



Appeal Decision

Site visit made on 12 July 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2024

Appeal Ref: APP/E2001/W/24/3341265

Land west of Tudor Springs, Dunswell Road, Cottingham, East Riding of Yorkshire HU16 4JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Bowser against the decision of East Riding of Yorkshire Council.
 - The application Ref is 23/01033/PLF.
 - The development proposed is the change of use of land for the siting of a lodge for holiday accommodation.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the planning application was submitted to the Council, a revised National Planning Policy Framework ('the Framework') has been published. This has not raised any new matters which are determinative to the outcome of this appeal. However, I have referenced the revised paragraph numbers where necessary.

Main Issue

3. The main issue is whether the appeal site is a suitable location for the proposed development having regard to the risk of flooding.

Reasons

4. The appeal site comprises part of a paddock adjacent to both the appellant's dwelling and an area that is certified by the Caravan and Motorhome Club for the siting of up to 5 touring caravans under Section 2 of the First Schedule to the Caravan Sites and Control of Development Act 1960 ('the Act'). It is within Flood Zones 2 and 3.
5. Policy ENV6 of the East Riding Local Plan 2012-2029 Strategy Document, adopted 2016 (LP) states that the risk of flooding to development will be managed by applying the Sequential Test (ST) to ensure that development is steered towards areas of lowest risk, as far as possible. This is supported by paragraph 165 of the Framework.
6. It is proposed to site a lodge to be used for holiday accommodation within the appeal site. Annex 3 of the Framework defines the use as 'More Vulnerable' in

terms of flood risk. A 'More Vulnerable' development within Flood Zone 3a can be appropriate subject to passing the ST and the Exception Test (ET)¹.

7. Paragraph 168 of the Framework states that the aim of the ST 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 proposed development in areas with a lower risk of flooding.
8. For individual proposals subject to a ST, the area to apply the ST will be defined by local circumstances relating to the catchment area for the type of development proposed². The Council's Flood Risk Sequential and Exception Test Supplementary Planning Document adopted 2021 (SPD) indicates that for tourism development proposals that do not have a specific locational requirement, the search area should be the same tourism character area as defined within the Tourism Accommodation Study (TAS)³.
9. The appellant asserts that the proposal has a specific locational requirement to be positioned in proximity of the appellants' existing touring caravan business within Flood Zone 3a and accordingly, a ST is not required.
10. Paragraph 3.35 of the SPD states that tourism development with a specific locational requirement includes proposals that involve an existing business which has planning permission. However, footnote 24 of the SPD clearly states that caravan sites with a Certificate of Exemption under the Act do not have planning permission. Consequently, a ST is required for the proposal. According to the SPD and the TAS, the search area for the ST is the Yorkshire Wolds Tourism Character Area (YWTCA).
11. Notwithstanding the appellant's assertion that an ST is not required, a ST was submitted with the planning application, which was updated to support the appeal. Both STs encompass the YWTCA search area, in compliance with the SPD.
12. The PPG defines 'reasonably available sites' as those *"in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development"*.
13. I have not been provided with information regarding the period in which the searches were undertaken. Therefore, I am unable to determine whether they were comprehensive and can be relied upon. The updated ST states that a suitable site for the holiday lodge is a rural location. However, from the information before me, I am not persuaded that a rural location is necessary for the proposed use, or that a more built-up area would not be suitable.
14. Sequentially preferable sites have been identified within the ST search area however, they have been discounted as not being reasonably available as they do not have planning permission to site a lodge. However, the definition of 'reasonably available sites' does not require a site to have planning permission for the proposed development. Furthermore, there is nothing before me to suggest that planning permission could not be forthcoming for the proposal on these sites within a reasonable time envisaged for the development.

¹ Planning Policy Guidance, Flood Risk and Coastal Change, paragraph 079 Reference ID: 7-079-20220825

² Planning Policy Guidance, Flood Risk and Coastal Change, paragraph: 027 Reference ID: 7-027-20220825

³ Tourism Accommodation Study Final Report, published September 2016, produced by AECOM

15. In view of the above, I am not persuaded that it has been demonstrated that there are no reasonably available sites within the YWTCA search area that could accommodate the appeal proposal. Consequently, the ST has not been passed.
16. The ST must be passed before the ET can be applied. It is therefore not necessary for me to go on to consider the ET.
17. The consultation responses of the Environment Agency ('the EA') and the Council's Land Drainage Team are noted. However, the ST and ET need to be passed before mitigation measures can be considered. While the Council has not advanced any sites that they consider to be reasonably available, this has not prevented me from forming a view on the information before me.
18. The appellant asserts that the appeal site is not at risk of flooding and has submitted a Depth Grid Map to support their assertion. However, the EA's Flood Risk Map for Planning shows the site lies within Flood Zone 3 and I am obliged to consider the proposal against this map and the current flood risk classification.
19. In reference to the main issue, it has not been demonstrated that the appeal site is a suitable location for the proposed development having regard to the risk of flooding. It would be contrary to Policy ENV6 of the LP, the content of which I have previously described. It would also conflict with the Framework.

Other Matters

20. I acknowledge there could be operational benefits associated with the proposed lodge being close to the existing touring caravan site. However, this would not negate the requirement for the proposal to be sited on land with the lowest risk of flooding.
21. I acknowledge that the Framework supports a prosperous rural economy that enables the sustainable growth and expansion of all types of businesses in rural areas, including tourism developments. This is supported by the Council's TAS. However, I am not persuaded that the existing business could not grow or expand if the proposed visitor accommodation was sited elsewhere.

Conclusion

22. For the reasons set out above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR