



Appeal Decision

Site visit made on 1 October 2019

by J M Tweddle BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2019

Appeal Ref: APP/G2713/D/19/3233347

Manorley, Manor Close, Stokesley TS9 5AG

- 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 & Mrs Barry Shaw against the decision of Hambleton District Council.
 - The application Ref 19/00471/FUL, dated 26 February 2019, was refused by notice dated 24 April 2019.
 - The development proposed is described as 'additional domestic accommodation for the occupants of Manorley'.
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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 Stokesley Conservation Area; and,
 - Whether the appeal site offers a suitable location for the proposal, having regard to its location within a flood zone and the associated flood risk implications.

Reasons

Conservation Area

3. The appeal site is located within the residential garden of a detached dwelling known as Manorley, situated on the northern bank of the River Leven. The site lies within the Stokesley Conservation Area (CA) which primarily focuses on Stokesley Town Centre and the river corridor which passes through it. The CA is characterised by a tight-knit pattern of development arranged around Market Place and along High Street, which forms the historic core of the settlement. This is pleasantly contrasted by the verdant treelined banks of the River Leven as it gently meanders through the town with its numerous crossing points, fords and riverside walk which combine to provide an attractive almost rural character offering a more intimate feel to this part of the CA.
4. The appeal site is a small clearing at the southern extent of a residential garden and part of an area of otherwise continuous belt of woodland and bushes which flank the northern bank of the river. Its undeveloped woodland character, along with the spacious open surroundings of adjacent residential

gardens provide a green buffer of undeveloped land between the riverbank and the looser form of residential development to the north which includes the host dwelling, Manorley. The site therefore makes a positive contribution to the character and appearance of this part of the CA, adding to its verdant character and intimate feel.

5. The proposal would introduce a domestic scale timber clad building that would provide additional living accommodation with en-suite facilities. The existing trees and hedgerow along the riverbank would provide some screening, however, I could see at my visit that the building would be partially visible from the riverside walk along Levenside, with its south facing elevation visible through a gap in the vegetation. Moreover, my site inspection was conducted in early Autumn when the trees and hedgerows still retained much of their leaves and therefore as leaf cover reduces, during late Autumn until Spring, the building would become more visually prominent. As such, the building would harmfully disrupt the pleasant treelined setting of the river and introduce a visually discordant feature that would be at odds with the prevailing character and appearance of this part of the CA. In doing so, the proposal would harmfully interrupt the views along Levenside and would therefore detract from the character and appearance of the area.
6. The building would be of a timber construction with rustic detailing and a shingle roof, however, I do not consider this to be harmonious with the natural treelined verdant character of the riverbank. Instead I have found the introduction of development at this location, as proposed, to be discordant and harmful to the attractive riverside setting.
7. I acknowledge the presence of a recently planted hedge that will mature and provide further screening of the building from public views, but I do not consider that this would be sufficient to screen the site to an acceptable degree. It would not, in my opinion, be possible to completely screen the development in a sensitive manner owing to its proposed siting in such close proximity to the riverbank and the potential for water flows to erode any low level planting.
8. Consequently, I find the proposal would harm the character and appearance of the Stokesley Conservation Area. This is contrary to Policies CP16, CP17, DP28 and DP32 of the Hambleton Local Development Framework, which together seek to achieve high standards of design that respect and enhance the local context and its special qualities, including the protection and enhancement of conservation areas.
9. In terms of the National Planning Policy Framework (the Framework) the harm to the CA would be 'less than substantial' affecting only its immediate surroundings. The Framework requires such harm to be weighed against the public benefits of the proposal. In this case, the proposal would result in additional living accommodation for the occupiers of the existing dwelling, however, this is a private benefit and is therefore of little weight. No other benefits have been advanced in support of the appeal. Accordingly, I find the harm to the CA would clearly outweigh the benefits of the proposal. In this context, the proposal would also be contrary to the provisions of the Framework which seek to conserve and enhance the historic environment.

Flood Risk

10. The Local Planning Authority (LPA) advise that the appeal site lies within Flood Zone 3b – The Functional Floodplain. The appellant does not dispute this. The Planning Practice Guidance (PPG) defines Flood Zone 3b as land where water has to flow or be stored in times of flood. It follows, therefore, that the site has a high probability of flooding.
11. The Framework sets strict tests to protect people and property from flooding. Where these tests are not met, national policy is clear that new development should not be allowed. Paragraph 155 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. It also states that where development is necessary, it should be made safe for its lifetime without increasing flood risk elsewhere. To this end, paragraphs 163 and 164, along with Footnote 50, require a site-specific Flood Risk Assessment (FRA) to be provided for all development in Flood Zones 2 and 3. This national policy approach is echoed locally by Policies CP21 and DP43 of the Hambleton Local Development Framework (the HLDF).
12. The appellant has not provided a FRA and therefore I am unable to fully establish the flood risk implications of the proposal, nor can I be sure that the development could be made flood resilient without increasing flood risk elsewhere. The lack of a FRA in itself is a justifiable reason to withhold planning permission.
13. Notwithstanding the absence of a FRA, I am mindful that the proposal is for additional residential accommodation, ancillary to the existing dwelling, and as such the PPG's Table 2: *Flood risk vulnerability classification*¹ states that this is a 'more vulnerable' type of development. Table 3: *Flood risk vulnerability and flood zone 'compatibility'* of the PPG² indicates that more vulnerable development, such as the appeal proposal, should not be permitted in Flood Zone 3b. This provides an 'in principle' objection, with regard to flood risk, and indicates that the site is not a suitable location for the appeal proposal.
14. The appellants suggest that they are aware of the possibility of flooding and consider this to be an 'acceptable risk'. They also state that the site has not flooded in the last eight years during their occupation of the property and that the main dwelling could provide a means of escape from any potential flooding incident. It has also been put to me that the comparative levels between the house and the appeal site are relatively small, amounting to a difference of approximately 0.5 metres. However, this does not amount to an adequate assessment of the flood risks associated with the proposal and does not provide a justification for a determination other than in accordance with that of local or national planning policy.
15. As such, I conclude that, on the basis of the evidence presented, there is a significant risk of flooding at the site and it has not been demonstrated via a site-specific FRA that the proposed development would be safe from flooding. Furthermore, the proposal represents a more vulnerable development that is not appropriate within Flood Zone 3b and therefore the appeal site is not a suitable location for the proposed development. Accordingly, the proposal fails

¹ Planning Practice Guidance, Paragraph 066 Reference ID: 7-066-20140306

² Planning Practice Guidance, Paragraph 067 Reference ID: 7-067-20140306

to comply with Policies CP21 and DP43 of the HLDF and the associated requirements of the Framework, insofar as they seek to prevent inappropriate development in areas at risk of flooding.

Other matters

16. The appellant has argued that they could construct the building by exercising their permitted development rights and have provided the relevant excerpt from the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended). Having reviewed this, I am not satisfied that a comparable development of the same scale could be achieved in such close proximity to the boundary of the curtilage. I do not therefore consider that a legitimate fallback position exists and consequently this does not provide a justification to allow the appeal. Instead, I have considered the appeal on the basis of what is proposed and on its own merits.
17. I acknowledge the intention for the building to be placed on 'ground screws' to minimise ground disturbance and therefore mitigate any adverse effects to nearby trees, however, this is a neutral factor in my consideration of the appeal.

Conclusion

18. For the reasons I have set out, the appeal should be dismissed.

Jeff Tweddle

INSPECTOR