



Appeal Decision

Site visit made on 16 January 2018

by Andrew McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 February 2018

Appeal Ref: APP/E2001/W/17/3183296

Land to the north of 46 Main Street, Paull, East Yorkshire HU12 8AL

- 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 Harry Failey against the decision of East Riding of Yorkshire Council.
 - The application Ref 13/00164/PLF, dated 15 January 2013, was refused by notice dated 2 March 2017.
 - The development proposed is erection of 2 storey dwelling house following demolition of single storey former blacksmiths workshop.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 2 storey dwelling house following demolition of single storey blacksmith's workshop at Land to the north of 46 Main Street, Paull, East Yorkshire HU12 8AL in accordance with the terms of application Ref 13/00164/PLF, dated 15 January 2013, and subject to the conditions set out in the schedule attached to this Decision.

Main Issue

2. The main issue is whether the proposed development would be acceptable with regard to flood risk.

Reasons

3. The appeal relates to an area of land on the west side of Main Street, Paul. At the time of the site visit, the site was overgrown and a small brick building, formerly a blacksmith's workshop, was present on the site. The site is between Nos 44 and 46 Main Street, two residential properties to the north and south. The west boundary of the site is defined by a substantial concrete sea defence wall with a glazed addition on top. The overall structure reaches an approximate height in excess of 2 metres above the ground level of the site.
4. The Council argues that the appellant has not undertaken an adequate sequential test regarding flood risk matters as the submitted information does not accord with the Strategic Flood Risk Assessment (SFRA) and the Councils Flood Risk Guidance Note (the Guide). The Council states that the appellant's indicated area of search, was not sufficiently extensive with regard to assessing other reasonably alternative sites for the proposed development. The Guide identifies that a search for such locations within the sub area of Beverley and the Central sub area would be appropriate. Furthermore, the Council has identified that the proposed dwelling would create residential use on its ground floor which is considered in the SFRA to be a more vulnerable form of development in such a flood risk area. As such, it is advised that development should not be permitted.

Sequential test

5. I have carefully considered the advice set out in the SFRA regarding the area of search relating to the sequential test for reasonably alternate sites. Given that the proposal is for a single dwelling, I find that searching for alternate sites across such a large area as advocated in the SFRA is significantly disproportionate for the scale of development proposed in this case. Furthermore, whilst I consider it inevitable that other sites in various locations outside of high risk flood areas would be found, given the vastness of the sub area, it is also highly likely that these sites would be unreasonably distant from the settlement of Paull.
6. The appellant has identified an area which covers the local parish and surrounding land around Paull as the area of search relating to the sequential test. Whilst this is considerably smaller than the SFRA advises, I have had regard to the local circumstances and material considerations in this case, including the appellant's significant connections to the settlement.
7. Other sites have been identified in the appellant's area of search and I have given due consideration to the reasons presented as to why these have been discarded, including the lack of availability as the sites are not for sale and that their location is within the same flood zone area as the appeal site. I note the Council's point that a wider search area would yield suitable sites. Notwithstanding this, for the reasons set out above, I consider that the appellant's approach to the area of search identified is reasonable and provides a robust evidence base as to why the proposed development is unable to be reasonably developed elsewhere in the Paull area.
8. Having had regard to the above matters regarding the sequential test, I find that the appellant's case and approach to the area of search and the sequential test is reasonable, robust and justified. Whilst not strictly following the advice of the SFRA and the Guide in terms of the area of search, I am satisfied that the appellant's approach has been proportionate to the scale and nature of the proposed development. Furthermore, taking into account the findings of the appellant's sequential test, I find that the proposal cannot reasonably be located in areas with a lower probability of flooding. As such, in my view the sequential test has been passed and therefore, the application of the exception test is justified.

Exception test

9. Paragraph 102 of the National Planning Policy Framework (the Framework) states that a proposal must demonstrate that it provides wider sustainability benefits to the local community that outweigh flood risk. The Framework also states that a site-specific flood risk assessment must demonstrate that the development would be safe for its lifetime and its occupiers and does not increase flood risk elsewhere and, where possible, will reduce flood risk overall. Both elements of the exceptions test have to be passed for development to be permitted.
10. The appellant argues that the proposal would bring sustainability benefits to the community, including the construction of a traditionally styled cottage on a neglected infill site within the Paull Conservation Area (CA) which would complete the street scene sympathetically and enhance the character and appearance of the CA. The proposal would also improve housing affordability, encourage a more efficient use of land, maintain and strengthen the local economy and support a rural settlement.
11. The Council acknowledges that the proposed dwelling would provide some benefits. However, it argues that such benefits would not outweigh the harm resulting from flood risk. Nonetheless, I note that the proposal has the support of the Council

