
Appeal Decision

Site visit made on 6 June 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 29 June 2017

Appeal Ref: APP/N0410/W/17/3170643

Land adjacent to 5 Ellington Gardens, Taplow SL6 0AY.

- 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 Bristol Developments Ltd against the decision of South Bucks District Council.
 - The application Ref 16/01678/FUL, dated 8 September 2016, was refused by notice dated 7 November 2016.
 - The development proposed is the proposed demolition of existing garages and construction of a new infill dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the proposed demolition of existing garages and construction of a new infill dwelling at land adjacent to 5 Ellington Gardens, Taplow SL6 0AY in accordance with the terms of the application, Ref 16/01678/FUL, dated 8 September 2016 subject to the conditions set out in the schedule to this decision.

Main Issue

2. The main issue is whether the proposal represents an acceptable form of development having regard to its flood zone location and the Sequential Test.

Reasons

3. It is common ground between the appellant and the LPA that the principle of development in the Taplow Riverside Conservation Area (TRCA) and Green Belt is acceptable. However, the site is located in Flood Zone 2 as defined on the Environment Agency's flood risk maps and Strategic Flood Risk Areas 2 and 3a in the Council's Strategic Flood Risk Assessment.
 4. Policy CP13 of the "*South Bucks District Local Development Framework: Core Strategy Development Plan Document 2011*" (the CS) states that vulnerable development will be steered away from areas at risk of flooding wherever possible in accordance with PPS25. Although PPS25 has been revoked, the policy is consistent with the overall aims in the more recent "*National Planning Policy Framework*" (the Framework) paragraphs 100-104 of which indicate that inappropriate development in areas at risk of flooding should be avoided by directing it away from areas at highest risk by the application of the Sequential Test (ST). The aim is to ensure that development only takes place in areas at risk from flooding if there are no reasonably available alternative sites at locations where the risk is less.
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5. The "*Planning Practice Guidance*"¹ (the PPG) states that in all cases that the proposed development should be safe and not lead to increased flood risk elsewhere. The PPG sets out the main steps to be followed. In effect, if there are better sites in terms of flood risk, or a proposed development cannot be made safe, it should not be permitted. It also advises that where large areas fall within Flood Zones 2 and 3 and development is needed to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives.
6. Although a Flood Risk Assessment (FRA) including a ST was submitted with the application as required by paragraph 103 of the Framework, there is disagreement between the parties with regards to its geographical coverage. The PPG indicates that for individual planning applications where there has been no sequential testing at a strategic level, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed.
7. The appellant's ST submitted is directed at an area within a 3 mile radius of the site and includes parts of the adjoining authority². Beyond this it is argued that any alternative sites would not sustain the local community of Taplow. The ST is a detailed piece of work and found only two available sites within the search area. Both of these were investigated and found to have a history of planning refusals and hence have been discounted.
8. Other than disagreeing with its geographical coverage, the Council does not dispute the findings of the ST. It argues that there is no reason to limit the search to the local level, saying that an appropriate catchment area would be the whole of the district as no specific local housing needs have been identified for Taplow. The Council's stance appears to give little weight to two factors. Firstly, there is an acknowledged need for housing within the adjacent district to which the village of Taplow is geographically related. Secondly, the evidence points a significant uplift in the Council's own housing requirement as part of the emerging local plan process. If this is the case, it is almost inevitable that a level of housing will need to be accommodated in smaller towns and villages across the district. Notwithstanding the above, a district wide ST would be an onerous exercise. It would encompass areas of the district that are remote and unrelated to Taplow. For these reasons, and given the modest nature of the proposed development I consider the Council's stance to be unreasonable and disproportional.
9. The FRA concludes that subject to a variety of resilience measures the development would be safe from flooding and not increase flooding risk elsewhere. Amongst other things these measures include; raising the slab level 300mm above the 1:100 + climate change level, the construction of voids and no sleeping accommodation to the ground floor.
10. For the reasons set out above, I find that the proposed development could not be accommodated on a reasonably available alternative site and as such it is not possible to direct development to an area at lower risk of flooding. Furthermore, I find that the proposed mitigation measures are sufficient to make the dwelling safe from flooding and that the residual risk can be

¹ Ref ID: 7-033-20140306

² The Royal Borough of Windsor and Maidenhead

effectively managed. As such, I find no conflict with Policy CP13 of the CS or Paragraphs 100-1034 of the Framework.

