



Appeal Decision

Hearing held on 8 April 2014

Site visit made on 8 April 2014

by I Radcliffe BSc(Hons) MCIEH DMS

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

Decision date: 13 May 2014

Appeal Ref: APP/E2001/A/14/2212584

Land to the rear of 16 Hornbeam Drive, Cottingham, North Humberside HU16 4RU

- 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 Mr Peter Robinson against the decision of East Riding of Yorkshire Council.
 - The application Ref DC/13/02974/STOUT/STRAT PP-02835062, dated 5 September 2013, was refused by notice dated 17 January 2014.
 - The development proposed is 25 dwellings including means of access.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application was submitted in outline, with only access to be determined at this stage. I have dealt with the appeal on that basis and I have taken the illustrative plans that have been submitted into account insofar as they are relevant to my consideration of the principle of the development on the appeal site.

Main Issues

3. The main issues in this appeal are;
 - whether the location of the proposed development would be in accordance with the development plan for the area; and,
 - whether the proposal would comply with the spatial strategy of the National Planning Policy Framework (the Framework) and the development plan in terms of minimising flood risk.

Reasons

Development plan

4. The development plan for the area consists of the saved policies of the Beverley Borough Wide Local Plan (adopted in 1996) and the Joint Structure Plan for Kingston upon Hull and the East Riding of Yorkshire. The National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG) issued on 6 March 2014 are material considerations in this case. I have taken both into account.
5. Policy E2 of the Local Plan identifies that land outside the development limits of settlements for planning purposes is within the open countryside. In order to protect the open countryside policy E3 restricts new development to agriculture and certain other compatible uses. The justified reasoning to policy E2

explains that in order to be acceptable beyond these limits new housing must be affordable. Given that the appeal site lies outside the development limits of Cottingham, and only a portion of the housing proposed would be affordable, the proposed development would not comply with these policies. Policies E2 and E3 of the Local Plan are in principle broadly consistent with the Framework. As a consequence, although these policies were formulated some 18 years ago, in accordance with paragraphs 211 and 215 of the Framework, the weight that should be attached to them should not be materially reduced.

6. The thrust of policies E2 and E3 of the Local Plan are carried forward into policy S4 of the Proposed Submission Strategy Document (PSSD). This document forms part of the emerging East Riding Local Plan. In the draft Policies Map which accompanies the PSSD the appeal site remains outside the settlement limit for Cottingham and within the open countryside. The PSSD has been prepared in light of the Framework and has been subject to public consultation. The Council advised that it is being used for development control purposes and will be submitted for examination in summer this year. The plan is therefore at a reasonably advanced stage. Whilst there have been objections to the Local Plan I therefore attach some weight to policy S4.
7. Taking all these matters into account, I therefore conclude that the proposed development of housing would be contrary to the development plan and policy S4 of the PSSD. In the interests of sustainable development and protection of the countryside these documents strictly limiting housing outside the development limits of settlements.

Flooding

8. The main source of flood risk to the site comes from the tidal River Humber. There is also a risk from surface water flooding. The Framework is an important material consideration. Paragraph 101 of the Framework states that development should not be permitted if the Sequential Test demonstrates that there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Sequential Test should therefore be applied to proposals for new development. As policy ENV6 of the PSSD is consistent with the approach of the Framework I attach significant weight to it.
9. The starting point for applying the Sequential Test is the Strategic Flood Risk Assessment (SFRA). In the absence of a SFRA covering Cottingham it is common ground that the Environment Agency Flood Map should be used. I concur with that assessment. The Flood Map for the area places the appeal site in Flood Zone 3. This is the zone with a high probability (1 in 100 or greater annual probability of flooding).
10. In terms of defining the area to which the Sequential Test should apply normally this is the whole of the Local Authority area. This is because this is the area over which housing land supply is assessed. However, the East Riding is particularly large. Cottingham was proposed as an alternative. As a small settlement though it is not a large enough area in my judgement for the application of the test. As a consequence, I consider that the test should be applied to the Beverley and Central Sub Area in which the appeal site is located. The Council stated that there are housing sites currently available for more than the twenty five dwellings proposed in lower flood risk zones within this Sub Area. The appellant did not refute this assertion. As a consequence, I find that the housing proposed could be located in a zone with a lower probability of flooding. Development of the appeal site for housing therefore

would be contrary to the strategy of the Framework which directs development away from areas at highest flood risk.

