
Appeal Decision

Site visit made on 22 May 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 13th June 2017

Appeal Ref: APP/C1625/W/17/3170866

Churchend Nurseries, Churchend, Eastington GL10 3SB

- 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 and Mrs Craig and Saxon Bull against the decision of Stroud District Council.
 - The application Ref S.16/2247/COU, dated 13 October 2016, was refused by notice dated 9 December 2016.
 - The development proposed is alterations and repairs to existing mill building; into a single residential dwelling (change of use to residential). Development to include the demolition of existing timber, steel and glass derelict green house structures, structural repairs necessary to retain existing structures and roofs. Minor alterations to facade for new glazing to existing openings. Proposal to also include a two story contemporary extension and a store for machinery/tools.
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Decision

1. The appeal is allowed and planning permission is granted for alterations and repairs to existing mill building; into a single residential dwelling (change of use to residential). Development to include the demolition of existing timber, steel and glass derelict green house structures, structural repairs necessary to retain existing structures and roofs. Minor alterations to facade for new glazing to existing openings. Proposal to also include a two story contemporary extension and a store for machinery/tools at Churchend Nurseries, Churchend, Eastington GL10 3SB in accordance with the terms of the application, Ref S.16/2247/COU, dated 13 October 2016, subject to the conditions contained within the Schedule attached to this decision.

Preliminary Matters

2. The appellant has submitted an addendum to the flood risk assessment that accompanied the planning application. This addendum is in response to the Environment Agency comments, dated 30 November 2016 and 12 May 2016, which required the assessment to take account of the revised climate change allowances. I do not find that this addendum raises any new issues or changes the substance of the proposal but merely seeks to address the issues raised by the Environment Agency. The Council has had the opportunity to consider this evidence and has provided comments on them. Having regard to the principles established in the 'Wheatcroft' judgement¹ I do not find that any parties would be prejudiced by my consideration of its content. Therefore, I have determined the appeal taking into account the submitted addendum.

¹ *Bernard Wheatcroft Ltd v SSE* [JPL, 1982]

Main Issue

3. The main issue is whether the proposal makes adequate provision for the protection of future residents from flood risk, with particular reference to the provision of a safe route of escape.

Reasons

4. The appeal site comprises a number of outbuildings, including a large, single-storey mill building, which is a traditional brick building that makes an important contribution to the architectural and historical heritage of the locality. Whilst the building is not statutorily listed, it is considered to be an important non-designated heritage asset. Although the building is currently in a state of disrepair, the proposal has been sensitively and appropriately designed to ensure its future survival is secured.
5. Generally, residential development within Flood Zone 2 would be subject to a Sequential Test and subsequently an Exception test. However, Paragraph 104 of the National Planning Policy Framework (the Framework) states that applications for changes of use should not be the subject to either of these tests but should still meet the requirements for site-specific flood risk assessments. Paragraph 102 of the Framework states that a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
6. The Council raise no concerns regarding the development increasing flood risk elsewhere and based on the evidence before me I find no reason to conclude otherwise. The Council's main concern is with regard to the development being safe for its lifetime taking account of the vulnerability of its users.
7. The appellant's Flood Risk Assessment (FRA) identifies that the appeal site primarily falls within Flood Zone 2 as defined by the Environment Agency (EA) mapping. Table 2 of the National Planning Practice Guidance (PPG) identifies 'buildings used for dwelling houses' as 'more vulnerable' development. The site is surrounded by two branches of the River Frome, one to the north and one to the south. Whilst the surrounding river and the area to the south fall within Flood Zone 3, the area immediately to the north of the river is located within Flood Zone 1.
8. The appellant's flood risk assessment identifies that during flood events an escape route would be utilised via the footbridge to the north of the site crossing the northern branch of the river. This footbridge is between 15.62m AOD and 15.45m AOD. The 1 in 100 year flood water level, with allowance for climate change, at the bridge is 14.84m AOD and the 1 in 1000 year flood water level 15.18m AOD. Therefore the bridge would offer a dry escape route for pedestrians during a 1 in 1000 year flood.
9. The finished floor levels (FFLs) of the building which is the subject of the proposed change of use would be approximately 15.44mAOD, as per its current level. The proposed extension would have FFLs of 16.03m AOD. The Environment Agency states that they would usually advise the FFLs to be set no lower than 600mm above the design flood level, in this case 16.18 m AOD. However, as the proposal is for a conversion, the Environment Agency has confirmed that providing there is sufficient evidence that the FFLs could not be

raised 600mm above the design flood level, they recommend that the FFLs are set as high as reasonably possible and flood proofing techniques are provided to a minimum level of 600mm above the design flood level.

