



Appeal Decision

Site visit made on 26 January 2010

by **Kevin Ward BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
10 February 2010

Appeal Ref: APP/H0738/A/09/2115600 4 Central Street, Yarm, Cleveland TS15 9AQ

- 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 Christopher Morris against the decision of Stockton-on-Tees Borough Council.
- The application Ref 08/3138/FUL, dated 16 October 2008, was refused by notice dated 23 October 2009.
- The development proposed is the construction of a single dwelling.

Decision

1. I dismiss the appeal.

Main Issues

2. The main issues are:
 - a) The effect of the proposed development on flood risk.
 - b) Whether satisfactory arrangements for pedestrian access would be provided.

Reasons

Flood risk

3. The flood risk assessment (FRA) submitted on behalf of the appellant includes an assessment of the proposal in terms of the sequential and exception tests set out in Planning Policy Statement 25: Development and flood risk (PPS25). The Council has concerns over the scope of the assessment of reasonably available alternative sites and therefore disputes that the FRA demonstrates that the proposal passes the sequential test.
 4. The scope of the assessment of alternative sites is not clear from the limited information contained within the FRA. In particular it is not clear whether the assessment only considered sites for single dwellings or indeed those in the ownership of the appellant. On the basis of the information before me, I am not satisfied that the sequential test has been applied comprehensively.
 5. However, even if it were demonstrated that there are no reasonably available alternative sites in areas of lower flood risk, the exception test needs to be applied. In addition to the site being previously developed, this requires there to be wider sustainability benefits to the community that outweigh flood risk
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and a demonstration through a FRA that the development will be safe, without increasing flood risk elsewhere.

6. Whilst the proposal would provide an additional dwelling and make use of previously developed land, the wider sustainability benefits to the community would be very limited and are not, in my view, sufficient to outweigh the flood risk.
7. The FRA indicates that the predicted 1 in 100 year flood level including an allowance for climate change would be some 2.3m above the finished floor level of the proposed dwelling. It goes on to recommend a number of flood proofing measures, including the treatment of external walls up to 2.5m to prevent seepage. There is limited information contained in the FRA as to the details of such treatment, nor are any such measures included in the plans submitted with the application. There is no information to demonstrate that the proposed dwelling would be structurally capable of resisting the pressure of flood water.
8. The FRA also refers to the Environment Agency's flood warning system and the potential for occupiers of the proposed dwelling to find refuge on the first floor. I agree with the Environment Agency that neither of these solutions should be relied upon to overcome the risk of flooding. The warning system appears to depend on automated messages to nominated telephone numbers and the first floor of flooded property may lack safe water and power supplies. I also share its concern that the location of future breaches of the flood defences along the River Tees may differ from the flood event of 1995 and therefore assumptions about evacuation routes may not be valid. I consider therefore that in a number of respects, the FRA does not demonstrate that the proposed development will be safe.
9. In the light of the above I find that the proposed development does not satisfy the exception test as set out in PPS25.
10. There is an extant planning permission for an extension to the side of 4 Central Street. This extension would be the same size as the proposed dwelling and cover the same building footprint. I note the Appellant's argument that there would be no control over the number of people occupying either an extended single dwelling or two separate dwellings, and therefore the number of people potentially affected by flooding could be the same.
11. In my view however, the creation of an additional dwelling accommodating a separate household and with its own point of access is materially different from extending an existing dwelling in terms of the potential effects of flooding on people and property. This view is reinforced by PPS25 which clearly differentiates between extensions to existing dwellings and the creation of a separate dwelling (footnote 7). Annex D of PPS25 makes it clear that unlike minor development such as extensions to existing dwellings, the sequential and exception tests should be applied to the creation of a separate dwelling.
12. I note the Appellant's concerns over the stance taken by the Environment Agency. However, on the basis of the information before me, the Environment Agency appears to have taken a consistent and reasonable approach in commenting on the application and the various versions of the FRA in the light

of PPS25. Given that the site is in Flood Zone 3a, the reference to a 1 in 100 year flood event is again reasonable and consistent with PPS25.

13. I accept that raising the floor level to the extent suggested may well have significant implications for the appearance of the proposed dwelling. This is not sufficient to outweigh the harm in terms of flood risk however.
14. I find therefore that the proposed development would have an unacceptable effect on flood risk. It would be contrary to Policy EN32a of the Stockton-on-Tees Local Plan and PPS25.

Pedestrian access

15. The application plans indicate a pedestrian access along the side of the existing garage intended for the use of the occupiers of the proposed dwelling. I saw that in fact this would not be feasible as access is blocked by a brick wall. It also appears that the land in question is outside the ownership of the appellant. The plans also indicate a fence separating the gardens for No.4 and the proposed dwelling. On the basis of the application submitted, the only access to the proposed dwelling for pedestrians would be through the garage, which is required to provide adequate off street parking.
16. This rather awkward arrangement would affect those occupying and visiting the property and would be likely to raise practical difficulties in terms of deliveries and collection of refuse. I find therefore that the proposed development would not provide satisfactory arrangements for pedestrian access. It would be contrary to Policies GP1 and HO3 of the Stockton-on-Tees Local Plan. I appreciate that the space in front of No.4 is in the ownership of the appellant and potentially a shared path could serve both dwellings. However, this is not shown on the application plans and in any case it may raise concerns in terms of the privacy of the occupiers of No.4.

Other Matters

17. Given the rather secluded nature of the appeal site, and the character of surrounding buildings I find that the proposed development would preserve the character and appearance of the Yarm Conservation Area. I am also satisfied that given the orientation and internal layout of the proposed dwelling, and subject to the use of obscure glazing, there would be no adverse impact on the living conditions of the occupiers of nearby dwellings in terms of overlooking. These factors do not however outweigh the harm that I have identified in terms of flood risk and pedestrian access.

Conclusion

18. For the above reasons and taking account of other matters raised I conclude that the appeal should be dismissed.

Kevin Ward

INSPECTOR