
Appeal Decision

Site visit made on 22 September 2015

by Paul Freer BA (Hons) LLM MRTPI

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

Decision date: 7 October 2015

Appeal Ref: APP/X1735/W/15/3025963

53 Southwood Road, Hayling Island, Hampshire PO11 9PT

- 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 Mrs Jennie Farmer against the decision of Havant Borough Council.
 - The application Ref APP/15/00008, dated 19 December 2014, was refused by notice dated 9 April 2015.
 - The development proposed is a new two storey house within front garden.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's second reason for refusal relates to the failure of the proposed development to provide a financial contribution towards the Solent Recreation Mitigation Partnership. The Council advises that the required contribution has subsequently been provided in full and that this reason for refusal has been overcome. I have therefore not considered this matter further.

Main Issue

3. The main issue is whether the proposal accords with the Sequential Test in relation to development in areas at risk of flooding.

Reasons

4. The National Planning Policy Framework (Framework) indicates that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk but, where development is necessary, making it safe without increasing flood risk elsewhere. In relation to decision making, the Framework indicates that this translates into an approach whereby local planning authorities should only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment following the Sequential Test, it can be demonstrated that the development is appropriately flood resilient and resistant.
5. The appeal site is located within Flood Zone 2 as identified on the Environment Agency flood zone map. The proposed development, a new dwellinghouse, is classified as a More Vulnerable Use by the Environment Agency. The aim of the Sequential Test is to steer new development to the areas with the lowest probability of flooding. The Planning Practice Guidance advises that, in

applying the Sequential Test, the aim is to steer new development to Flood Zone 1, these being areas with a low probability of flooding. Only where there are no reasonably available sites in Flood Zone 1 should reasonably available sites in Flood Zone 2 be considered.

6. The proposed development is not allocated for housing in a development plan, nor is it a change of use. Neither, in my view, can it reasonably be considered to be a minor development. It follows that the Sequential Test should be applied to the appeal proposal. I have been no provided with no evidence to show that a robust search for reasonably available sites in Flood Zone 1 has been undertaken and that this search revealed no such sites to be available. The proposed development therefore immediately fails to accord with the Sequential Test required by the Framework and the Planning Practice Guidance.
7. I acknowledge that the Environment Agency has raised no objection to the appeal proposal, subject to a condition requiring that it is carried out in accordance with a Flood Risk Assessment and mitigation measures. However, in my view, the requirements of the Environment Agency are designed to ensure that the development is appropriately flood resilient and resistant as part of a second stage of assessment to be undertaken following the successful completion of a Sequential Test. In the absence of a Sequential Test, the proposed development has not reached this second stage of assessment envisaged by the Framework and the Planning Practice Guidance, such that the comments of the Environment Agency do not assume primacy.
8. I note that planning permission has been granted for dwellings elsewhere in Southwood Road and I accept that, on the face of it, the Council's decision to refuse planning permission for the appeal proposal may appear to be inconsistent. However, I have not been provided with full details of these planning permissions and there may have been particular circumstances relating to those sites that led to planning permission being granted but which do not apply to the appeal site. I therefore cannot be certain that the planning permissions granted in relation to other sites in Southwood Road are directly comparable to the appeal proposal, such that they serve as a precedent for it. I have therefore determined this appeal on its own merits.
9. I conclude that the proposal fails to accord with the Sequential Test in relation to development in areas at risk of flooding. I therefore conclude that the proposed development fails to accord with Policy CS15 of the Havant Borough Local Plan (Core Strategy) 2011 which, amongst other things, indicates that development in areas at risk of flooding will only be permitted where it meets the sequential and, where required, the exception tests. The proposed development also fails to accord with the Framework and the Planning Practice Guidance in relation to development in areas at risk of flooding.

Conclusion

10. I acknowledge that the proposed development would provide an additional residential unit in a reasonably sustainable location but the limited benefit in this respect must be viewed in the context that the Council can demonstrate that it has a five year housing land supply. I also note that the Council has raised no other objections to the proposed development. Notwithstanding the concerns expressed by some local residents in terms of matters such as the scale and design of the proposed new house and the safety of the vehicular access onto Southwood Road, I see no reason to take a different view.

Nonetheless, these considerations do not outweigh the fundamental issue in terms of the failure of the appeal proposal to accord with the Sequential Test in relation to development in areas at risk of flooding.

11. Consequently, I conclude that this appeal should be dismissed.

Paul Freer

INSPECTOR