



Appeal Decision

Site visit made on 2 December 2019

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2019

Appeal Ref: APP/N2739/W/19/3237067

Land at Robin Close, off Wistow Road, Selby, North Yorkshire YO8 3LZ

- 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 Paul Broadbent (BPS Construction) against the decision of Selby District Council.
 - The application Ref 2018/0992/FUL, dated 21 August 2018, was refused by notice dated 14 March 2019.
 - The development proposed is described as: 'erection of 3 no town houses including 5 no car parking spaces to rear. Previous approval for similar scheme approval no:- 2006/0324/FUL – dated 25th April 2006'.
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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 appeal site and its surroundings;
 - whether the proposed development would be acceptable with regard to flood risk within the appeal site and elsewhere.

Reasons

Character and appearance

3. The appeal relates to an undeveloped area of land at the junction of Robin Close, a residential cul-de-sac of relatively recent construction, and Wistow Road, which leads towards Selby town centre from the outskirts of the town.
4. Wistow Road in the vicinity of the site is characterised by groups of houses and bungalows which vary to some degree in their age and external appearance, but which are generally detached, and are either single storey or two storeys in height, including dormer bungalows to the rear of the site on Windmill Gardens.
5. The newer houses at the junction of Robin Close and Wistow Road opposite the site, and those on the Wistow Road frontage beyond, have accommodation over three storeys. However, the eaves of those properties are located just above their first floor windows, with their top floors housed in their roofspaces

- and served by relatively small, hipped roof dormers. Those properties therefore maintain the appearance of two storey houses and are sympathetic in scale and appearance to the more established properties in the wider street scene.
6. The proposed terrace of three houses would be located very close to the Robin Close and Wistow Road frontages, and would thus occupy a very prominent position on Wistow Road. As a result, when travelling along Wistow Road past the site and in its immediate vicinity, the proposed dwellings would be clearly viewed in the context of those existing single storey and two storey houses which characterise the wider Wistow Road street scene.
 7. The proposed houses would be roughly aligned with those on the Wistow Road frontage beyond Robin Close, and their roofs may not be any taller overall than those nearby houses. However, the proposed houses would have higher eaves than those existing properties, and than the older two storey houses and bungalows which characterise Wistow Road in the vicinity of the site. As a result, the height and scale of the building's tall side gable facing Wistow Road, and the overall volume and massing of the relatively large terraced building proposed, would be significantly greater than those of other nearby properties on Wistow Road.
 8. The proposed houses would therefore appear as an unduly dominant and highly discordant feature on this prominent site, which would not respect the scale, height or appearance of the existing houses and bungalows on Wistow Road in the vicinity of the site. The development would therefore detract significantly from the character and appearance of that wider street scene, and the harm arising in that regard would not be overcome by the use of matching materials as proposed.
 9. I observed several three storey properties further along Robin Close near to the site. However, as those houses are set back some distance from Wistow Road, they are viewed in the context of the more recent development within that estate, and do not form prominent features in views along Wistow Road. In contrast, the proposed dwellings would occupy a highly prominent position at the junction of Wistow Road. Consequently, they would be viewed in the wider context of the more modestly-proportioned housing of various ages which characterises that main road as it passes the site. In that context, for the reasons given, the development would appear incongruous, unduly dominant, and out of scale.
 10. Although the proposed parking area would be to the rear of the properties, part of it would adjoin Wistow Road, and part would be visible from Robin Close along its access drive. Given its limited size, and as appropriate boundary treatments would allow some degree of public visibility and surveillance of that area, I have no objection to that element of the site layout.
 11. The proposed gardens would be similar in size to those of other similar properties nearby, and adequate to serve the proposed dwellings. I have been referred to concerns regarding existing on-street parking nearby. However, on the basis of the evidence before me, and in the absence of any objection from the Council in that regard, I have no reason to conclude that the level of off-street parking proposed would be insufficient to cater for the proposed development. Therefore, the proposal would not represent an overdevelopment of the site in this instance.

12. However, for the reasons given, I conclude that the proposed development would have an adverse effect on the character and appearance of the appeal site and its surroundings. The proposal would therefore conflict with Policies SP4, SP18 and SP19 of the Selby District Core Strategy Local Plan Adoption Version 22 October 2013 (the Core Strategy) and saved Policy ENV1 of the Selby District Local Plan Adopted February 2005. Amongst other things, those policies require new development to achieve high quality design, sustain local distinctiveness and have regard to and preserve the character of the local area.
13. The proposal would also conflict with the National Planning Policy Framework (the Framework), which requires that developments are sympathetic to local character and add to the overall quality of the area.