11. The appellant has carried out a site specific flood risk assessment for the site. It indicates that subject to some flood mitigation measures the site is suitable for the proposed development. Nevertheless, as there are other available sites with a lower probability of flooding the proposed development would be contrary to the Framework.
12. A planning permission for housing development on Dunwells Road (ref 10/03012/STPLF) within a flood zone higher than zone 1 was referred to at the hearing by the appellant. However, it is an established planning principle that each application is decided on its merits. In this case the site was previously developed land and the Council considered the housing scheme to be enabling development. As a consequence, it is not directly comparable to the proposal in this appeal. The existence of this permission therefore has not altered my finding in relation to this issue.
13. For all of these reasons, I therefore conclude that the proposed development would fail to minimise flood risk by locating new housing development in an area of higher flood risk, contrary to the Sequential Test. As a consequence, it would be contrary to the spatial strategy of the Framework in relation to flood risk and policy ENV6 of the PSSD.

Other matters

Housing land supply

14. Paragraph 47 of the Framework advises that Local Planning Authorities should have sufficient deliverable sites to provide 5 years of housing against their housing requirements. I have assessed the issue of housing land supply on the basis of the evidence and information that I have received in relation to this matter.

Housing requirement

15. The last independently tested figure for the housing requirement is that contained within the revoked Regional Spatial Strategy. Its annual requirement of 1050 dwellings a year was set some time ago. It is common ground that this target is now out of date.
16. In preparing the emerging East Riding Local Plan the Council assessed its housing requirement through its Local Housing Study (2014). It used the Department for Communities and Local Government (DCLG) 2008 household projections as a starting point for estimating the overall housing need. This was updated by the results of the 2011 census and the 2011 based interim household projections. Various scenarios relating for example to employment and affordable housing were taken into account.
17. The baseline DCLG and census data only looks forward 10 years and reflects the housing downturn that occurred towards the end of the last decade. As a consequence, this data may well significantly underestimate the housing requirement. However, a significant part of the East Riding is within the Hull Market Area. In preparing its Local Plan the Council has a duty to co-operate with Hull City Council in relation to, amongst other matters, housing provision. There is a need to regenerate housing within Hull. Adopting a housing requirement towards the high end of the housing scenarios would prejudice such regeneration and would be opposed by the City Council. An annual target of 1400 homes has therefore been proposed by the East Riding of Yorkshire

Council. The Homes and Communities Agency and Hull City Council support this target.

18. Taking all these matters into account, I therefore consider that an annual requirement of 1400 dwellings is the target that best complies with the requirements of the Framework and the advice of PPG.

Housing supply

19. In calculating the housing supply the Council have sought to address any shortfall over the first 5 years of the plan and included a 20% buffer for persistent under delivery. For sites with planning permission a 20% or greater discount has been applied to account for non deliverability. On this basis the Council estimate they have a 7.3 year housing land supply.
20. The housing supply has been calculated using allocations within the Proposed Submission Allocation Document (PSAD), existing Local Plan allocations, sites with existing planning permission and an allowance for windfalls. In accordance with paragraph 31 of PPG on 'Housing and economic land availability assessment' sites that do not have planning permission, or have not been allocated for housing in the development plan, can be included in the assessment of housing land supply. Over 6,000 dwellings in the PSAD have either been granted planning permission, or permission has been deferred with delegated powers to approve, are at the planning applications stage or are expected to reach the planning application stage imminently.
21. The only site specific criticisms about deliverability of the PSAD related to two sites to the south of Beverley. The concerns are that the sites are in multiple ownership, objections have been made and the build out rate is too ambitious. However, on the basis of the progress to date, I consider that it is reasonable that these sites have been included. Furthermore, on the basis of the progress to date it is likely that they will deliver housing at the rates envisaged, or at rates close to them. In the absence of specific details I attach little weight to the general criticism that a lack of infrastructure will hold back the housing development envisaged.
22. The Council has carried out work reviewing the sites that contribute towards its housing land supply. On the basis of this work robust up to date evidence of the deliverability of these houses has been provided. For all of the reasons given, I therefore conclude that the Council has a housing land supply in excess of five years.

