
Appeal Decision

Site visit made on 4 January 2017

by Michael Boniface MSc MRTPI

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

Decision date: 11th January 2017

Appeal Ref: APP/D5120/W/16/3158401
20 Hartlands Close, Bexley, DA5 1RL

- 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 John Tutchings against the decision of the Council of the London Borough of Bexley.
 - The application Ref 15/01941/FUL, dated 26 August 2015, was refused by notice dated 16 May 2016.
 - The development proposed is the construction of a two storey house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the development would be at risk of flooding, or likely to increase the risk of flooding elsewhere; and the effect on the character and appearance of the area.

Reasons

Flood risk

3. Policy CS08 of the Bexley Core Strategy (2012) (CS) seeks, amongst other things, to manage flood risk. Specifically, it requires a sequential approach to site selection in line with the National Planning Policy Framework (the Framework).
4. The site falls within flood zones 1 (low probability), 2 (medium probability) and 3 (high probability) and the drawings provided (specifically 1274/14) suggest that the proposed dwelling would be sited partially within all 3 zones. Residential development should only be permitted within flood zones 2 and 3 where there are no sites available at lower food risk. It is always necessary for the sequential test to be passed before proceeding to more detailed assessment.
5. Paragraph 101 of the Framework confirms that the aim of the sequential test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. There is no evidence before me to suggest that alternative sites have been robustly considered and the appellant accepts that

there may well be sufficient land available within flood zone 1¹. It seems to me that this is highly likely, particularly as the Council states that it has identified sufficient suitable sites to meet its housing requirements such that there is no imperative need to allow development in an area at risk of flooding.

6. Therefore, the sequential test is not passed and it is not necessary or appropriate to go on to consider the detailed Flood Risk Assessment (December 2015) and associated documents accompanying the application. Whilst I note that no objection is raised by the Environment Agency or the Lead Local Flood Authority, neither body references the sequential test requirements of the Framework and its application is ultimately the responsibility of the decision maker.
7. I have had regard to the appellant's view that no residual flood risk would result but this is based on a series of mitigation measures including raising the floor levels of the dwelling and lowering the level of the garden to compensate lost flood storage capacity. Such measures can be effective but should not be relied upon where there are alternative sites available at a lower risk of flooding.
8. The development would be at risk of flooding, or likely to cause flooding elsewhere. As such, the development would be in conflict with Policy CS08 of the CS and Part 10 of the Framework.
9. I have had regard to the previous extension granted planning permission by the Council but this is no longer extant and so I attach it little weight. In any case, the extension was not comparable to the proposed development in terms of its size and siting, nor would it have introduced a separate and independent dwelling with the attendant risks to its occupants'. I also concur with the Council's reasoning at paragraph 3.3 of its appeal statement, that the examples of other development granted planning permission by the Council are not comparable to the current appeal proposal.

Character and appearance

10. The site forms the side garden of an existing dwelling which currently provides a spacious aspect between Hartlands Close and Finsbury Way. It is notable that buildings are set well away from Finsbury Way in the vicinity of the site and this adds to its openness, particularly with the greenery of the Shuttle River bank on the opposite side.
11. The Council suggests that the garden areas to the side of properties were designed to maintain the openness along the river corridor but no evidence is submitted to support this view and there appears to be no condition or other mechanism requiring the gardens to remain open and undeveloped. Indeed, the site is enclosed by a boundary fence and a tall hedgerow. Similar boundary treatments are notable around other properties adjacent to Finsbury Way and although the large gardens continue to contribute to a feeling of spaciousness it is clear that they are private gardens as opposed to public spaces.
12. A good sized landscape buffer would be maintained along the boundary with Finsbury Way as part of the development and this would, in my view, be sufficient to maintain the spacious character of the area, including from the banks of the river which is set at a lower level and screened by intervening

¹ Page 7 of appeal statement

hedgerow planting. Some views towards the playing fields to the East might become partially obscured but these effects would be limited given the strong visual relationship that would be achieved with existing properties on Hartlands Close. Introduction of the proposed dwelling would not harmfully diminish the open and spacious character of the area. Furthermore, the building line along Finsbury Way varies and I do not consider that the proposed building would appear overly prominent or incongruous.

13. The development would not harm the character and appearance of the area. As such, I find no conflict with Policies ENV39, H3 and H8 of the Unitary Development Plan (2004) which require a high standard of design that maintains the character of the street scene, including the spaces around buildings; or Policy CS05 of the CS which has similar design objectives.
14. I have had regard to the previous appeal decision on the site for a boundary fence in 1999 which was dismissed due to its effect on the character and appearance of the area. However, I have already noted that the proposed dwelling would be set away from the boundary and the previous decision has little bearing on my conclusions. I have determined this appeal on its own merits.

Other matters

15. I recognise that the development would make efficient use of the site and that the proposed dwelling would make a small contribution to the housing land supply in the area but these matters do not outweigh the harm that I have identified with regard to the first main issue.

Conclusion

16. Whilst I have found that the development would not harm the character and appearance of the area, it would be at risk of flooding or lead to flooding elsewhere by virtue of non-compliance with the sequential test.
17. In light of the above, and having considered all other matters, the appeal is dismissed.

Michael Boniface

INSPECTOR