



Appeal Decision

Site visit made on 1 September 2020

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 9 October 2020

Appeal Ref: APP/U1620/W/20/3252359

46 Marlborough Road, Gloucester, GL4 6GF

- 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 D Stevens against the decision of Gloucester City Council.
 - The application Ref 19/00065/FUL, dated 7 January 2019, was refused by notice dated 23 December 2019.
 - The development proposed is construction of one 3 bedroom house.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are:
 - Whether or not the development is in an appropriate location with regard to flood risk, and the effect of the proposal on flooding within the site and the surrounding area;
 - The effect of the development on the character of the area;
 - The effect of the proposal on living conditions of the occupants of No 48 Marlborough Road, with particular regard to loss of outlook from the garden.

Reasons

Flood risk

3. The National Planning Policy Framework (2019) requires that, where possible, development should be directed away from areas at highest risk from flooding using a sequential, risk-based approach. Planning policy guidance¹ confirms that the aim is to keep development out of medium and high-risk flood areas (flood zones 2 and 3). The entirety of the appeal site is mapped in flood zone 2, which means that it is potentially in a 'more vulnerable' location.
4. A sequential test has been provided, but it does not justify with evidence the search area used, as required by planning policy guidance². It is also not clearly stated what sources of information were used when investigating

¹ Paragraph: 018 Reference ID: 7-018-20140306, 06/03/2014

² Paragraph: 034 Reference ID: 7-034-20140306, 06/03/2014

whether there are alternative plots in lower vulnerability settings. The Council consider it unlikely that only 2 alternative sites have been identified in the whole of Gloucester, and I do not have evidence before me to come to a different conclusion. The submitted sequential test is therefore insufficient to demonstrate that there are no alternative sites for such development in lower risk zones in the Gloucester area.

5. Notwithstanding this, the site-specific Flood Risk Assessment (30 August 2019) (FRA) does not refer to most of the sources of information recommended in the Environment Agency's standing advice on preparing a FRA, nor does it include key information such as an estimated flood level, or make allowance for climate change. The appellant states the site has flooded only once recently to between 0.6 and 0.8 m and that this was due to human error. However, this evidence appears to be circumstantial and makes no allowance for the risk to occupants over the lifetime of the site. Based on the information provided, it is therefore not possible to assess whether the measures proposed to deal with these effects would be appropriate or if the flood risk would be increased elsewhere from the development.
6. The proposal would be in conflict with Policy INF2 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (2011-2031, adopted 2017)(JCS), which requires that development is directed to the areas at lowest risk of flooding and does not increase the level of risk to occupiers of a site or elsewhere.

Character of the area

7. The appeal site is on a large residential estate comprising predominantly semi-detached houses with long rear gardens. These are separated by wooden fencing and mature vegetation, giving the area an open, leafy character. The proposal to build a detached house in the rear half of the garden would therefore not be in keeping with the prevailing pattern of development on the estate. The residual garden sizes would be small for the area and, in combination with the uncharacteristically close distance between the houses on the plot, the development would appear cramped.
8. A notable exception to the local pattern of development is to the rear of neighbouring No 44, on which a modern house similar to that proposed has been constructed in the equivalent location. No 44 was originally a much wider plot and the new property was built in 2005, prior to current policies. On this basis, I do not consider that this single example sets a strong precedent. The appellant refers to another example of recently approved backland development, but in the absence of further information, it is not possible to comment on the relevance of this to the current appeal. Regardless, each case must be determined on its own merits.
9. The proposal does not reflect the prevailing character of the estate and would appear cramped, in conflict with Policies SD4 and SD10, which aim to achieve good design, in keeping with the local character.

Living conditions of the occupants of No 48

10. The development would run along the garden boundary of No 48 for a distance of nearly 5 metres, at a height of one and a half storeys, which would lead to a sense of enclosure along a substantial proportion of the garden. This would feel

overbearing and would significantly decrease the outlook from the rear garden of No 48. As this provides their main amenity space, I consider that this would be harmful to the living conditions of the occupants.

11. However, whilst I have found that the proposed property would harm the outlook from the garden of No 48, the fact that the proposed dwelling would be situated to the north leads me to conclude that significant overshadowing would not occur.
12. The proposal would cause unacceptable harm to the living conditions of the occupiers of No 48 because of the significantly reduced outlook from their garden. This would conflict with Policy SD14, which requires that new development does not cause unacceptable harm to the amenity of neighbouring residents.

Benefits

13. The development would contribute to local housing supply, but as this is one house, the benefit from this is limited and would not outweigh the harm identified above.

Conclusions

14. For these reasons, and having had regard to all other matters raised, the appeal is dismissed.

B Davies

INSPECTOR