
Appeal Decision

Site visit made on 26 May 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2020

Appeal Ref: APP/L3245/W/19/3242657

Land to the south of Knockin Heath, Shropshire

- 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 Shropshire Rural Housing Association against the decision of Shropshire Council.
 - The application Ref 19/00564/FUL, dated 4 February 2019, was refused by notice dated 3 September 2019.
 - The development proposed is erection of 5 no affordable dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the address of the appeal site from the Council's decision notice as it is absent from the planning application form.
3. The appellant has submitted a signed Unilateral Undertaking (UU) stating that all of the properties will be affordable rented dwellings. I return to this matter later on.

Main Issue

4. The main issue is whether the appeal site provides a suitable location for the proposed development with regard to the risk of flooding.

Reasons

5. Based on the Environment Agency flood maps and the submitted Flood Risk Assessment (FRA) areas of the site fall within Flood Zones 2 and 3. The submitted layout shows that plots 3, 4 and 5 would be located within these flood zones.
6. Flood Zones 2 and 3 represent a medium to high probability of flooding. Paragraph 155 of the National Planning Policy Framework (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing it away from areas at highest risk. In areas that are known to be at risk from flooding, the Framework sets out that a Sequential Test should be applied to development proposals. It states that the overall purpose of the Sequential Test is to steer new development to areas with the lowest probability of flooding. The Planning Practice Guidance (PPG) advises that the area to apply the Sequential Test across will be defined by local

- circumstances relating to the catchment area for the type of development proposed.
7. The appellant has undertaken a Sequential Assessment. In this particular case, the appellant has considered the settlements of Kinnerley, Maesbrook, Dovaston and Knockin Heath which are identified as a community cluster in the Shropshire Core Strategy (2011) (CS) and an area for future housing growth. The study area seems to me to be an appropriate one given the type and scale of the proposal.
 8. However, the assessment, in my view, is limited in scope. It only considers sites that are either allocated for housing in the CS or sites that have been subject of planning applications. Of the sites identified that benefit from planning permission the assessment sets out they have either been built out or that it is unlikely that market housing sites would be sold at a reduced value to a housing association.
 9. Whilst these sites have been considered the assessment does not contain an objective analysis of other sites, either greenfield or brownfield, across the community cluster that lie within Flood Zone 1, regardless of whether they have been presented by landowners or the Parish Council. I am therefore not satisfied that there are no reasonably available sites for the proposed development in areas at a lower risk of flooding particularly considering the Council's more flexible approach towards the location for affordable housing.
 10. Whilst the flood mitigation and safety measures proposed in the FRA may demonstrate the proposal could be made safe it does not negate the need to consider alternative locations with a lower probability of flooding. The proposal would not pass the requirements of the sequential test. It therefore follows that I do not need to consider the provisions of the exceptions test although I acknowledge one has been submitted.
 11. Taking all of this into account the proposed development would conflict with Policy CS18 of the CS which, amongst other things, requires new development to be safe, taking into account its lifetime and the need to adapt to climate change. It would also be contrary to paragraph 158 of the Framework which sets out that the aim of the Sequential Assessment is to steer new development to the areas with lowest risk of flooding.

Other Matters

12. I acknowledge there may well have been considerable discussions between the site landowner and the appellant regarding the proposal and that there is a need for affordable properties in the area. I also acknowledge that the site may not be suitable for farming, that other site constraints including impact on trees have been addressed and that the development would be sympathetic to local character. However, these either individually or cumulatively do not outweigh my concerns in relation to the main issue.
13. I note the appellant's comments that no reference was made in relation to flood risk during the course of a previous planning application at the site. However, every application and appeal must be considered on its own merits, which is what I have done, and has not led me to reach a different conclusion on the main issue.

14. A Unilateral Undertaking has been submitted setting out that the development would be affordable rented dwellings. However, consideration of that matter would not affect my findings on the main issue, and the appeal would in any case be dismissed, thus it is not necessary for me to consider this any further.

Conclusion

15. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR