



Appeal Decision

Site visit made on 27 March 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 3 May 2024

Appeal Ref: APP/E2205/W/23/3327299

Land North of and adjacent to 35 Riversdale Road, Ashford TN23 7TP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Sikander Jatoi of West Homes Investments Ltd against the decision of Ashford Borough Council.
 - The application Ref is PA/2022/2484.
 - The development proposed is erection of a single dwellinghouse.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In December 2023, following the deadline for final comments, a revised version of the National Planning Policy Framework (the Framework) was published. The parties have been given the opportunity to comment on the changes to the Framework. The appellant indicated that they had no formal comments, and the Council did not provide any comments.

Main Issues

3. The main issues are:
 - whether the appeal proposal would comply with national and local planning policy which seeks to steer new development away from areas at the highest risk of flooding; and,
 - the effect of the proposal on the character and appearance of the area.

Reasons

Flood risk

4. The appeal site is located within Flood Zone 3a, which is an area at 'high risk' of flooding. Policy ENV6 of the Ashford Local Plan 2030, February 2019 (LP), indicates that the sequential test established by the Framework will be strictly adhered to across the Borough. Paragraph 168 of the Framework states that "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source."
5. I have concerns with the accuracy of the Sequential Test¹ as it refers to the sites on the Brownfield Register being checked as to whether they are in a

¹ Sequential Test In support of Residential Development at 35 Riversdale Road, Ashford, Kent, TN23 7TP, June 2023, Revision [0], Job No. 5416

“beachside location” and a review of the Maidstone Borough Local Plan. It is unclear how either of these aspects are relevant to the appeal proposal. Nonetheless, as the findings on the sites assessed are not disputed, I have considered them on face value.

6. The specific parameters of the site search criteria have not been stated nor has a rationale been provided for the chosen criteria. Furthermore, the search has been restricted to the Brownfield Register and LP allocations. The Sequential Test acknowledges that the Brownfield Register dates back to 2018 and the LP does not allocate smaller sites. It has not been explained why a review of other data sources, such as local listings, has not been undertaken.
7. The appeal site is located within Ashford with good access to services and facilities alongside very good links to public transport. Nonetheless, for the reasons given above, it has not been demonstrated that there are no sequentially preferable sites available for development.
8. The proposal including measures to mitigate the flood risk to the property and leading to a negligible increased risk of flooding elsewhere does not overcome the need for a sequential test.
9. I conclude that the proposal would not comply with national and local planning policy which seeks to steer new development away from areas at the highest risk of flooding. It would be contrary to LP Policy ENV6 and paragraph 173 of the Framework. These policies indicate that the sequential test established by the Framework will be strictly adhered to and development should only be allowed in areas at risk of flooding where a sequential test has been passed, amongst other factors.

Character and appearance

10. The appeal site accommodates a garage which has thick vegetation growing around it. The site is narrow but long and is located between apartment blocks, Forrester Place, and terraced housing along Riversdale Road. As the garage is single storey, the appeal site visually separates the terraced housing from the taller apartment blocks. The area has an urban character due to the prevailing pattern of high-density residential development.
11. To limit the height of the proposed dwelling there would be accommodation within the roof. Also, the proposed ridge height would be comparable to the nearest buildings within Forrester Place. However, the proposed dwelling would be narrow which, along with its height, would give the building a strong vertical emphasis. This would contrast with the terraced housing and the apartment blocks which have a strong horizontal emphasis.
12. Moreover, the proposed dwelling would lead to tall development being located closer to 35 Riversdale Road. This would erode the visual separation between the terraced housing and taller apartment blocks at Forrester Place and fail to address the difference in height between the neighbouring properties. The proposed dwelling would therefore appear incongruous within the street scene.
13. The proposed dwelling would be sited next to Forrester Place’s communal parking area, and its front elevation would only be slightly in front of 35 Riversdale Road. Nonetheless, due to the scale and massing of the proposed dwelling alongside the limited separation between the building and the side boundaries, it would appear cramped.

14. A contemporary design which makes an efficient use of the site could be acceptable, where it respects or enhances the character of the area. Also, the introduction of a residential development may improve the ongoing maintenance of the site. Moreover, the inclusion of sustainability measures, such as solar panels and a highly insulated building fabric, would be benefits of the scheme. However, these factors do not alter my assessment on the acceptability of the appeal scheme in relation to its effect on the character and appearance of the area.
15. The proposal would have a harmful effect on the character and appearance of the area. It would therefore be contrary to LP Policies SP6 and HOU3a which indicate that proposals for housing must be of high-quality design and be compatible with the character of the surrounding area.

Other Matters

16. The appeal site is located within the Stour River catchment, which feeds into Stodmarsh Lakes. There are several internationally protected sites within the lakes including a Special Protection Area, Ramsar Site, Special Area of Conservation and Site of Special Scientific Interest. The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on a European site, either alone or in combination with other plans or projects, the competent authority must, before any grant of planning permission, make an appropriate assessment of the project's implications in view of the relevant conservation objectives.
17. The Council is establishing a nutrient neutrality credit system, under which developers could purchase credits, which would contribute toward works to mitigate the effect of their proposals on the European sites. This system has not been finalised yet. The appellant has indicated a condition could be attached to any permission which would require them to purchase credits, once the system is in place. Notwithstanding this, as I have found the appeal proposal to be unacceptable for other reasons, it is not necessary for me to undertake an appropriate assessment, or to consider this matter further.

Planning Balance

18. Set against the harm identified there would be benefits associated with the proposal. The Council cannot demonstrate five years of deliverable housing land supply, an additional dwelling would help address this shortfall. Furthermore, the provision of a dwelling in a highly accessible location which includes sustainability measures such as solar panels and a highly insulated building fabric would attract further weight to the benefits. Moreover, the proposed dwelling would be flood resilient, built in accordance with the nationally describe space standard, would not be located within the Green Belt or a National Landscape, and would not affect a tree subject to a Tree Preservation Order. Given the shortfall in housing land supply and the scale of the development, moderate weight is ascribed to the benefits.
19. However, in accordance with the Framework, inappropriate development in areas at risk of flooding should be avoided, and the creation of beautiful places is fundamental to what the development and planning process should achieve. Therefore, significant weight is ascribed to the harm, which would outweigh the benefits.

20. The application of the Framework's policies that protect areas or assets of particular importance, in this case areas at risk of flooding, provides a clear reason for refusing the development proposed. The presumption in favour of sustainable development, set out in paragraph 11 of the Framework, is therefore not engaged.

Conclusion

21. The material considerations do not indicate that a decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR