
Appeal Decision

Site visit made on 1 December 2016

by AJ Steen BA (Hons) DipTP MRTPI

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

Decision date: 28 December 2016

Appeal Ref: APP/J2210/W/16/3157263

14 Broad Oak Road, Canterbury, Kent CT2 7PW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Philip Wilson against Canterbury City Council.
 - The application Ref CA/16/00248/FUL is dated 29 January 2016.
 - The development proposed is a modern, two storey, three bedroom dwelling complete with double garage, parking for 2 cars, storage for cycling and refuse. External raised terrace to rear.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the emerging Canterbury District Local Plan (emerging LP) has been published but I am not aware of the exact stage it has reached and the extent of outstanding objections or whether the policies concerned will be considered as consistent with the Framework. Consequently, I am only able to give it limited weight in my decision.
3. I have removed reference to the merits of the case that I shall consider further in my reasoning.
4. The Council has confirmed that had it determined the planning application it would have been refused. The Council's concerns relate to the effect of the development on flood risk.

Main Issue

5. The main issue is the effect of the proposed dwelling on flood risk.

Reasons

6. The site is located within an area identified by the Environment Agency as being within Flood Zone 3, at risk of flooding from the river to the rear of the site. Paragraph 103 of the National Planning Policy Framework (the Framework) requires a site-specific flood risk assessment be prepared following the sequential test for proposed development within areas at risk of flooding. The sequential test aims to direct development away from areas at highest risk of flooding.
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7. I note that a flood risk assessment has been submitted in support of the development, but this does not contain a sequential test. Paragraph 101 of the Framework states that the sequential test should identify whether there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. I understand that the appellant has searched a number of internet sites and with local estate agents for development land in the vicinity. These have not identified reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. However, the extent of the search is not clear in terms of geographical location or types of sites, including both single development plots and larger development sites. Consequently, I do not consider that this search is sufficient to meet the requirements of the sequential test.
8. On the basis of the above, I must conclude that the development would have an unacceptable effect on flood risk and would conflict with the Framework that requires a sequential test be carried out.
9. The Council have referred to Policy C32 of the Canterbury Local Plan (LP) that states development will not be permitted within the Flood Zones 2 and 3 unless an exceptional justification can be demonstrated. This pre-dates the Framework and does not refer to the sequential test, so I consider that it can only carry limited weight, in accordance with paragraph 215 of the Framework.
10. I note that the Environment Agency and Council do not raise objection to the exception test contained within the flood risk assessment, that it is claimed no past flood events have affected the site and examples of schemes elsewhere have been provided with similar solutions to flood risk as proposed. However, this does not overcome the lack of sequential test within an area shown as being at risk of flooding as required by the Framework.

Other matters

11. The appeal site is located on a busy route into the centre of Canterbury, close to various services and facilities, including education, shops and recreational facilities. The proposed development would contribute a three bedroom dwelling to the supply of housing and I note that the design would be innovative in seeking to meet the constraints of the site in this prominent location. The Council do not raise any objection to the design of the dwelling in relation to its effect on the character and appearance of the surrounding area and I see no reason to disagree with their conclusion in this regard. I understand that it is intended to be safe, environmentally friendly, innovative, economically viable and robust and I note the contents of the various specialist reports. However, none of these matters would outweigh the policy conflict that I have identified.

Conclusion

12. For the above reasons and taking into account all other matters raised, I conclude that the appeal should be dismissed.

AJ Steen

INSPECTOR