
Appeal Decision

Site visit made on 9 March 2015

by Mr A Thickett BA(Hons) BTP MRTPI DipRSA

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

Decision date: 21 April 2015

Appeal Ref: APP/L3245/A/14/2222756

Land adjacent to 27 Darville, Shrewsbury, SY1 2UG

- 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 Baytown Properties PCC Ltd against the decision of Shropshire Council.
 - The application Ref 13/00626OUT, dated 19 February 2013, was refused by notice dated 29 January 2014.
 - The development proposed is residential development. The appeal application is in outline with all matters bar access reserved for subsequent approval.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development complies with national and local policy regarding flood risk.

Reasons

3. The appeal site comprises a paddock and field running to about 0.1ha between a mid to late 20th century housing estate and the River Severn. A small watercourse runs around the northern boundary of the site between existing houses and the site.
4. According to the Environment Agency's (EA) Flood Map, part of the site is in Flood Zone 2 but most is located in Flood Zone 3 with parts in Flood Zone 3b (functional floodplain). The National Planning Policy Framework (NPPF) seeks to direct new housing away from areas at risk of flooding and sites should not be developed if there are reasonably available sites in areas with a lower probability of flooding. The aim of this sequential test is to steer new development to areas with the lowest probability of flooding. If it is not possible for development to be located in areas at lower risk of flooding then it may be permitted, subject to the exception test being passed. In short, this requires the development to provide wider sustainability benefits to the community which outweigh flood risk and to show that it will be safe for its lifetime without increasing flood risk elsewhere and where possible reducing flood risk overall.
5. For the purpose of assessing flood risk, National Planning Policy Guidance (PPG) defines housing as 'more vulnerable' and indicates that such

- development should not be permitted in Flood Zone 3b. Housing may be permitted in Zone 3a subject to an exception test.
6. The appellant's contention that the site has never flooded is supported by the former Chief Executive of the Council and by a signed affidavit from someone who has kept horses on the site since 2003. However, local residents report that the site has flooded.
 7. The appellant's consultants consider that those parts of the site in Flood Zones 2 and 3a could be developed subject to raising floor and ground levels. However, the Environment Agency consider the appellant's flood risk assessment to be flawed stating; *'The proposed site is located entirely within the modelled 100 years plus climate change flood extent and based on topography would flood to depths of approximately between 0.84m and 2.89m. The Appellant has failed to consider this'*. I am not confident that I am able, from the information submitted, to reach a firm conclusion as to whether the appellant's consultant's proposals would ensure that prospective residents would be safe for the lifetime of the development. In the absence of such confidence, I cannot find in favour of the scheme before me.
 8. Further, as stated above, before one can apply the exception tests, one must, in this case be satisfied that it is not possible, consistent with wider sustainability objectives, for new housing to be located in areas with a lower risk of flooding. The Council's Shropshire Site Allocations and Management of Development plan is currently being examined. The plan identifies Shrewsbury as the primary focus for new development in the county and supports development within its boundaries.
 9. However, it also acknowledges that there are significant constraints, including flooding associated with the River Severn. The appellant argues that there are no better, available sites in this part of the town but I have seen nothing in the PPG to justify limiting a sequential search to only part of the town. The Council argues, reasonably in my view, that the sequential test should cover all the town and that there are likely to be other deliverable sites identified in the emerging Site Allocations plan which are at a lower risk of flooding. I do not have the evidence before me to conclude that there are no sequentially preferable sites available to meet the town's housing needs and it seems to me that the Site Allocations plan is the appropriate vehicle to carry out this assessment.

Conclusions

10. My attention is drawn to permissions granted on adjoining sites in 2008 but neither were subject to objection from the EA and both are prior to the NPPF and the latest guidance on flooding.
11. For the reasons given above and having regard to all matters raised, I am not satisfied that there are no sequentially preferable sites or that the proposed development would be safe for its lifetime. I conclude, therefore that the proposal conflicts with Policy CS6 of the Shropshire Local Development Framework: Adopted Core Strategy 2011 and national policy as set out in the NPPF and PPG and that the appeal should be dismissed.

Anthony Thickett

Inspector