

Appeal Decision

Site visit made on 5 July 2016

by Elaine Worthington BA (Hons) MTP MUED MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 August 2016

Appeal Ref: APP/A2525/W/16/3145296

Adj 60 Spalding Common, Spalding, Lincolnshire, PE11 3AU

- 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 A Moyses against the decision of South Holland District Council.
 - The application Ref H16-1126-15, dated 29 November 2015, was refused by notice dated 18 January 2016.
 - The development proposed is a residential development including off road parking for No. 60 Spalding Common.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this case is whether the proposal represents an acceptable form of development having regard to its flood zone location and the provisions of the National Planning Policy Framework (the Framework).

Reasons

3. The appeal site is an open area of land adjacent to 60 Spalding Common. There are terraces of residential properties to the north and the south. The proposal would introduce a pair of semi-detached houses. The site is located within Flood Zone 3a as identified on the Environment Agency's Flood Risk Maps and has a high risk of flooding from the river Welland. The Environment Agency advises that the main source of flood risk is from a failure of the existing flood defences.
 4. Paragraph 101 of the Framework requires decision makers to steer new development to areas at the lowest probability of flooding by applying a Sequential Test. Planning Practice Guidance (the Guidance) indicates that the aim is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2, applying the Exception Test if required. 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).
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5. The appellant has submitted a Flood Risk Assessment (FRA) which considers the Sequential Test to be passed. The Council raises no objections to the scheme in this specific regard and based on the information before me, I see no reason to come to a different view on this matter.
6. Table 3 of the Guidance (Flood Risk Vulnerability and Flood Zone Compatibility) indicates that 'more vulnerable' uses (such as the appeal proposal) in Zone 3a require the Exception Test. Paragraph 102 of the Framework advises that for the Exception Test to be passed it must be demonstrated that the development provides wider sustainability benefits to the community to outweigh flood risk, and a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and where possible will reduce flood risk overall.
7. The appellant advises that the site is within one of the best districts for water management and the likelihood of flooding is very low. Even so, the hazard mapping contained in the Council's Strategic Flood Risk Assessment (SFRA) advises that the site could experience flood depths of 0.5 to 1.0 metres arising from a breach in the defences during a flood that has a 0.5% chance of occurring in any one year up to 2115.
8. The Environment Agency advises that for more vulnerable residential development in areas with this identified flood risk finished floor levels should be set no lower than 1 metre above existing ground level. The FRA advises that the building would be raised 400 mm above ground level, although the appellant states in his grounds of appeal that the scheme would see the floor levels raised some 600 millimetres above ground level.
9. I appreciate that this is so that the building does not stand substantially higher than the buildings alongside. I am aware that a subsequent application¹ for a pair of semi-detached houses on the site incorporating raised levels has been refused due to its effect on the character and appearance of the street scene and the living conditions of the occupiers of the adjacent property at No 60. I also note that the scheme would incorporate flood mitigation measures including flood resistant external doors capable of withstanding a water height of 1.2 metres. Additionally the sleeping accommodation would be at first floor level and the proposal would be in close proximity to the main road which the appellant advises would not flood and provide an escape route.
10. Nevertheless, the proposal would fail to elevate the dwellings above the predicted future flood depths. As such, it would leave a significant depth of flood water that could inundate the dwellings during the identified flood event. The Environment Agency regards the modelled consequence of a failure in this instance to be significant.
11. The proposal would lead to an increase in the number of dwellings and occupants in an area of high flood risk and I cannot be satisfied that people and property would be kept safe from the identified risk. As such, the proposal has failed to demonstrate that the development will be safe for its lifetime taking into account the vulnerability of its users. Therefore, it does not meet the Exception Test and is contrary to paragraph 102 of the Framework.

¹ H16-0142-16 refused on 6 April 2016

12. Additionally, I have seen nothing to suggest that the proposal would provide wider sustainability benefits to the community that would outweigh flood risk. Although not raised by the Council as a concern, I am mindful that Paragraph 102 of the Framework is clear that both elements of the Exception Test have to be passed for development to be permitted. Whilst I have had regard to the submitted Design and Access Statement, based on the information before me, the scheme presents no particular circumstances in relation to wider sustainability benefits to the local community. This adds to my view that it is unacceptable.
13. The appellant refers to other development sites that have been approved contrary to the advice of the Environment Agency. I am not aware of the full circumstances that led to those developments and so I cannot be sure that they are directly comparable with the appeal scheme. I note from the Council's officer's report that such approvals have been given in locations in the heart of Spalding. I confirm in any event that I have considered the appeal proposal on its individual planning merits and have made my own assessment as to its impacts.
14. I therefore conclude on this issue that the proposal would not represent an acceptable form of development having regard to its flood zone location and the provisions of the Framework.

Other matters

15. The Council raises no specific objections to the scheme in relation to its design or location. The absence of harm in these regards counts neither for, nor against the proposal.
16. The Council confirms it is unable to demonstrate a 5 year supply of deliverable housing sites. However, in terms of the presumption in favour of sustainable development set out at paragraph 14 of the Framework, I am conscious of the advice at footnote 9 which advises that permission should be granted unless specific policies in the Framework (including those locations at risk of flooding) indicate that development should be restricted.

Conclusion

17. For the reasons set out above, I conclude that the appeal should be dismissed.

Elaine Worthington

INSPECTOR