11. In coming to that view, I appreciate that I have reached a different conclusion to my predecessor who dealt with the 2015 appeal³. However, it is germane that the evidence in that case did not include a ST. Consequently, whilst I have had regard to the 2015 decision, I have determined the appeal before me purely on its own merits, in the light of the particular circumstances which apply in this case.

Other Matters

12. Local residents have expressed a wide range of concerns including, but not limited, to the following; loss of wildlife habitats and trees, pressure on local infrastructure, loss of parking and highways safety and the effect on the TRCA. Whilst I understand the concerns of local residents, it is evident that these concerns were considered by the Council at the application stage and by the previous Inspector before that and there is no compelling evidence before me which would lead me to a different conclusion on these matters.

Conditions

13. I have considered the conditions suggested by the Council against advice in the PPG. In some instances I have amended the conditions provided by the Council in the interests of brevity and to ensure compliance with the PPG.
14. I have imposed a condition specifying the approved plans as this provides certainty. In addition I have imposed conditions relating to external facing materials, landscaping to ensure the satisfactory appearance of the development and to protect trees on the site. Although not suggested by the Council I have imposed conditions relating to the provision of a surface and foul water drainage systems as well as flood prevention measures set out in the FRA. These are necessary in the interests of flood prevention.
15. A condition relating to contractor parking is necessary to protect the living conditions of neighbouring occupiers. The ecology condition is necessary to ensure compliance with development plan objectives. There is no substantial evidence before me to explain why a lighting condition is necessary to make the development acceptable in this location. Moreover, Ellington Gardens is a private road and as such the suggested condition relating to mud on the public highway is not applicable in this instance.

Conclusion

16. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should succeed.

D. M. Young

Inspector

³ PINS ref: APP/N0410/W/15/3009603

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PL_100, PL_101, PL-102D, PL-200D, PL-201, PL-400D and PL-401.
- 3) No development above slab level shall take place until details of the materials to be used in the construction of the external surfaces of the building, the access road and any other hard surfaced areas 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.
- 4) Notwithstanding any indications illustrated on the approved drawings, no development above slab level shall take place until there has been submitted to and approved by the Local Planning Authority in writing a biodiversity/ecological enhancement and landscape scheme. The scheme shall include the provision of bat roosting and bird nesting opportunities. The scheme shall also include indications of all existing/proposed trees, shrubs and hedgerows on the site including details of crown spreads, appropriate protection measures during the construction phase, details of service routes and those trees to be retained. None of the trees, shrubs or hedgerows to be planted or are shown for retention shall be removed or felled, lopped or topped within a period of five years from the date of this permission, without the prior written permission of the Local Planning Authority.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping/ecological/biodiversity enhancement shall be carried out in the first planting and seeding season following the occupation of the development hereby permitted or the substantial completion of the development, whichever is the sooner. Any trees, hedgerows or shrubs forming part of the approved scheme which within a period of five years from the occupation or substantial completion of the development, whichever is the later, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 6) No development shall take place until details of the provision to be made to accommodate all site operatives', visitors' and construction vehicles loading, off-loading, parking and turning within the site during the construction period has been submitted and approved in writing by the Local Planning Authority. These details shall thereafter be implemented as approved before the development begins and be maintained throughout the development.
- 7) No development shall take place until full details of the proposed surface water drainage scheme and foul water disposal have been submitted to and approved in writing by the Local Planning Authority.
- 8) The development permitted by this planning permission shall only be carried out in accordance with the mitigation measures detailed in the 'Ambiental' Phase 1 Flood Risk Assessment dated June 2016. The

mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.