Sustainability

23. In relation to sustainability, the appeal site is located within convenient walking distance of the town centre which has a range of shops, services and facilities. It also has good access to public transport. The housing scheme in helping to address housing need and in providing some affordable housing would also have social benefits. In terms of the economy, new development would support growth during construction. The New Homes Bonus would contribute money that could be spent on local services and facilities. The increase in population would also boost the spending power of the local economy. However, environmentally the appeal scheme would fail to minimise flood risk as the new housing development would be located in an area of higher flood risk, contrary to a specific policy of the Framework. I therefore conclude, based on the overall balance of considerations, that the scheme would not constitute sustainable development within the meaning of the Framework.

Other planning permissions

24. In support of the appeal reference was made to two housing developments for which permission was granted outside Cottingham's settlement boundary. One scheme was for five houses (PSAD ref COT-A) shown on Plan B. The second scheme was for a single dwelling at Clayhall Farm, Northmoor Lane. In relation to the former, this site is further from the centre of Cottingham than the appeal site. However, at a distance of 2.25km it is still within reasonable cycling distance. More importantly though, it is within a lower risk Flood Zone. This development is therefore materially different to the appeal scheme. In relation to the latter development, no other details were provided. On farms new agricultural workers dwellings and residential conversions of disused buildings can often be supported as an exception to the general policy of restraint on new houses in the countryside. The permissions referred to therefore do not alter my assessment of the proposed development.

Highway safety

25. The proposed access would have good visibility of oncoming traffic in both directions. There would also be good enough visibility between it and the nearby footpath. As a consequence, pedestrians and vehicles using the access would not to come into conflict. The proposed access would therefore be safe.

Overall Conclusions

26. As the Council has a five year supply of housing land the policies of the development plan that govern housing supply in and around villages, such as policies E2 and E3 of the Local Plan, should be considered to be up to date. The location of the proposed development would be contrary to these policies which are broadly consistent with the Framework. This is a consideration that weighs heavily against the proposal. It would also be contrary to policy S4 of the PSSD which forms part of the emerging Local Plan.
27. The Framework states that housing proposals should be considered in the context of the presumption in favour of sustainable development. The site is in a sustainable location and the development would have social and economic benefits. However, the location of the proposed development in the open countryside would not accord with the development plan. Furthermore, I consider that any presumption in its favour is significantly and demonstrably outweighed by the harm that would be caused by its location in an area of high flood risk.
28. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Ashworth	Spawforths
Mr Poyser	ARP Associates
Mr Robinson	appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Lancaster	East Riding of Yorkshire Council
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INTERESTED PERSONS:

Councillor Slater	Ward Councillor, Cottingham South
Mr Beardshaw	Action group for the Protection of the Paddock
Mr Watson	local resident
Mr Woodward	local resident
Mr McColgan	local resident
Mr Collins	local resident

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Letter detailing the time, date and location of the hearing, together with a list of persons notified.
- 2 Update to the position with applications on proposed allocation sites, East Riding of Yorkshire Council (31/03/14).
- 3 Policy S4 of the Proposed Submission Strategy Document, East Riding of Yorkshire Local Plan.

PLANS SUBMITTED AT THE HEARING

- A East Riding Local Plan Draft Policies Map: Part 1.
- B Aerial plan of Cottingham showing the appeal site, village centre and site COT 28 (COT-A).