



Appeal Decision

Site visit made on 13 June 2023

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 October 2023

Appeal Ref: APP/U2615/W/22/3294770

9 Ambrose Road, Caister-On-Sea NR30 5DA

- 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 Mrs Sarah Bilyard against the decision of Great Yarmouth Borough Council.
 - The application Ref 06/21/0723/F, dated 23 August 2021, was refused by notice dated 5 November 2021.
 - The development proposed is erection of two storey dwelling, garage and all associated works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council made its decision, I understand that the Great Yarmouth Local Plan Part 2 ('LPP2') was adopted in December 2021. Policies contained within LPP2 supersede those Saved Policies within the Great Yarmouth Boroughwide Local Plan 2001 ('the GYBLP'). However, policies within the Great Yarmouth Local Plan Core Strategy ('CS') remain extant.
3. Both of the main parties are aware of this change in circumstance and have framed their cases accordingly. Therefore, I have determined the appeal on this basis and will make no further reference to the GYBLP.

Main Issues

4. The main issues are:
 - the effect of the development on the character and appearance of the area;
 - whether the proposed development would be in a suitable location for housing having regard to development plan policies, and;
 - whether or not the proposed development is acceptable in respect of flood risk having regard to national and local policies and guidance.

Reasons

Character and appearance

5. The appeal site currently comprises a field adjacent to 9 Ambrose Road and is separated from the property by a mature hedgerow. The appeal property is situated at the end of Ambrose Road, and beyond the appeal site, to the west, are open fields and the A140 Caister Bypass. A further undeveloped area lies to

the south of the appeal site beyond which is located a supermarket. Residential development and allotments can be found to the east of the appeal site.

6. Caister-on-Sea is a settlement of linear character, and in the area around the Ambrose Road, the built form distinctively comprises straight streets diverging from the main spine of Yarmouth Road. These streets feature a range of dwelling types, but are consistent in being linear, of relatively high density, and with properties fronting the roads.
7. Although Ambrose Road follows this arrangement in some respects, the street itself differs in character from those around it due to the comparative lack of residential development fronting the road. The character of the road, which contains a commercial yard, allotments and a utilities compound, as well as a range of residential development, is far more varied and of a more backland character than those around it.
8. However, the appeal property itself is a further outlier, located at the end of the road and projecting beyond the built-up area, into open countryside. This situation is further accentuated by the property's large garden, and the allotments and utilities compound to the southeast which provide an otherwise soft transition between the open countryside and the extent of the settlement.
9. As a result, and with open fields being situated to the south and west, the appeal site has a rural character and ambience, as opposed to the more urban backland character of much of the remainder of development on Ambrose Road, or indeed the differing character of built-form in other streets within the area.
10. Therefore, although the appeal proposal would be situated adjacent to the appeal property and would be of a modest scale, it would nevertheless represent an uncontained encroachment into the countryside, beyond existing development and would be at odds with the prevailing character and appearance of the countryside.
11. For the reasons given, the proposal would harm the character and appearance of the area. It would therefore be contrary to CS Policy CS09 which, amongst other criteria, requires new development to respond to the distinctive natural and built characteristics of the surrounding area.

Location

12. Although the appeal site lies at a point of transition between the settlement and countryside and is accordingly related to the settlement to some extent, it is not a matter of dispute that the appeal site lies outside of the development limit of Caister-on-Sea as defined within LPP2.
13. LLP2 Policy GSP1 states that development will not be permitted on land outside of development limits, except where it comprises agricultural or forestry development, it comprises the provision of utilities or highway infrastructure, or where specific policies indicate otherwise. The supporting text of this policy highlights other local plan policies, including LPP2 Policy H5, which identify a range of developments that could be considered acceptable outside of development limits. However, none of the types of development covered by these policies would be applicable to this proposal.

14. I acknowledge that CS Policy CS2 identifies Caister-on-Sea as a key service centre. However, the settlement hierarchy set out within this policy and its supporting text is clear in identifying sites that lie outside of defined settlement limits as being separate to other locations, such as main towns or key service centres, and that development limits have been drawn, partly, in the interests of the character of settlements.
15. Therefore, although the appeal site would be within walking or cycling distance of a range of services, including a large supermarket, it would not be located within a key service centre, or contribute towards the proportion of expected housing delivery within such locations. For the purposes of LLP2 Policy CS2, the appeal site is at the base of the settlement hierarchy.
16. I conclude that the appeal site would not be an appropriate location for the proposal having regard to development policies. It would therefore be contrary to CS Policy CS02 and LPP2 Policy GS01, the requirements of which I have set out above.
17. CS Policy CS1 states, among other factors, that development that supports the function of individual settlements and a thriving local economy will be viewed favourably. Given the proximity of the appeal site to Caister-on-Sea and the services and facilities within it, I do not find conflict with this policy insofar as it relates to locational factors.

Flood risk

18. It is common ground between the parties that the appeal site lies within Flood Zone 3a. The provided Flood Risk Assessment ('FRA') identifies that the appeal site is most at risk from a tidal surge event within the River Bure. It also establishes that the risk of overtopping is high, and that on the basis of upper end climate change increase, even taking account of existing flood defence, flood levels of between 0.68m and 1.10m could be expected for 1:200 and 1:1000 year flood events.
19. LLP2 Policy E1 states that where residential development is proposed in an area of flood risk, that for sites outside of Great Yarmouth Town, the area of search for alternative sites will need to cover the entire Borough and be considered against the overall supply of housing in the Borough.
20. This reflects advice within the Framework which states that new development should be steered to areas with the lowest risk of flooding, and that development should not be permitted if there are reasonably available appropriate sites in areas with a lower risk of flooding.
21. Furthermore, Planning Practice Guidance ('PPG') advises that the aim of the sequential test is to steer new development to Flood Zone 1, and only where there are no reasonably available sites in Flood Zone 1 or 2 should the suitability of sites within Flood Zone 3 be considered.
22. In this regard no assessment of potential alternative sites has been provided. Rather, it is argued, as the proposal would be required for the purposes of the appellant's family, and that as the appeal site is within the appellant's ownership, that it would not be reasonable to consider other sites.
23. Even taking a pragmatic approach to the sequential test, there is no substantive evidence before me which demonstrates that the specific needs of

the appellant's family require a dwelling in this location, nor is there any mechanism before me that would control the future occupation of the dwelling and prevent its disposal on the open market.