Flood risk

14. The Council and the Environment Agency state that the site is within Flood Zone 3. That classification has not been disputed by the appellant with reference to any substantive evidence. I have therefore considered the proposal on the basis that the site is within Flood Zone 3.
15. The Framework requires a sequential approach to the location of development and states that it should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The development of 3 dwellings would comprise a 'more vulnerable' development and would not fall within any of the categories of 'minor development' to which the sequential test requirement does not apply, as defined in the Framework¹ and the PPG².
16. The Framework requires that, when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere, and that a site-specific flood risk assessment (FRA) should be provided for all development in Flood Zones 2 and 3³. It states that development should only be allowed in areas at risk of flooding where, in the light of a site-specific FRA, it can be demonstrated that the development is appropriately flood resistant and resilient.
17. The PPG states that a site-specific FRA should demonstrate how flood risk will be managed over the development's lifetime, and establish whether a proposed development is likely to be affected by current or future flooding from any source, whether it will increase flood risk elsewhere, whether the measures proposed to deal with any such effects or risks are appropriate, and the evidence for the local planning authority to apply the sequential test⁴.
18. The appellant's report⁵ contains no sequential test or assessment of whether there are any alternative, suitable, available sites with a lower risk of flooding which could accommodate the proposed development. Consequently, it has not been demonstrated that there are no suitable or available sequentially preferable sites that would accommodate the more vulnerable residential development proposed, and the sequential test is not passed.

¹ Paragraph 164 and footnote 51.

² Paragraph Reference ID: 7-046-20140306.

³ Paragraph 163 and footnote 50.

⁴ Paragraph reference ID: 7-030-20140306

⁵ Groundsure Geoinsight report reference GS-2747728, dated 12 Feb 2016.

19. The appellant's report identifies the highest risk of flooding on-site as 'Medium', which it defines as a greater than 1 in 100 but less than 1 in 30 chance of flooding in any given year. However, the report does not include any details regarding the flood levels likely to occur within the appeal site over the development's lifetime. In the absence of such information, a condition requiring floor levels to be set above flood levels, as suggested, would not be appropriate, since it is not clear what the required floor levels would be or whether they could be accommodated within the building proposed. Therefore, on the basis of the very limited information before me, I cannot be certain as to the likely flood risk to the proposed development, or whether any such risk could be adequately mitigated to make the development safe for its lifetime.
20. Furthermore, the appellant's report does not contain any assessment as to whether the development would be likely to increase flood risk elsewhere, or any mitigation proposals in the event that such a risk was likely to arise. Given the potentially significant implications in that regard, I am not satisfied that such measures could be dealt with by condition.
21. Therefore, having regard to the guidance in the PPG, the appellant's report is not sufficient to meet the requirement in the Framework for a site-specific FRA. Consequently, for the reasons given, I cannot be certain that the proposed development could be made safe from flooding for its lifetime, or that it would not increase flood risk elsewhere, even if the sequential test were to be passed.
22. The appellant states that he wouldn't have bought the site if he believed it would flood, and that flood risk concerns were not raised by the Council during an earlier application for the development of the site. However, I have very little detail before me with regard to that earlier application, or to the information which was before the appellant when he purchased the site. In any event, I have determined the appeal on its planning merits and on the basis of the evidence before me, having regard to the specific development proposed and to relevant local and national policy relating to flood risk.
23. Having done so, for the reasons given, I am not satisfied that the proposed development would be acceptable with regard to flood risk within the appeal site and elsewhere. The proposal would therefore conflict with Policy SP15 of the Core Strategy which, amongst other things, sets out the sequential approach and the requirement for development in areas of flood risk to be made safe without increasing flood risk elsewhere, consistent with the requirements of the Framework and the advice in the PPG as set out above.

Other Matters

24. The proposed development would provide 3 new dwellings in an existing settlement. However, whilst it would thus contribute to local housing supply, the benefits in that regard would be very modest, and would not outweigh the harm to character and appearance or the potentially significant flood risks arising that I have identified in this case.
25. I have been referred to a previous planning permission granted by the Council in 2006 for 3 houses on the site, which appear to have been very similar to those now proposed. However, that permission has now lapsed and, given the time which has passed since it was granted, I cannot be certain that the site's circumstances, including with regard to its flood risk, were the same at that time as they are now. Furthermore, that permission was granted before the

adoption of the Core Strategy in 2013 and the publication of the original Framework in 2012. It was therefore also considered in a different local and national policy context to the current proposal. In any event, I have considered the appeal before me on its own planning merits, having regard to current local and national policy with regard to character and appearance and flood risk.

26. I have had regard to other concerns raised by interested parties, including in relation to the living conditions of nearby residents. However, as I have found the proposal to be unacceptable for other reasons, I have not needed to consider those matters further in this instance.

Conclusion

27. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

Jillian Rann
INSPECTOR