
Appeal Decision

Site visit made on 30 May 2017

by Oliver Blower MA (T&CP)

a person appointed by the Secretary of State for Communities and Local Government

Decision date: 28 June 2017

Appeal Ref: APP/K3605/D/17/3173116

11 Brooklands Road, Weybridge KT13 0RU

- 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 John Peters against the decision of Elmbridge Borough Council.
 - The application Ref 2016/1893, dated 8 June 2016, was refused by notice dated 10 January 2017.
 - The development is described as "*erection of outbuilding to the rear of the garden*".
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr John Peters against Elmbridge Borough Council. This application is the subject of a separate Decision.

Procedural Matters and Background

3. The appeal relates to retrospective planning permission for an outbuilding. At the site visit I observed that the outbuilding has been constructed and it is in use as a games room.
4. Permitted development rights were removed for the erection of outbuildings with the grant of planning permission for the host dwelling. I note that this is consistent with Policy CS26 of the Elmbridge Core Strategy (2011) (CS) which seeks to ensure permitted development rights for development which could result in a loss of flood storage capacity or impede flood flow will be removed from new developments in Flood Zone 3, in order to ensure the risk of flooding is not increased through unregulated development.
5. The appeal includes a Technical Note (TN), dated 3 April 2017, to be read in conjunction with the appellant's site-specific Flood Risk Assessment (FRA). The TN has been prepared in response to the Council's reason for refusal and I have taken it into consideration as part of my assessment.

Main Issue

6. The main issue is the effect of the development on flood risk, with particular regard to dispersal of flood flows and floodplain storage.
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Reasons

7. The appeal site relates to an end of terrace house fronting Brooklands Road. The house and its immediate neighbours are situated on land approximately 15.5m Above Ordnance Datum (AOD) whereas the rear gardens of these houses are lower, at approximately 13.5m AOD to 14m AOD. The outbuilding is located at the end of the rear garden of the house.
8. The appeal site is located close to the River Wey and falls within Flood Zone 3a (high probability of flooding) and 3b (functional floodplain) on the Environment Agency Flood Map. The FRA states that the site is at risk of fluvial flooding and surface water flooding.
9. The National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG) advise that the Sequential and Exception Tests do not need to be applied to minor development - such as games rooms erected within the curtilage of an existing dwelling. Nonetheless the PPG requires that a FRA is produced for minor householder development within Flood Zone 3. The PPG explains that a FRA should, amongst other matters, establish the risks of flooding, the potential to increase flooding elsewhere, and measures to deal with these effects and risks.
10. Policy CS26 of the Council's CS seeks, in part, to ensure that in order to reduce the overall and local risk of flooding planning permission will only be granted for development where it can be demonstrated that it would not constrain the natural function of the flood plain, either by impeding flood flow or reducing storage capacity.
11. Further guidance is given in the Elmbridge Flood Risk Supplementary Planning Document 2016 (SPD). This recommends that development does not impact upon the ability of the floodplain to store water in times of flooding by providing level-for-level, volume-for-volume compensation. The SPD also suggests that evidence should be provided within a FRA to demonstrate that the proposed development will not impact on flood flows, and that this may require additional modelling.
12. The outbuilding has reduced the storage volume of the functional floodplain by approximately 79m³. The TN clarifies that it would not be possible to provide flood compensatory storage volume on a level-for-level or volume-for-volume basis. Although the effect of the loss of storage volume on flood risk has been assessed as negligible in the FRA, this has not been supported by specific evidence, and the loss of storage volume has not been mitigated at all, contrary to CS policy CS26 and advice in the SPD.
13. The floor of the outbuilding is below the height of modelled water levels for flooding events of between 14.67m and 16.18m. Thus, due to the size and bulk of the outbuilding, it is likely to cause an impediment to fluvial flood flow and so constrain the natural function of the floodplain. I acknowledge that flood water would be able enter the outbuilding and it is set back 4 inches from the boundary, nonetheless the FRA and TN do not model the effect of the impediment on fluvial flood flows, nor assess or recommend mitigation measures.

14. As a result I find that the FRA does not adequately establish the development's potential to increase flooding elsewhere or measures to deal with this effect, contrary to the Framework and PPG.
15. I therefore conclude on this issue that the development causes material harm by increasing the risk of flooding through the loss of floodplain storage and the impediment of fluvial flood water flows without providing adequate mitigation. It therefore conflicts with CS Policy CS26 and advice in the Flood Risk SPD.

Other Matters

Surface water runoff

16. The outbuilding results in an impermeable area of approximately 34m², increasing the level of surface water runoff when it rains. The FRA recommends that this be mitigated by implementing appropriate Sustainable Drainage Systems (SuDS). The appellant has confirmed that he has already put in place two soakaways and would accept a condition requiring the approval and implementation of a scheme to include, amongst other things, rainwater collection using water butts and surface water management.
17. With such a condition the development, in regard to surface water runoff only, would be partially in accordance with policy CS26 which seeks, amongst other matters, that new development contain SuDS and that all development within Flood Zone 3 will require surface water runoff to be controlled, as near to its source as possible, at greenfield rate. This, however, does not outweigh the harm caused at times of fluvial flooding for the reasons given above.

Flood resistance, resilience and the safety of users

18. The FRA recommends that a floodgate is fitted to avoid direct entry of floodwater and that residents are made fully aware of the flood risk and existing flood warnings during an extreme event. The appellant has agreed to a condition requiring the internal posting of details of the Environment Agency's flood warnings, which is necessary to ensure the safety of users.
19. The appellant does not wish to install a floodgate. I observed at the site visit that the outbuilding has no obvious flood resilience measures with, for example, some electrical sockets having been installed at low level. Without a floodgate the outbuilding will be damaged by water ingress to a greater extent than would be the case had the building incorporated flood resistance and resilience measures. Thus, in this regard, the outbuilding is contrary to policy CS26 which seeks, in part, that development in Flood Zone 3 requires flood resistance and resilience measures in line with current Environment Agency advice, and advice included within the Elmbridge Strategic Flood Risk Assessment. This weighs against the development.

Other development

20. The appellant has referred to extensions having been granted planning permission at 71, 31 and 15 Brooklands Road. In these cases, however, the extensions are attached to their respective host building and are on higher land than the outbuilding, thus they are not directly comparable to the appeal development. I also note that some of these permissions predate the Council's CS (2011), Flood Risk SPD (2016) and the Framework (2012).

21. The appellant has also referred to planning applications at 7 Brooklands Road and 3B Brooklands Road which concerned, in part, outbuildings in rear gardens. These applications were refused on flood risk grounds, either due to inadequate information in the FRA or harm caused by the impediment of flood flow and the reduction in storage capacity of the floodplain. These examples, therefore, only serve to highlight the harm such development can cause.
22. I note reference has been made to an outbuilding at 13 Brooklands Road, however there is no evidence that this structure has planning permission, thus I give it extremely limited weight.
23. Although the appellant argues that the outbuilding would normally be permitted development; there is no dispute that the development does require planning permission and I have made my assessment accordingly.

Conclusion

24. I acknowledge that the outbuilding provides space for games which benefits the appellant, and that the harms in regard to surface water runoff and safety can be mitigated by condition. This, however, does not outweigh the fact that the FRA and TN have failed to adequately demonstrate that the outbuilding would not result in increased risk of fluvial flooding to the dwelling or beyond the site boundary, with particular regard to loss of flood storage capacity and the impediment of flood flow, and contains no adequate measures to mitigate these specific risks.
25. I therefore conclude, for the reasons given above and having had regard to all other matters raised, that the appeal is dismissed.

Oliver Blower

Appointed Person