- insofar as its scale, design and materials are concerned and that it is considered to be an acceptable scheme but for its location within the flood risk area.
12. I have had regard to the mitigation measures and flood defences which are now in place in the local area around the appeal site. I have also noted the analysis provided by the appellant's *Flood Risk Assessment (March 2011)* undertaken by East Riding Consultants Ltd, dated March 2011 and the *Flood Risk – Sequential and Exception Test Report (January 2013)* by Ingleby and Hobson Architects Ltd. These documents indicate that the proposed dwelling would be possible on the site with particular design elements incorporated to minimise or mitigate flood risk. These include a minimum height level for the ground floor and satisfactory drainage to ensure no increase in flood risk to the site or adjacent land.
 13. The SFRA advises that development of a more vulnerable nature, such as residential, should not be permitted at ground level in areas with a high probability of flood. As a result, the Council points out that the proposed dwelling has such accommodation identified in its plans. Whilst I acknowledge the advice within the SFRA, I note also that other developments have been permitted by the Council in the local area, close to the appeal site, where residential use has been proposed at ground floor level. I have had particular regard to the development granted at The Mews, 58 Main Street (No.58) which I saw during the site visit.
 14. The scheme at No. 58 is situated less than 100 metres south of the appeal site on the same side of Main Street. As a result, the flood defences are adjacent to the rear of the appeal site. I acknowledge that the full details and circumstances relating to the development at No. 58 are not before me. Furthermore, each proposal must be considered on its own merits. Nonetheless, I note the similarities of the appeal scheme before me and No.58 in terms of location, proposed use and position in relation to the River Humber and its flood defences. Furthermore, I note that the flood defences in the area are likely to have been significantly enhanced since the development at No.58 was approved. Accordingly, such matters are material to the determination of this appeal and I give moderate weight to them.
 15. In light of the above, subject to the measures set out in the appellant's evidence, and in the absence of any substantive evidence to the contrary, I find that the proposal would not result in any significant adverse impact on flood risk in the area. The mitigation measures proposed are achievable and reasonable and I am satisfied that they would be secured through suitably worded planning conditions. Moreover, having regard to the details on the submitted plans, in tandem with the wider flood defences, I am persuaded that the proposed dwelling would be substantially protected in terms of flood risk to the site and its surroundings.

The Planning Balance

16. The proposal would provide many sustainability benefits including a sympathetic addition to the street scene of Paull within its CA, a new dwelling on an accessible brownfield site with good access to local services and facilities as well as the economic benefits that such a development would bring to the local area. Furthermore, the Council have indicated that the proposed development would be acceptable but for the location of the scheme within Flood Zone 3a and, in its view, the failure of the appellant to undertake a sufficiently robust sequential test.
17. The Council has indicated, through its SFRA, that there are reasonably appropriate alternative areas within the wider sub area of Beverley and Paull where the proposal could take place. Notwithstanding this, I find that the appellant has sufficiently demonstrated a proportionate and reasonable approach to the

sequential test and identified that other potentially suitable sites within a reasonable area of search are not available and are located within similar flood risk zone as the appeal site. Furthermore, I find that the flood defence measures which have been put in place in recent years have significantly strengthened the resilience of the appeal site to flood risk and reduced the likelihood of flooding at the site and its immediate surroundings.

18. Therefore, having carefully considered the evidence before me, I find that the flood risk can be managed effectively and proactively through existing flood defences and detailed design features as part of the proposed development. As a result, given the particular circumstances and material considerations in this case, I find that on balance, the benefits of the proposal would outweigh flood risk. As such, the proposed dwelling would constitute an exception case with regard to development in Flood Zone 3a.
19. Consequently, I conclude that the proposed development would be acceptable in terms of flood risk. It would, therefore, comply with Policy ENV6 of the East Riding Local Plan Strategy Document and the relevant sections of the Framework. Amongst other matters, this policy and guidance seeks to ensure that, where possible, development is directed away from areas at a higher risk of flooding. Moreover, where this is not possible, flood risk will be proactively managed.

Conditions

20. I have had regard to the conditions that have been suggested by the Council. Where necessary, and in the interests of conciseness and enforceability, I have altered the suggested conditions to better reflect the relevant parts of the Planning Practice Guidance.
21. In addition to the standard implementation conditions relating to time and accordance with approved plans, there is a conditions relating to the external materials of the development hereby permitted. This is necessary for reasons of character and appearance. A further condition relating to foul and surface water drainage is reasonable and necessary to ensure appropriate drainage is in place for the development. In addition, a condition ensure that mitigation measures detailed in the approved Flood Risk Assessment are undertaken prior to the occupation of the development hereby permitted is necessary in the interests of flood prevention.
22. It is necessary that the requirements of Condition 3 are undertaken prior to the commencement of development to ensure an acceptable development scheme in terms of character and appearance.

Conclusion

23. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed and planning permission is granted.

Andrew McCormack

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 'Drawing No: 1944/02 – General Arrangement as Existing & Location Plan' as received by the local planning authority on 16 January 2013; and
 - 'Drawing No: 1944/02 – General Arrangement as Proposed' as received by the local planning authority on 3 June 2013.
- 3) The development hereby permitted shall not take place until samples of all external facing materials have been submitted to, and approved in writing by, the local planning authority. The relevant works shall be carried out in accordance with the approved details.
- 4) The development hereby permitted shall not be occupied until the approved foul and surface water drainage details have been fully implemented in accordance with 'Drawing No: 1944/20 B', as received by the local planning authority on 3 June 2013. The surface water drainage system shall be managed and maintained in accordance with the approved details.
- 5) The mitigation measures detailed in the approved Flood Risk Assessment prepared by East Riding Consultants Ltd, dated 30 March 2011 and as received by the local planning authority on 16 January 2013, shall be carried out in full prior to the development hereby permitted first being occupied.

END OF SCHEDULE