
Appeal Decision

Site visit made on 24 April 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 24th May 2017

Appeal Ref: APP/J1915/W/17/3166373

12 Winters Lane, Walkern, Hertfordshire SG2 7NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Steve Hart against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/1855/OUT, dated 12 August 2016, was refused by notice dated 10 October 2016.
 - The development proposed is building of a new dwelling at the bottom of the gardens of 12 and 14 Winters Lane.
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Decision

1. The appeal is allowed and planning permission is granted for building of a new dwelling at the bottom of the gardens of 12 and 14 Winters Lane, Walkern, Hertfordshire SG2 7NZ in accordance with the terms of the application, Ref 3/16/1855/OUT, dated 12 August 2016, subject to the conditions set out in the Schedule attached to the decision.

Procedural Matter

2. The application was made in outline with all detailed matters reserved and I have dealt with the appeal on that basis. An outline house design and 1:200 scale block plan showing layout, floor area and parking arrangements were submitted with the application which I have taken to be for illustrative purposes only.

Main Issue

3. The main issue is whether the proposal would comply with planning policy which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

4. The village of Walkern has a historic north-south axis with the High Street running roughly parallel with the River Beane to its east. Winters Lane is a minor road leading east from the High Street and crossing the river. There is frontage housing along the south side of Winters Lane as far as its junction with the narrow Trotts Lane, which runs south alongside the undeveloped meadows adjacent to the river which are used for horses to graze.
 5. The dwelling plot is provided by the combined rear parts of the back gardens to 12 and 14 Winters Lane, the end properties, and the proposed dwelling would
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front onto and take access from Trotts Lane. The dwelling is about 100m west of the River Beane and faces the meadows which are quite evidently part of its flood plain.

6. Policy ENV19 of the East Herts Local Plan Second Review of 2007 (LP) restricts development in areas liable to flood including where this might increase the risk to people and property. More up-to-date policy is contained in the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG). This national policy aims to steer new development to areas with the lowest probability of flooding by requiring a sequential test.
7. Paragraph 99 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. Paragraph 101 advises that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.
8. The application was accompanied by a site specific Flood Risk Assessment¹ as required by the PPG for a development shown to be located in Flood Zone 2 according to the Environment Agency (EA) Flood Map for Planning. Zone 2² is land with a medium (between 1 in 100 and 1 in 1,000 annual) probability of river flooding. A dwelling house is classed as development that is 'More Vulnerable' to flood risk in the PPG where in Table 3: *Flood risk vulnerability and flood zone 'compatibility'* it is indicated as 'appropriate'. However, this indication of being appropriate is provisional upon the carrying out of the sequential test to identify whether there are any available alternative sites for the proposal in a lower flood risk area.
9. I agree with the Council that by looking no further than recent approvals of dwellings in Walkern the appellant had not considered housing site availability within a wider part of the District which would have been the reasonable requirement to meeting the sequential test. However, during the course of the appeal the EA has accepted the appellant's flood map challenge³. This has provided evidence that the existing EA Flood Map had inaccurately represented the extent of the 1968 flood, as relating to the appeal site, upon which the extent of Flood Zone 2 was based. The Council has been consulted on this further evidence but provided no further comment.
10. The Council has refused this proposal solely on the failure of the proposal to meet the required sequential test in regard to development and flood risk. Although the evidence suggests that flood levels have reached close to the appeal site the EA has agreed to the appellant's flood risk challenge and indicated that the Flood Map will be altered in July 2017 to place the site of the proposed dwelling in Flood Zone 1.
11. The PPG states⁴ that it should not normally be necessary to apply the sequential test to development proposals in Flood Zone 1 (land with a low probability of flooding from rivers or the sea), unless the Strategic Flood Risk Assessment for the area, or other more recent information, indicates there may be flooding issues now or in the future (for example, through the impact of

¹ 12 – 14 Winters Lane, Walkern SG2 7NZ Flood Risk Assessment by RAB Consultants – 12 February 2016

² Planning Practice Guidance Table 1: Flood Zones (Paragraph: 065 Reference ID: 7-065-20140306)

³ 12 – 14 Winters Lane, Walkern SG2 7NZ Flood Map Challenge. RAB Consultants – 29 March 2017

⁴ Paragraph: 033 Reference ID: 7-033-20140306

climate change). I am aware of no such information that might require the sequential test to be applied to Flood Zone 1 in this location. Consequently, I find there to be insufficient grounds to find this proposal contrary to either LP Policy ENV19 or the Framework in respect of development and flood risk.

Other Matters

12. Consideration has been given to the further matters raised by interested parties at both the application and appeal stage. Concerns over the dwelling being out of character with the village, having poor access and comprising inappropriate development of garden land were not supported by the Council. Given the relatively early stage reached by the Walkern Neighbourhood Plan, which might otherwise have had a bearing on this decision, I find these other matters insufficient to weigh against the development being allowed.

Conditions and Conclusion

13. In addition to the standard conditions for an outline planning permission governing the time limits and submission of reserved matters, a condition is necessary in the interests of certainty to specify the site to which the approval relates. In the interests of character and appearance and to ensure resilience in the event of an exceptionally high flood level a condition requires the prior agreement to finished ground floor levels. Subject to these conditions, and having taken into account all matters raised, I conclude the appeal should be allowed.

Jonathan Price

INSPECTOR

Schedule of Conditions
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12 Winters Lane, Walkern, Hertfordshire SG2 7NZ

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: site plan scale 1/500, location plan 1/1250 and proposed development site scale 1:200.
- 5) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed dwelling, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

---End of conditions---