
Appeal Decision

Site visit made on 28 February 2017

by R W Allen B.Sc PGDip MRTPI

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

Decision date: 07 April 2017

Appeal Ref: APP/D3505/W/16/3165464

7 Tally Ho Corner, Stratford St Mary, Colchester, Essex CO7 6JJ

- 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 Christopher Cousins against the decision of Babergh District Council.
 - The application Ref B/16/01007/FUL/MECO, dated 21 July 2016, was refused by notice dated 28 September 2016.
 - The development proposed is erection of a two-storey 3 bed house with off road parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the proposed development would be at risk from flooding or increase flood risk elsewhere; and
 - The effect of the proposed development on highway safety.

Reasons

Character and appearance

3. Tally Ho Corner on its eastern and northern sides comprises similarly designed and modestly sized two-storey semi-detached dwellings. Many have single-storey flat roof attachments to the side, and the gaps between these properties at first floor level allows views of the wider locality to be readily appreciated, such that they positively contribute to the area's open and pleasant feel. I also observed that properties in this area including Nos 14 to 19 Tally Ho Corner feature rather steep pitched roof designs. The host property No 7 Tally Ho Corner is linked detached; nonetheless is consistent in design and scale with its neighbouring dwellings.
 4. I have no in-principle concerns with the adoption of a steeped pitched roof design for the property. However, the roofs in this case would be considerably sized, which would accentuate its overall scale and height resulting in a notably taller, visually dominant, and out of scale dwelling with surrounding properties.
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It would offer little in the way of visual relief through the plot, and it would significantly erode the open space between the gap between Nos 6 and 7 Tally Ho Corner, in which views of the proposed property and its roofs would be unduly obvious and unavoidable.

5. For these reasons, I find that the proposed property would substantially depart from and cause significant harm to the character and appearance of the area. The proposed development would not accord with policies CS1 and CS15 of the Babergh Local Plan 2011-2031 Core Strategy and Policies 2014 (Core Strategy) or with saved policies CN01 and HS28 of the Babergh Local Plan Alteration No.2 2006 (Local Plan). These state that the Council will take a positive approach that reflects the presumption in favour of sustainable development; that proposals for development must protect and enhance the built environment and reflect local context and character by respecting the streetscape and making a positive contribution to local character; and that development infilling will be refused if the proposal represents overdevelopment and that the layout and scale would be detrimental to the locality and be out of keeping with adjacent dwellings.

Whether at risk from flooding

6. Paragraph 100 of the National Planning Policy Framework (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from the areas at highest risk of flooding, identified by footnote 20 as Flood Zones (FZ) 2 and 3. Development in such areas must be subjected to a Sequential Test. Paragraph 101 identifies the aim of the Sequential Test as being to steer new development to areas with the lowest probability of flooding, which footnote 20 identifies as FZ 1, and that 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.
7. The main parties do not dispute that the Environment Agency flood risk maps identify the appeal site lies within a FZ 2 area, and the appellant's site-specific Flood Risk Assessment identifies that the appeal site at particular risk from fluvial flooding. I am satisfied that a Sequential Test is therefore necessary in this case irrespective of whether the appeal site sits above the flood level, as suggested by the appellant.
8. Paragraph 033 of the Planning Practice Guidance (the Guidance) (*Ref ID: 7-033-20140306*) states that for individual planning applications, the area of which to apply the Sequential Test will be defined by local circumstances; and that when applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. Paragraph 034 states that ultimately, the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere.
9. The appellant's Sequential Test covers a five mile (eight kilometre) radius around the appeal site. It states that no properties are available in that search area that meet both the appellant's size requirements and are within his financial budget. The appellant also advances a letter from a local estate agent dated 6 July 2016, which predates the submission of the scheme to the Council, in which it is stated that available properties are unlikely to be found without increasing the financial budget by a further and sizeable £60-80,000.

Locations where suitable properties may become available are stated as not being particularly accessible for existing schools or places of work for the appellant's family.

