National Planning Policy Framework (the Framework) also requires that inappropriate development should be avoided in areas at risk of flooding by directing development away from areas at highest risk. It sets out a sequential test to steer new development to areas with the lowest risk of flooding. Where it is not possible for development to be located in areas with the lowest risk of flooding, the Framework sets out an exception test.
 9. The planning application was accompanied by a site-specific flood risk assessment (FRA), which includes a sequential test and an exception test. The sequential test sets out the parameters of the search and the information sources used. I note that the search radius for equivalent sites was limited to 5 km, as the appellants found this to be a reasonable distance having regard to the connection of the proposed dwelling to the existing business on the appeal site. The sequential test concludes that there are no other sites within the local area that could offer a similar development opportunity in a zone of lower flood risk, as the main source of flooding is the North Sea from the East.
 10. Whilst the Council found that the proposal does not pass the sequential test, it has not presented any substantive evidence of suitable or available alternatives to gainsay the findings in the report. The report is clear about what the search parameters were and there were no sites identified that fell within these. I am therefore satisfied that the sequential test has been passed.
 11. As the sequential test is passed, the Framework requires consideration of the exception test. The first part of the exception test requires that the development demonstrates that it would provide wider sustainability benefits to the community that outweigh the flood risk. Section 6.2.1 'Exceptions Test Part 1' of the FRA refers to a 'Sustainability Appraisal Form' (Appendix D) and indicate that this form concludes that the appeal development would provide wider sustainability benefits that outweigh the flood risk. However, whilst mentioned within the FRA, I have not been provided with a copy of the Sustainability Appraisal Form.
 12. The proposal would contribute to the housing supply, albeit to a limited degree given the size of the scheme, support existing local facilities, and create a

number of jobs, particularly during the construction process. Notwithstanding these benefits, the proposal for a single dwelling in this location would not provide any wider sustainability benefits to the community that would outweigh the flood risk issue, such as an overall reduction in flood risk to the wider community through the provision of, or contribution to, flood risk management infrastructure. The first part of the exception test therefore fails.

13. The second part of the exception test requires that the development demonstrates that it will be safe for its lifetime without increasing flood risk elsewhere and, where possible, reducing flood risk overall. The FRA indicates that the primary risk of flooding at the appeal site is in the event of a breach in the coastal flood defences; the risk of flooding from all the other sources is considered to be low. The FRA states that flood resilient construction and flood protection measures should be employed as recommended within the FRA and in accordance with the government guidance if ground floors are finished less than 1.6m above the existing ground level, which appears to be the case for the appeal development. Other recommendations include a suitable surface water drainage system designed in accordance with the SuDS hierarchy, a Flood and Warning and Evacuation Plan (FWEP) to be created for the development, and for the site owner to sign up for the government Flood Warning Service.
14. Given the evidence before me, I consider that the development passes the second part of the exception test, subject to it following the recommendations outlined within the FRA. Although the proposal would satisfy the second part of the exception test, the Framework is clear that both elements should be satisfied for development to be permitted. Accordingly, the proposal does not pass the exception test.
15. I have had regard to the appellants' evidence that the Environment Agency has not objected to the proposal. However, this is a neutral matter, rather than one that carries positive weight for the development. Moreover, it does not negate the need for the development to be assessed against the relevant policies of the LPCS and the Framework.
16. Accordingly, I conclude that the appeal site is not a suitable location for the proposed development, having regard to the risk of flooding. Therefore, the proposal would be contrary to Policy SP18(2) of the LPCS and the requirements of the Framework.

Other matter

17. My attention has been drawn to other developments approved by the Council in Hogsthorpe: a residential scheme¹, one holiday lodge², and 3 holiday cottages³. I note that the Council adopted a different approach, particularly in terms of policies, for each of these developments, depending on their circumstances.
18. Having considered the evidence submitted regarding the above approved developments, given the nature of the holiday lodge and the holiday cottages, they are assessed against different policies than residential developments. I acknowledge the similarities in terms of type of development and proximity of

¹ LPA ref: N/084/00681/22

² LPA ref: N/084/01708/22

³ LPA ref: N/084/01083/22

the appeal development to the approved residential scheme. However, I do not have all the relevant details of the approved case, such as the land levels, which according to the information outlined within the Planning Officer's report for that case was a deciding factor in applying certain policies. Nevertheless, I have considered the appeal proposal based on its own site-specific circumstances and the evidence submitted.

Recommendation

19. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Andreea Spataru

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and my representative's recommendation and, on that basis, the appeal is dismissed.

S Ashworth

INSPECTOR