10. I accept the appellant's argument that raising the FFLs of the existing building would likely have a significantly harmful effect on the appearance of the building. Furthermore, whilst the FFLs of the extension would only be marginally below the recommended 16.18m AOD when taking measurements from the branch of the river to the south, when taking the measurement from the northern branch, which is significantly closer, it would be far in excess of the recommended 600mm above the flood design level.
11. In order to mitigate against flood risk, the appellant proposes resilience and flood proofing techniques. The dwelling has been designed so that all sleeping accommodation is contained on the first floor of the extension, above the flood design level. I have had regard to the appeal at Sea Mills². In that instance the entirety of the residential accommodation was contained on the first floor, whereas the ground floor contained only workshops and offices. Therefore, in the event of a severe flooding, all of the habitable accommodation would remain free from flooding. That would not be the case for the current proposal. Were there to be a severe flood whereby the occupants could not escape the property, the facilities available to the occupants would be limited and as a result they would not likely be able to accommodate the property for any length of time. As a result, it would likely result in the need for the emergency services to rescue the occupants. However, given that the FFLs of the extension are only slightly less, 150mm, than the recommended 600mm above flood design level when measured from the southern branch of the river, it is highly unlikely that such a scenario would occur.
12. Notwithstanding the above, the proposal does offer a viable, safe evacuation route along the footbridge. Moreover, the Environment Agency confirms that there is a comprehensive Flood Warning service operating in the local area. Therefore, if a severe flood was likely to occur, it is reasonable to conclude that the occupants would have sufficient advanced warning and would be able to use the evacuation route, as set out in the appellant's Flood Evacuation Management Plan.
13. I have had regard to paragraph 59 (Reference ID: 7-059-20140306) of the PPG, which states that "*Flood resistance and resilience measures should not be used to justify development in inappropriate locations.*" Whilst the proposed measures fall short of being optimal, I do not consider that the proposal represents a significant risk to the safety of its occupants in the event of a flood.
14. I find therefore that the proposal does make adequate provision for the protection of future residents from flood risk. As such, it accords with Policies ES3 and ES4 of the Stroud District Local Plan 2015, which, amongst other matters seek to ensure that development does not increase risk of flooding on or off the site, includes measures to reduce the causes and impacts of flooding and demonstrate that it will be safe.

² Appeal Ref APP/C1625/W/15/3035928

Other Matters

15. The appeal property is located within the Industrial Heritage Conservation Area (the CA). Section 71(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The Council have raised no objection to the proposal in respect of whether it preserves or enhances the character or appearance of the area. The proposal would ensure the retention of the non-designated heritage asset, which would likely deteriorate further in the absence of such a conversion scheme. Not only would the proposal retain the building, in doing so it would enhance the character and appearance of the CA, ensuring that the important industrial heritage of the mill building is retained. Accordingly, whilst my decision does not turn on this matter, this benefit weighs in favour of the proposal.

Conditions

16. I have had regard to the various conditions that have been suggested by the Council. For the avoidance of doubt it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
17. In the interests of safeguarding neighbouring residential amenity conditions are necessary restricting the hours of operation of machinery and plant and to control the emission of dust and dirt.
18. In the interests of flood risk and the safety of future occupants, a condition is necessary regarding the submission of a scheme of flood mitigation, resistance and resilience measures. For the same reason, conditions are necessary regarding the drainage of surface water and foul sewage and the submission of proposed finished floor levels, ridge and eaves heights. However, as the evacuation route proposed is acceptable, further details regarding this matter are not necessary.
19. In the interests of the character and appearance of the area, conditions regarding materials are necessary. Furthermore, in the interests of highway safety, a condition regarding parking and turning spaces is also necessary. However, the Council's suggested condition refers to a drawing number that does not appear to correlate with any of the plans before me. Accordingly, for the avoidance of doubt, I have amended the condition to require the submission of the details.
20. It is essential that the requirements of conditions 4, 5 and 6 are agreed prior to the development commencing to ensure an acceptable form of development in respect of residential amenity and flood risk.

Conclusion

21. For the reasons given above, having regard to all matters raised, the appeal is allowed.

Alexander Walker

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P/001 Rev A, P/002 Rev B, P/110 Rev B, E/200, P/210 Rev A, E/700, E/701, P/710 Rev A, P/711 Rev A and E/900.
- 3) No construction site machinery or plant shall be operated, no process carried out and no construction related deliveries taken at or dispatched from the site except between the hours of 08:00 and 18:00 on Mondays to Fridays, between 08:00 and 13:00 on Saturdays and not at any time on Sundays, Bank or Public Holidays.
- 4) No development shall take place until a scheme of measures to control the emission of dust and dirt during construction has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be adhered to throughout the construction period of the hereby approved dwelling.
- 5) Notwithstanding the submitted flood risk assessment, no works must take place on site until full details of a scheme of flood mitigation, resistance and resilience measures has been submitted to and approved in writing by the local planning authority. The development shall be carried in accordance with the approved details and all approved measures be completed and installed before the first occupation of the hereby approved dwelling and shall be retained as such thereafter.
- 6) No development shall take place until details of a scheme for the disposal of surface water and foul sewage, including an assessment into the potential for disposing of any surface water by means of a sustainable drainage system, have been submitted to and approved in writing by the local planning authority. The scheme shall be completed in accordance with the approved details prior to the first occupation of the dwelling hereby permitted.
- 7) No work on the external surfaces of the buildings hereby permitted shall take place until full details and samples of the materials to be used in the construction of the external surfaces of the building works have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 8) Prior to the first occupation of the hereby approved dwelling details of vehicular parking and turning facilities shall be submitted to and approved in writing by the local planning authority. The approved details shall be completed prior to the first occupation of the hereby approved dwelling and shall be retained as such thereafter.
- 9) No development shall take place before details of the proposed finished floor levels; ridge and eaves heights of the buildings hereby approved have been submitted to and approved in writing by the local planning authority. The submitted levels details shall be measured against a fixed

datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding property. The development shall be carried in accordance with the approved details.