

Appeal Decision

Site visit made on 17 September 2024

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2024

Appeal Ref: APP/U2750/W/24/3342175

Land adjacent to 53 Water End, Brompton, Northallerton DL6 2RN

- 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 John Walton against the decision of North Yorkshire Council.
 - The application Ref is ZB23/02492/FUL.
 - The development proposed is for a detached dwelling and garage.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant, Mr John Walton, against North Yorkshire Council. This application is the subject of a separate Decision.

Preliminary Matter

3. For the sake of clarity and brevity I have taken the description of development from the Council's decision notice.

Main Issues

4. The main issues are the effect of the proposal on flood risk, whether the proposal preserves or enhances the setting, character or appearance of the conservation area, and the effect of the proposal on the living conditions of the occupiers of Rosedene House in terms of outlook and privacy.

Reasons

Flooding

5. The appeal site lies within Flood Zones 1, 2 and 3. The proposed dwelling and garage would be situated in Flood Zone 1 with the proposed access and front garden area lying within Flood Zones 2 and 3.
6. The National Planning Policy Framework (the Framework) requires applications for development to be supported by site specific flood risk assessments, as well as a sequential test and exception test if applicable. The Planning Practice Guidance (PPG) states that the Sequential Test should be applied to non-major development proposed in areas at risk of flooding. Given the appeal site

falls within Flood Zones 2 and 3, this is an area at risk of flooding and therefore a Sequential Test is required.

7. A Flood Risk Assessment (FRA) has been submitted with this proposed development which states that the Sequential Test has been satisfied by the proposed dwelling and garage being located within Flood Zone 1. The Sequential Test in the FRA does not identify any alternative sites within a local search area and why these other sites are discounted in favour of the proposed development. Whilst the dwelling and garage may be located in Flood Zone 1, the proposed access lies within Flood Zones 2 and 3, which is a fundamental component of the overall scheme. The proposed development as a whole is therefore at risk of flooding, and I am not satisfied that the requirements of the Sequential Test have been adequately met.
8. The FRA contends that the proposal meets the requirements of criteria a) to e) of paragraph 173 of the Framework. Criteria e) states development should only be allowed in areas at risk of flooding where it can be demonstrated that safe access and escape routes are included where appropriate, as part of an agreed emergency plan. An emergency plan (EP) as being provided with the proposed scheme which details, amongst other things, sign up for flood warnings, risk summary of flooding levels, mitigation measures, safe access and escape routes, temporary refuge and property personal emergency plan.
9. My attention has been brought to consultation responses, including those from the Environment Agency, the Swale and Ure Drainage Board, the Council's flood risk team and the fire and ambulance services. I note comments that the rear garden could be used as an escape route and also that there have been two events in 1979 and 2000 when flooding has occurred that has prevented vehicle access, which lasted for approximately 4-5 hours.
10. The safe access and escape routes in the EP are shown to be via the proposed access, which is located in Flood Zones 2 and 3, therefore the area at most risk of flooding. The risk summary in the EP details that flooding levels reach the highway approximately four and half hours after breaching the Brompton Beck bank. However, the data for this only relates to one example of flooding in February 2024. There are examples of previous flooding in the area for a significant period of time which has prevented vehicle access. There are fields to the rear of the garden and specific safe access or suitable escape route to the rear of the property have not been adequately identified.
11. Whilst some consultation responses, do not specifically object to the proposed scheme, I am not satisfied that sufficient evidence has been submitted which demonstrates that the proposed access, which is in Flood Zone 2 and 3, is a safe access or an acceptable escape route for future residents should a flooding event occur, nor is there a suitable alternative. Therefore criteria e) of paragraph 173 of the Framework is not satisfied.
12. From the evidence before me, the proposed development would be harmfully affected in terms of flood risk. The proposal would be contrary to Policy RM2 of the Hambleton Local Plan (HLP) and the Framework which seeks to avoid development in flood risk areas, where possible, by applying the sequential test.

Conservation Area

13. The appeal site partially lies within the Brompton Conservation Area (BCA). In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Moreover, paragraph 205 of the Framework states that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
14. The character of the BCA, particularly in the immediate locality of the appeal site, is residential properties of various ages, sizes and design set within a ridged linear form adjacent to Brompton Beck. The significance of the BCA, particularly within close proximity to the appeal site, is the linear form of built development and its close relationship with Brompton Beck.
15. The proposed building, due to flood constraints, would be set to the north of the site. The positioning of the development would not consolidate the built form and would unacceptably disrupt the linear pattern of development in the area. The proposed building would therefore appear as an incongruous structure detracting from the special scenic qualities of the area and having a harmful effect on the setting, character and appearance of the BCA.
16. The design of the proposal including the proposed use of materials would not be out of keeping with the appearance of other buildings in the area. However, this matter would not outweigh the harm I have identified above with regards to the effect on the linear built form and the significance to the BCA.
17. The proposed development would not preserve or enhance the setting, character and appearance of the BCA. The proposal would conflict with Policy E5 of the HLP which seeks proposals to protect and conserve the district's heritage assets and their settings.
18. The proposal would be harmful to the BCA, and thereby the significance of the heritage asset. Nevertheless, I consider the harm would be less than substantial and in accordance with paragraph 208 of the Framework, that harm should be weighed against any public benefits of the proposal.
19. I have had regard to appellants statement of cases and the heritage statement, which details public benefits including enhancing the setting of the Water End through landscaping and planting trees, freeing up additional rental properties in the area, contributing and supporting local community services and the wider use of Northallerton Town and surrounding villages. I note that the appellant describes the loss of agricultural land as having a negligible adverse effect.
20. The development would bring some public benefits as described above, however, given the proposal is for a single residential property I consider the development would have public benefits of minimal weight. These public benefits would not outweigh the harm to the BCA which I have identified above.

21. The proposal would, therefore, fail to sustain or enhance the setting, and thereby the significance of, the designated heritage asset. It would not accord with the policies of the Framework which seek to conserve and enhance the historic environment.

Living conditions

22. The proposed development would be located to the north of the site, behind the building line of the properties either side. There is substantial boundary treatment between the appeal site and the property of Rosedene, including a detached garage to the rear of Rosedene. Given this boundary treatment and garage, as well as the location of proposed windows and the proximity of the proposal to Rosedene, the proposed development would not appear overly overbearing nor would it result in the unacceptable loss of privacy to the residents of Rosedene.
23. The proposed development would not have a harmful effect on the living conditions of the occupiers of Rosedene in terms of privacy and outlook. The proposal would accord with Policy E2 of the HLP which seeks proposals to maintain a high standard of amenity for all occupiers.

Other Matters

24. I have had regard to the appellants statement of case including post application correspondence with the Council and reference to previous planning applications and appeal decisions for the appeal site and adjacent sites. These matters however do not alter my findings on the main issues above.

Conclusion

25. I have found that the proposal would not have an adverse effect on the living conditions of neighbouring occupiers. However, these matters would not outweigh the harm I have identified regarding the effect on flood risk and on the BCA.
26. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweighs this finding.
27. For the reasons given above, I conclude that the appeal should be dismissed.

Chris Baxter

INSPECTOR