



Appeal Decision

Site visit made on 13 March 2025

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 07 May 2025

Appeal Ref: APP/E2001/W/24/3357970

Land East of 32 Onslow Street, Anlaby, East Riding of Yorkshire HU10 7EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Graham Whiteford, Persimmon Homes against the decision of East Riding of Yorkshire Council.
 - The application Ref is 24/00948/OUT.
 - The development proposed is outline application for one dwelling including all matters expect landscaping at Onslow Street in Anlaby.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address above from the appeal form rather than the planning application form as it more clearly identifies the location of the appeal site.
3. The proposal has been made in outline form with matters of access, appearance, layout and scale to be considered. The matter of landscaping is reserved and does not form part of this proposal.
4. The East Riding Local Plan Update 2025-2039 (LPU), comprising the Strategy Document Update (SDU) and the Allocations Document Update (ADU) was adopted by the Council on the 2 April 2025, superseding the East Riding Local Plan 2012-2029 Strategy Document Adopted April 2016 (LP). The Council has identified the relevant policies including Policy ENV6 of the SDU and the appellant has had the opportunity to comment on them as part of the appeal process.
5. The Council has confirmed that following receipt of further details relating to finished floor levels and the proposed street scene drawing, it no longer wishes to defend the second reason for refusal relating to the effects of the proposal on the character and appearance of the area due to the height of the proposed dwelling. Based on the information before me and my site visit, I can find no reason to disagree with the Council in this respect. Consequently, this matter will not form a main issue.

Main Issue

6. The main issue is whether or not the proposal complies with local and national policies in respect of flood risk.

Reasons

7. The appeal site comprises a rectangular area of land located adjacent to a recent housing development. The appeal site is located within a housing allocation identified as AWK-G within the ADU. This allocation was carried forward from the LP. One of the criteria under Policy AWK-G relating to that housing allocation is that built development is avoided in the area of the site that is within Flood Zone 3a (FZ3A). The appellant asserts that the appeal site was previously included within FZ3A when the wider site was originally allocated, however, there is no dispute between the parties that following revisions by the Environment Agency (EA), the appeal site is now within Flood Zone 1 (FZ1), when considering the most up to date Environment Agency Flood Maps for Planning (EAFMP).
8. Notwithstanding this, the appeal site is within an area identified as future flood zone 3a (FFZ3A) through the East Riding Strategic Flood Risk Assessment 2019 (SFRA). Whilst the supporting text of the ADU identifies the presence of FFZ3A at the allocated site and states that the sequential test should be applied within the site to determine the site layout, the policy text does not reference FFZ3A. Nevertheless, it is clear from the evidence before me that the area of the allocated site at risk of flooding was identified as open space rather than for built development as part of the original scheme.
9. Paragraph 170 of the National Planning Policy Framework (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). The Framework clearly makes reference to 'future' risk as a consideration and the wording under Policy ENV6 of the SDU reiterates this stance, referring to flooding from all sources 'both now and in the future'.
10. A site specific flood risk assessment was submitted with the planning application which identified that the appeal site is currently within FZ1. That report did reference that the appeal site was within the FFZ3A as set out in the SFRA but found that the mapping relating to this constraint was not readily available nor had it been adopted by the EA.
11. A Flood Risk Note (FRN) was submitted by the appellant with the appeal. This FRN identifies that the FFZ3A boundary is only indicative as it is based on a number of different modelled outputs that are amalgamated together, resulting in a zone which isn't in itself modelled. The FRN goes on to identify that data was retrieved from the EA that informs the identification of future flood zones including the River Humber North Bank Tidal Modelling for 2012, 2013, 2014 and 2015 and the Humber Hull Frontages 2015. It is stated that the only modelled scenario that would see the appeal site within FFZ3A is the 2014 River Humber North Bank Tidal Modelling. The appellant contends that the most up to date information should be used to identify the future risk of flooding, and that would be the 2015 River Humber North Bank Tidal Modelling. Consequently, the appellant asserts that the appeal site would not fall within FFZ3A.
12. It is not explained in the evidence before me why the amalgamation of modelling data is not an appropriate tool in informing possible future flood zones. The FRN identifies that it is not clear which exact modelling the tidal flood events have been taken from. Whilst I appreciate that there is a lack of clarity on the evidence

underpinning the identified future flood zone, it is not for me to determine the extent of such zones.