10. The Council has advanced no concerns or doubts of its own within its statement as to the accuracy and robustness of this evidence within the search area, and I draw from this that the Council is satisfied that no other properties or less vulnerable sites are available within this search area. Accordingly, I have no evidence before me to find otherwise.
11. The thrust of the Council's case is that the Sequential Test should be widened to the district as a whole, so as to properly appraise all FZ 1 areas. Stratford St Mary lies close to the southern boundary of the Babergh borough administrative area. The borough is not insignificant in size, and extends a considerable distance to the north east and north west of the appeal site towards Ipswich and Bury St Edmunds. The Council does not dispute that the appellant and his family are local to Stratford St Mary, and that the appellant's daughter works nearby and the children are settled in local schools where their particular needs are provided for. Therefore while I acknowledge the Council's view in respect of its healthy five year housing land supply, and that more appropriate sites in the district will exist, I nevertheless find that requiring the appellant to undertake a Sequential Test of the Babergh district as a whole to meet his needs would not be a proportionate, reasonable or pragmatic request in this case.
12. I note both appeal decisions advanced by the Council (*Ref: APP/D3505/A/12/2170640 and APP/W3520/W/16/3159436*) for residential development in which the Council's purports than an endorsement of its requirement for a district-wide Sequential Test for new development is made. However, neither I find are directly comparable to the particular circumstances before me, as the first concerns a residential housing development of three dwellings and on which a district-wide search is not unreasonable; and the latter found fault with adequacy of the Sequential Test but has not stated whether the area of search was a district-wide. In any event, I have made my decision on the evidence before me.
13. Paragraph 103 of the Framework requires a demonstration that development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed. The appellant proposes a number of mitigation measures set out in Section 4.0 of his Flood Risk Assessment. The Council has not raised any concerns that these measures would be inadequate to comply with the requirements of the Framework, and I have no obvious reason to find otherwise. The Council states that such measures could be controlled by way of a planning condition, which is not disputed by the appellant, and I have no reason to disagree.
14. Therefore on the evidence before me, I find that the Sequential Test for other available properties and sites at a lower risk of flooding has been adequately made, and that the proposed dwelling would be safe for its lifetime and would be appropriately flood resilient and resistant. I therefore find the proposed development would not conflict with the Framework.

Highway safety

15. The appeal site is located near to the end of a residential close, with only a very number of properties further served by the road. While the proposed parking arrangements would not facilitate on-site turning and manoeuvring, and visibility splays may be somewhat hindered; I find that the level of vehicular traffic passing along this point would be insignificant, and the risk to highway safety to passing vehicular or pedestrian traffic from potential vehicle reversing would be negligible. The Council accepts that the proposed dwelling would adequately accommodate the required quantum of off-road parking for its needs, and I have no reason to disagree.
16. I therefore find the proposed development would not cause any significant harm to the operation and safety of the local highway. The proposed development would accord with Local Plan policy HS28, which states that all such proposals will be refused where the proposal represents overdevelopment to the detriment of highway safety.

Other Matters

17. The appeal property lies within the Conservation Area. Neither party expresses a strong view regarding any effect of the proposal on the character or appearance of the said Conservation Area. Moreover, I have not been provided with any relevant development plan policies relating to such matters. Nonetheless, I have had special regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In this respect, while I find significant harm would occur to the character and appearance of the street and the vicinity of the appeal site, it would not have wider implications for the Conservation Area as a whole, which covers a sizeable linear area in either direction of the appeal site, straddling as it does either side of both Upper Street and Lower Street. I am as such satisfied that those interests would be preserved.

Conclusion

18. I find on the evidence before me the appellant has demonstrated the sequential test has been satisfactorily undertaken, and that a condition would ensure the property would undertake adequate flood risk measures. I also find no significant harm would occur to the local highway network. However, I find that the proposed development would amount to significant harm to the character and appearance of the area, and this is sufficient reason for me to find against the scheme.
19. Therefore for the reasons given above I conclude that the appeal should be dismissed.

R Allen

INSPECTOR