

Appeal Decision

Site visit made on 21 May 2019

by G Jenkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2019

Appeal Ref: APP/C3105/W/19/3220463

Streamways, 8 Rectory Close, Wendlebury, Bicester, Oxon.

- 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 and Mrs Robert Hooke against the decision of Cherwell District Council.
 - The application Ref 18/00848/F, dated 9 May 2018, was refused by notice dated 17 July 2018.
 - The development proposed is erection of new detached dwelling with integral garage.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr and Mrs Robert Hooke against Cherwell District Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are:
 - the effect of the proposal upon the character and appearance of the area; and;
 - whether the information provided in support of the appeal is sufficient to justify the proposed development in a medium to high risk flood area, with particular regard to relevant government advice and local policy.

Reasons

Character and Appearance

4. The appeal site comprises a dormer style bungalow and large curtilage, which extends to the side of the property. The site is situated off the turning head of the cul de sac. Dwellings in the street are mostly two storey, arranged in a simple linear layout pattern and are constructed mostly from stone with tiled roofs. The site is located with Flood Zones 2 and 3 and a river passes the rear boundary of the site.
5. The proposal is for the erection of a new dwelling within the curtilage of the existing dwelling. The new dwelling would be two storey with an eaves height of 5 metres. The dwelling would feature an integral garage and open porch area to the front, with a balcony to the first floor rear elevation serving the master bedroom.

6. Rectory Close is located on the boundary of the village of Wendlebury and the proposed location of the new dwelling is between Nos 8 and 9, in the turning head of the cul de sac, adjacent to an access driveway to a Thames Water site. The relationships between the dwellings and the plot ratios differ along the street. On the one side of the close the properties sit wide in their plots and in close proximity of their adjacent neighbours. However, at the end of the cul de sac where the appeal site is situated the dwellings enjoy wider spacing between the properties, which provides a gradual transition from the built form to the open countryside.
7. The proposed dwelling would be set back from the street frontage and as such would not be highly visible from the street scene. The property would fill the plot width as do many of the properties on this side of the cul de sac and the siting would result in sufficient garden and parking provision. I do not therefore find the proposal to be an over development of the site. The dwelling would not appear cramped on the site and the spacing and siting would be in keeping with the majority of properties on this side of the cul de sac. Furthermore, it being set back would ensure that the property would be hidden from the majority of viewpoints along the road.
8. I therefore conclude that the proposed dwelling would not be harmful to the character and appearance of the area and neither materially conflict with the objectives of Policies ESD15 and Village 1 of the Cherwell Local Plan 2031 Part 1, Saved Policies C28 and C30 of the Cherwell Local Plan 1996 and the relevant paragraphs of the Framework, which amongst other things seek to ensure good design within new development proposals.

Alternative sites with lower probability of flooding

9. The appeal site is located within Flood Zones 2 and 3 as identified by the Environment Agency's flood mapping, and is therefore considered to be at a medium to high risk of flooding. Furthermore, the footprint of the dwelling itself would be on land identified as Flood Zone 2. The planning practice guidance (PPG) states that where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 (areas with a medium probability of river or sea flooding).
10. In such cases the Local Planning Authority must apply the Sequential Test and the onus is on the applicant to demonstrate that there are no reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.
11. Whilst the Flood Risk Assessment (FRA) submitted as part of the appeal demonstrates that flood resilient measures can be implemented during the construction of the property it fails to demonstrate that there are no reasonably available sites with a lower probability of flooding, and thus it is not considered that development on this site would pass the Sequential Test.
12. I therefore conclude that due to the lack of evidence demonstrating that there are no suitable alternative sites in areas of a lower probability of flooding, the proposal fails to comply with Policy ESD8 of the Cherwell Local Plan 2031 Part 1 and relevant paragraphs of the Framework, which seek to ensure that the risk of flooding is kept to a minimum.

Conclusions

13. Although I have found that the proposal would not be harmful to the area's character and appearance this is outweighed by the uncertainty arising from the FRA's shortcomings. For the above reasons and having considered all the matters raised in evidence, and from what I saw during my site visit, I conclude that the appeal should be dismissed.

Gemma Jenkinson

INSPECTOR