13. The appellant contends that the SFRA is a strategic level assessment which is based on dated evidence that should not override a site specific flood risk assessment which is more detailed on a site level basis. However, the Council has provided extracts from the EAFMP update in March 2025 which identifies that the appeal site is within a future flood extent when considering the dataset for river and sea without defences, considering climate change. To my mind, this recently published revision provides an updated position from the EA on future flood risk, which supports the position set out in the Council's SFRA.
14. The appellant has identified that when considering the March 2025 EAFMP update, if flood defences are taken into account, the appeal site would not be located within a future flood extent. However, flood defences by their nature provide artificial protection. Policy or funding changes in the future may result in changes to the effectiveness of flood defences. I am not provided with any substantive information in either the site specific flood risk assessment, the FRN or the appellant's final comments about the condition of the existing defences, any ongoing maintenance arrangements, funding or whether any works are necessary in the longer term with regard to the effects of climate change for example.
15. Therefore, I am not satisfied, without further substantive information or any detailed information or commentary from the EA, that the approach taken in the FRN would override the information provided in the SFRA or the most recent EAFMP update, which takes climate change into account in assessing future flood risk. Consequently, based on the evidence before me, I find that the appeal site is located within an area that is likely to become at risk of flooding in the future.
16. Enshrined within national policy is the sequential test (ST) which aims to steer new development to areas with the lowest probability of flooding. The Planning Practice Guidance (PPG) states that avoiding flood risk through the ST is the most effective way of addressing flood risk because it places the least reliance on measures like flood defences, flood warnings and property level resilience features.
17. The PPG also identifies that a ST will not be required where the site has been allocated for development and subject to the test at the plan making stage, provided there have been no significant changes to the known level of flood risk to the site, now or in the future. The areas at risk of flooding were acknowledged through the allocation of the site and the original scheme was designed in such a way that built development was avoided in areas at risk of flooding. Given the changes to the flood zones over the years and the identification of FFZ3A, I do not find that the allocation of the wider site means that a ST is not necessary in this case.
18. Paragraph 175 of the Framework states that the ST should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).

19. Given my findings above, I find that a ST would be required in this case. This approach is also set out in the Council's Flood Risk Sequential and Exception Test Supplementary Planning Document Adopted November 2021 V1.1 (SPD). The SPD states that sites in FZ1, and not at risk from other sources of flooding, are not required to undertake the ST unless it is indicated that there may be flooding issues in the future, for example through the impact of climate change. Whilst the SPD is not part of the development plan, it does form a material consideration.
20. The submitted information does not assess any other suitable sites in areas that are currently within FZ1 but not within the FFZ3A. Therefore, the evidence before me, fails to adequately address the ST requirement and consequently the proposal is contrary to the advice in the Framework and the PPG and could expose people and property to an increased risk of flooding in the future, when alternative sites at less risk of flooding may be available. Whilst I note that mitigation measures are proposed which could be subject to planning conditions, such matters do not outweigh the need to meet the requirements of the ST in the first instance.
21. In conclusion, based on the evidence before me, the proposal would not be located in an area which is considered suitable with regards to flood risk. The proposal would be contrary to Policy ENV6 of the SDU which seeks, amongst other things, that the risk of flooding to development, from all sources both now and in the future, will be managed by applying a sequential test to ensure that development is steered towards areas of lowest risk, as far as possible. As discussed above, the proposal would also be contrary to the Framework in this regard.

Other Matters

22. The appeal proposal would contribute one family sized dwelling to the housing supply. Economic benefits would result during the construction phase and through future occupants supporting the local economy. It is agreed between the parties that the appeal site is located where there would be good access to services and facilities, that an electric vehicle charging point would be provided and that the orientation of the dwelling would provide additional surveillance of the remaining open space area. Even if I were to agree, these considerations would not outweigh the harm that I have identified above.
23. It is asserted that the proposal would be in keeping with the character and appearance of the adjacent development, that sufficient parking, garden space and bin and cycle storage would be provided and that the proposed dwelling would meet the nationally described space standards. The provision of sufficient open space and affordable housing as part of the wider scheme is also noted. However, policy compliance or a lack of harm in these respects would be neutral considerations that would weigh neither for nor against the proposal.
24. I am referred to another case at West Cowick where the appellant asserts that planning permission for the erection of a detached dormer bungalow was granted by the Council which was subject to similar flood risk constraints. The appellant contends that a site specific flood risk assessment was not submitted in that case. Whilst I have limited information before me, the Officer Report has been submitted. In the discussion on flood risk matters it states that the site was identified as FZ3A in the SFRA but was later identified as being in FZ1 in the more up to date EAFMP, however, it does not clearly state that the site remains in an area

identified as FFZ3A in that case. The Council has also confirmed that two flood risk assessments were submitted. In any case, I must deal with the appeal proposal before me on its individual merits. Even if there were inconsistencies in approach, it is not reason to support development which would be at risk of flooding in the future.

25. I am also provided with a recent appeal decision at land at Rectory Farm (North) in Yatton, located in a different Council area and therefore subject to a different policy context. In that case the appeal was allowed, despite it being identified that a ST had been carried out and that the proposal in that case did not pass the ST. However, in that case the considerations were different to that before me, given the significant amount of development being proposed, including up to 190 new homes, Class E floorspace, allotments, car parking, sustainable drainage systems, orchards and open space including children's play space. I do not find that case comparable to the appeal proposal before me now.
26. The appellant asserts in their Appeal Statement of Case that the Council currently has a shortfall in housing supply. Nevertheless, even if the housing land supply were deficient, paragraph 11 d) i. of the Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, permission should be granted unless the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed. Under footnote 7 of the Framework areas at risk of flooding are included as a consideration in this respect. The balancing exercise identified under paragraph 11 d) ii. of the Framework is not therefore engaged in this case.

Conclusion

27. The proposal would conflict with the development plan as a whole, and there are no other considerations of sufficient weight, including the provisions of the Framework, which would outweigh this finding. I therefore conclude that the appeal is dismissed.

G Dring

INSPECTOR