
Appeal Decision

Site visit made on 4 October 2016

by H Porter BA(Hons) PGDip IHBC

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

Decision date: 4 November 2016

Appeal Ref: APP/D0121/W/16/3154548

5 Patch Croft, Clevedon, North Somerset BS21 5HT

- 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 S Edwards against the decision of North Somerset Council.
 - The application Ref 15/P/2614/F, dated 30 October 2015, was refused by notice dated 9 May 2016.
 - The development proposed is erection of a new dwelling and demolition of existing garage and outbuildings.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the appeal proposal would provide wider sustainability benefits that outweigh the flood risk.

Reasons

3. The appeal site is situated in a quiet cul-de-sac within a late 20th century suburb of Clevedon. The local topography is flat and low-lying, in an area identified within the site-specific Flood Risk Assessment (FRA) as Tidal Flood Zone 3a. As such, the development site is classified as being more vulnerable to flooding; however the presence of flood defences reduces the level of risk.
 4. The proposed development would consist of demolishing the existing garage and introducing a two-storey detached dwelling on the relatively generous garden plot that extends to the side of 5 Patch Croft. The Sequential Test indicates that there are no reasonably available sites for the proposed development in areas with a lower probability of flooding. This is not a matter in dispute. The second part of the Exceptions Test is met because the proposed development has satisfied the Environment Agency's (the EA) advice on flood resilient construction. Irrespective of how slight the potential increase to flood risk, or the comparative increase in built footprint, the proposed development must also provide wider sustainability benefits to the community that outweigh the flood risk.
 5. There is some contention over whether or not North Somerset is currently able to demonstrate a 5-year housing land supply. In other circumstances, a deficit could render policies that seek to restrict the supply of housing as being not up-to-date. However, irrespective of whether or not a 5-year supply of housing
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land can be delivered, even where development plan policies are out-of-date, development should be restricted in areas at risk of flooding¹. This is a material consideration to which I attach significant weight.

6. I note the appellant's point that the proposed development has potential to offer use as a small office, or an affordable dwelling. The probability of such benefits is reduced by the lack of substantive evidence before me to indicate that either type of accommodation would materialise. A lack of harm, in terms of character and appearance, or to protected species, is a neutral benefit. While not counting against the proposed development, these aspects do not weigh in its favour.
7. Paragraphs 2.1 and 3.1 of the updated Sequential Test report states "...land containing redundant residential garden and outbuildings is not considered as being already developed". While the appellant considers the proposal would be a windfall site, paragraph 48 of the NPPF says windfalls should not include residential gardens. I therefore do not agree that the appeal site constitutes previously developed land.
8. Notwithstanding the above, the proposal would deliver one unit of accommodation in a sustainable location inside the settlement boundary. Economic benefits would arise during the construction phase, and an additional family home would make a small social benefit and contribute to the vibrancy of local services. Such benefits are afforded a modest degree of weight in favour of the scheme, comparable with those of any new residential dwelling. When weighed in the balance of the wider sustainability benefits to the community that are necessary to pass the first strand of the Exception Test, however, the bearing of such benefits would be marginal.
9. There is evidence to suggest that the proposed dwelling could generate around 10% of its energy via renewables. Whilst lessening the impact of the proposed development, it would not sufficiently contribute towards mitigating or adapting to climate change. The environmental dimension of sustainable development would therefore not be met.
10. The Council's publication, 'Development & Flood Risk Issues', February 2016, has been co-signed by the EA. I have attributed moderate weight to this publication as an up-to-date expression of the type of circumstances that would constitute wider sustainability benefits to the community. The appeal proposal falls within the example of circumstances that are 'very unlikely' to provide such benefits. In consideration of this, and the factors above, I conclude that the development would fail to provide the wider sustainability benefits necessary to meet the first test in paragraph 102 of the NPPF.
11. In failing to comply with national policy relating to flood risk, the appeal proposal conflicts with Policy CS3 of the North Somerset Core Strategy, adopted April 2012, and Policy DM1 of the North Somerset Development Management Policies Sites and Policies Plan Part 1, adopted July 2016. These policies sit closely with the policies in the NPPF, which require both elements of the Exception Test to be passed for development to be permitted; owing to their degree of consistency I have afforded them considerable weight in reaching my decision.

¹ National Planning Policy Framework, March 2012 (the NPPF) paragraph 14, footnote 9

Other matters

12. My attention has been drawn to planning permission that was granted in a high flood risk area in Clevedon. While I note the argument, consent was granted in 2008, prior to the adoption of the NPPF and Core Strategy and consequently in a very different policy context. I also note that the development was for 14 dwellings. I consider this scheme, and the wider benefits it offered, to be substantially different from the appeal proposal. I therefore do not consider it provides a compelling precedent to the proposed development, which I have sought to assess on its own particular merits.
13. I agree with the appellant that the appeal decision referred to by the Council covers different main issues, and the nature of the development proposed differentiates this previous decision from the appeal proposal. This decision has therefore had little bearing on my overall conclusion.

Conclusion

14. For the reasons given above and considering all matters raised, I conclude the appeal should be dismissed.

H Porter

INSPECTOR