
Appeal Decision

Site visit made on 9 March 2022

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 23RD March 2022

Appeal Ref: APP/X1545/W/21/3283724

19 Mountview Crescent, St Lawrence, CM0 7NT

- 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 Ricky Elliot against the decision of Maldon District Council.
 - The application Ref. FUL/MAL/20/01007 dated 26 November 2020, was refused by notice dated 7 June 2021.
 - The development proposed is a replacement dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are: i) the effect of the design of the proposed dwelling on the character and appearance of the area; and ii) the suitability of the location for a dwelling bearing in mind that the site is within Environment Agency Flood Zone 3.

Reasons

The effect of the design of the proposed dwelling on the character and appearance of the area

3. The application site is located on the southern side of Mountview Crescent within the settlement boundary of St Lawrence. It is currently occupied by a single storey dwelling with a rear extension and a detached rear garage. The appeal site is set at a point where Mountview Crescent curves round to form a right-angle bend. As a result, the host property and its close neighbours have plots which are relatively narrow at the front and broaden out towards the rear. This situation has resulted in the dwellings being set well back from the road. The dwellings within the streetscene consist mainly of bungalows with some of chalet style. The surrounding area to the north and east is residential, with open fields to the west and south.
4. The existing bungalow has a gable roof with a flat roof extension at the rear. It has an eaves height of 3m and a ridge height of 6m. The proposed dwelling would be of a modern two-storey design with a flat roof that is carried over a balcony at the rear. It would have an overall height of 5.9m. It utilises the

existing footprint of the bungalow, widened to the east. The proposed materials consist of white render and cedar cladding.

5. The dwellings in the surrounding area exhibit a wide variety of types, ages and styles, and are not in a conservation area nor are there any other exemplar styles that need to be recognised as important in framing a design context. In this situation I see no reason for the design to follow a particular building form; indeed paragraph 130 of the National Planning Policy Framework (the Framework) (2021 version) states (as relevant here):

"Planning policies and decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);"*

6. The appeal proposal is in keeping with the general scale of the neighbouring properties, and sits back in the site so as not to draw particular attention to itself. In any event, I consider the design to be refreshing, adding to the overall quality of the area *"not just for the short term but over the lifetime of the development"*. It would not be harmful to the character and appearance of the streetscene and surrounding area, but would be an addition that is innovative and visually attractive.

The suitability of the location for a dwelling bearing in mind that the site is within Environment Agency Flood Zone 3.

7. The documentation submitted with the planning application includes the Environment Agency's Flood Zone 3 Factsheet, the Flood Defence Location Map, and the Table of asset references and their Overall Condition Grade, for the area on the south side of the River Blackwater from St Lawrence Bay westwards, within which the appeal site sits. A Flood Risk Assessment (FRA) Checklist (without any entries), and the Agency's response to an enquiry regarding Product 4 for 19 Mountview Crescent, have also been submitted. These documents do not amount to an FRA or details of flood proofing/resilience measures.
8. The Framework sets out the government's national policy for flood risk management, the relevant part being now contained in paragraph 167 (2021 version) as follows:
- 167. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment⁵⁵. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:*

- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;*
- b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;*
- c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;*
- d) any residual risk can be safely managed; and*
- e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.*

9. The footnote in the above text states:

⁵⁵ A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.

10. It will be seen from the above that a site-specific FRA should be provided for all development in, as in this case, Flood Zone 3. Notwithstanding that the appeal site already accommodates a dwelling and a single replacement dwelling is proposed, in the absence of a properly completed FRA I am unable to conclude that risks associated with a location in Flood Zone 3 can be dealt with. The suggestion that a condition could be attached to a permission requiring an FRA to be submitted to the council for approval prior to development commencing clearly is not appropriate, since the FRA may not be satisfactory, but the permission would still exist. The proposal is therefore contrary to policy D5 of the Maldon District Local Development Plan and the guidance contained within the Framework.

Conclusions

11. Overall, whilst I conclude that the design proposed would not have a harmful effect on the character and appearance of the area, and I would not have refused planning permission on the basis of the first issue, the absence of a properly completed FRA means that I cannot be satisfied about the suitability of the site as the location for a dwelling since it is within Environment Agency Flood Zone 3. Therefore the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR