



Appeal Decision

Site Visit made on 27 April 2021

by Martin Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 May 2021

Appeal Ref: APP/A2525/W/21/3267266

20 Barbers Drove North, Crowland, Peterborough PE6 0BE

- 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 Michael Smith against the decision of South Holland District Council.
 - The application Ref H02-0207-20, dated 28 February 2020, was refused by notice dated 30 November 2020.
 - The development proposed is self-build plot for the erection of a single dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposal on the planning application forms included 'Sale of lower part of our garden as...'. I have removed these words in the description in my banner heading as they are not a description of development.
3. The planning permission is in outline form with all matters reserved. Therefore, the details on the drawings provided in respect of the footprint and layout of the dwelling and the means of access have been considered on the basis that they are indicative only for the purposes of my assessment.

Main Issues

4. The main issues are:
 - (i) the effect of the proposal on the character and appearance of the area;
 - (ii) the effect of the proposal on the living conditions of occupiers of neighbouring residential properties with particular regard to levels of outlook and privacy; and
 - (iii) whether the proposal would be acceptable in terms of flood risk having regard to local and national policy.

Reasons

Character and appearance

5. The appeal site forms part of the rear gardens at No 20 Barbers Drove North, a bungalow situated at the end of a residential cul-de-sac. The site sits parallel with James Road alongside a substantial swathe of open grassed paddock land. Neighbouring dwellings towards this end of Barbers Drove North and those on Harrington Way, which form the backdrop to the site when viewed from James

Road, are also bungalows. Together with the area's relatively flat topography, these factors combine to give a prevailing low-rise and spacious character to the edge of the settlement.

6. The evidence before me indicates that ground levels would need to be raised at least 1.0 metre above existing levels in order to mitigate flood risk. Consequently, there is the potential that as a result of its elevated position the dwelling would appear visually dominant within the context of the relatively consistent ground levels and low-rise built form of the immediate surroundings. Any significant disparities between levels and building heights relative to neighbouring sites would be likely to be particularly evident in views from James Road. Therefore, without detailed drawings to persuade me otherwise, I cannot be certain that the dwelling would not appear incongruous within this prominent settlement edge location.
7. I conclude, the development has the potential to have a significantly harmful effect on the character and appearance of the area. In that regard, the development would conflict with the aims to protect character and appearance in Policies 2 (Development Management) and 3 (Design of New Development) of the South East Lincolnshire Local Plan (2019) (LP).

Living conditions of neighbouring occupiers

8. The bungalows on Harrington Way which back on to the appeal site have relatively shallow rear gardens and have clear glazed main habitable windows facing the site. The rear elevation of the existing dwelling at No 20 and its remaining rear garden also sit in close proximity to the site. Even so, given the overall parameters of the site, I consider it likely that the dwelling could be positioned a sufficient distance from boundaries so as to retain suitable levels of outlook for neighbouring occupiers. It would also be for the appellant to demonstrate through the submission of detailed plans that main habitable windows could be located in positions that would not result in any material overlooking impacts, for example to elevations facing James Road or the neighbouring paddock land.
9. I conclude, the development could retain suitable living conditions for neighbouring occupiers in respect of means of outlook and privacy. In that regard, the development would comply with the requirement for development proposals to have regard to residential amenity in Policy 3 of the LP.

Flood risk

10. Paragraph 155 of the National Planning Policy Framework (the Framework) states amongst other things that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Paragraph 158 of the Framework confirms amongst other things that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding and that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
11. Policy 4 (Approach to Flood Risk) of the LP also seeks to steer development to areas at lower risk of flooding and confirms that the sequential test will be based on a District wide search area of alternative sites, unless local

circumstances relating to the catchment area for the development justify a reduced search area.

12. The appellant's Flood Risk Assessment (FRA) acknowledges that the site is located within Flood Zone 3 and that given a dwelling house constitutes a 'more vulnerable use' that a sequential test must be undertaken. Paragraph 019 of the PPG confirms that only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required.
13. The officer report refers to The South East Lincolnshire Strategic Flood Risk Assessment (March 2017) and suggests that the vast majority of South Holland District is in Flood Zones 2 and 3. Even so, the FRA provided does not apply a search area for alternative sites either within Crowland or the wider District. Therefore, it has not been demonstrated that there are no reasonable available sites at a lower risk of flooding, including for example sites within Flood Zone 2. Therefore, the sequential test has not been passed.
14. The exception test should only be applied if it is not possible for development to be located in zones with a lower risk of flooding. Therefore, the proposal to raise floor levels and put in other flood resilient measures does not overcome the lack of detailed evidence to demonstrate there are no reasonably available sites at a lower risk of flooding. The absence of a specific objection from the Environment Agency or the Internal Drainage Board does not overcome the inappropriateness of the proposal when assessed against the policies of the development plan and the national guidance relating to flood risk.
15. The appellant contends that planning permission was granted in 2010 for the change of use of a garage to holiday accommodation and that flood risk was not mentioned. Whether or not this was the case, I must assess the specific nature of the appeal proposal on its own merits against the current flood risk status of the site and the up-to-date policy and guidance.
16. I conclude that it has not been demonstrated that there are no reasonably available sites in areas at lower risk of flooding. In that regard the development would not be acceptable having regard to the flood risk requirements in Policy 4 (Approach to Flood Risk) of the LP and the Framework.

Other Matters

17. There is no dispute that the Council is able to demonstrate a 5-year housing land supply. Therefore, Paragraph 11d of the Framework is not engaged and the proposal must be determined in accordance with the policies of the development plan unless material considerations indicate otherwise.
18. The Framework recognises the need to provide housing for different groups including for people wishing to commission or build their own homes. The Council has not provided specific details of its housing permissions or details as to whether any of them include appropriate mechanisms to ensure that there are a sufficient number of suitable planning permissions to meet the demand on the self-build register. The provision of 1 self-build dwelling has the potential to make a limited but important contribution towards the housing mix and the need for such plots in the area. However, even if there was a significant unmet need, that in itself would not justify allowing more vulnerable

residential development in Flood Zone 3 where the sequential test has not been passed.

19. The appellant suggests that the dwelling would be an eco-friendly, low energy home. However, no substantive information has been provided in this respect. With regards to the suggestion that there were previously buildings on the site and that the site is brownfield land, Annex 2 of the Framework confirms that residential gardens or land that was previously developed but the remains of the structure have blended into the landscape are excluded from the definition of 'previously developed land'. In any case, these are not matters that would override the harm identified under the main issues.
20. A lack of objection from neighbouring occupiers and any opinion expressed at Officer level as to the acceptability of the proposal are not matters which negate the need for me to have regard to the Council's formal decision and to assess the proposal against the development plan and national guidance.

Conclusion

21. I have found that the living conditions of neighbouring occupiers could be protected. However, the proposal has the potential to result in significant harm to the character and appearance of the area. Furthermore, it has not been demonstrated that there are no reasonably available sites in areas at lower risk of flooding. In these regards the development would conflict with the development plan taken as a whole. There are no material considerations of sufficient weight to indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

M Russell

INSPECTOR