24. In addition, PPG advises that alternative sites do not need to be in the ownership of the appellant in order to be considered reasonably available. Accordingly, I am not persuaded that there is compelling justification for not applying the sequential test or considering alternative sites.
25. LPP2 Policy E1 sets out that outside of Great Yarmouth Town, the sequential test should be applied in the context of the overall supply of housing in the Borough. CS Policy CS02 sets out that around 30% of new residential development will take place in the key service centres of Bradwell and Caister-on-Sea, but also acknowledges that a flexible approach may be required, where appropriate. The supporting text to this policy indicates that the proportion of new housing development to be accommodated in areas other than main towns such as Great Yarmouth, is informed in part by the large areas of land within main towns that are within Flood Zones 2 and 3.
26. The appellant contends that although the Council can demonstrate a five-year supply of housing land across the district, it cannot demonstrate an adequate supply of sites for housing within key service centres in order to meet the specified proportion of delivery, and that the proposal would assist in meeting this target.
27. Even if I was to agree, this would not result in the proposal passing the sequential test. Notwithstanding the fact that for the purposes of LPP2 the appeal site does not lie within the development limits of a key service centre, there is no evidence before me that indicates that there are no other reasonably available alternative sites within key service centres and at a lower level of flood risk.
28. Furthermore, with the expected level of housing delivery in key service centres informed, in part, by the level of land in main towns in Flood Zones 2 and 3, the appeal site would offer no advantage in this respect. In any event, PPG advises that the absence of an adequate supply of housing sites is not a relevant consideration for the sequential test for individual applications.
29. I accept that the Council's Resilience Officer raises no objections to the development proceeding subject to the flood risk mitigation measures contained within the Flood Risk Assessment being implemented. However, the Framework and PPG are both clear in advising that the exception test should be applied only where it is not possible for development to be in areas of lower flood risk, and this has not been established.
30. PPG further advises that even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied. Accordingly, I afford only very limited weight to the mitigation measures set out in the FRA.
31. The appellant has referred to the findings of a previous Inspector¹ where it was considered appropriate to apply the sequential test on a more local basis. However, this decision not only related to the temporary location of a static caravan and therefore related to a different form of development and

¹ APP/U2615/W/18/3194274

circumstances, but furthermore was issued in May 2018, and therefore pre-dates the adoption of LPP2, as well as the most recent versions of the Framework and PPG.

32. Although that Inspector did refer to CS Policy CS13 which remains part of the development plan, this policy does not provide any specific advice on the implementation of the sequential test, whereas LLP2 Policy E1 specifies the extent of alternative sites that should be considered. Accordingly, this decision does not prevent me from reaching a different conclusion with regard to the appeal that is before me.
33. The appeal proposal would be located with Flood Zone 3 and it has not been demonstrated that sequentially preferable sites are unavailable within the borough. I therefore conclude that the proposal would not be acceptable in respect of flood risk. It would therefore be contrary to CS Policy CS13, LLP Policy E1 and Part 14 of the Framework, which together seek to steer new development away from areas at the highest risk of flooding and ensure that vulnerable development is adequately protected.

Planning Balance and Conclusion

34. The proposed development would harm the character and appearance of the area, would conflict with the spatial approach to development set out within the development plan, and would be in an area of high flood risk. It would conflict with the development plan taken as a whole, and I afford this conflict significant weight.
35. However, the appeal proposal would lead to the provision of an additional dwelling in a location with good access to facilities and services. Paragraph 60 of the Framework sets out the Government's objective of significantly boosting the supply of homes, and Paragraph 69 highlights the important contribution that small sites can make to the housing requirement of an area. Accordingly, the modest boost to the housing supply that the appeal proposal would provide is a factor which weighs in its favour, and to which I afford moderate weight.
36. It has been put to me that the proposal would have safe pedestrian and vehicle access, would provide adequate off-street parking, would not adversely affect the living conditions of the occupiers of neighbouring properties, or harm biodiversity interests. Even if I were to agree, these matters would be only neutral factors and consequently would not weigh in favour of the proposal.
37. Although the appeal proposal would result in some benefits, these would not outweigh the harm and conflict with the development plan that I have identified. Accordingly, there are no material considerations, including the Framework, which would indicate that a decision should be taken other than in accordance with it.
38. I understand that the appeal site lies within the zone of influence of one or more European designated sites. The Conservation of Species and Habitat Regulations 2017 require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected sites, either alone, or in combination with other plans and projects. This responsibility falls to me in the context of this appeal, and an appropriate assessment ('AA') under the Habitat Regulations would ordinarily be required to be undertaken.

39. However, I have not needed to undertake such an AA in this case as I am dismissing the appeal for other reasons, and I have not, therefore, pursued the matter further. Even if I had conducted such an AA and found that there would be no adverse effect, this would have been a neutral factor which would not have weighed in favour of the scheme.

40. Therefore, for the reasons given, the appeal is dismissed.

C Harding

INSPECTOR