



Appeal Decision

Site visit made on 20 June 2019

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2019

Appeal Ref: APP/T0355/W/19/3226030

1 Nursery Way, Wraysbury, Staines TW19 5DT

- 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 P Higgins against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 18/03042, dated 16 October 2018, was refused by notice dated 21 December 2018.
 - The development proposed is erection of one new dwelling.
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Decision

1. The decision is dismissed.

Procedural Matters

2. The appellant has submitted drawing NW-01-1002 Rev A (Proposed plans and elevations) with the appeal. However, this plan does not appear in the list of plans on the refusal notice, against which the Council made its decision. None of the parties refer to it. It is similar to submitted drawing NW-01-1002 (Existing & Proposed Plans & Elevations) apart from showing a new cross over at the end of the drive. The provision of an access and the provision of necessary visibility splays are not in dispute. As the appeal is dismissed this plan is not determinative in the case.

Main Issues

3. The main issues are i) the effect of the proposal on flood risk, ii) the effect of the proposal on the character and appearance of the area, and iii) the effect on highway safety with regard to parking.

Reasons

4. The appeal site is former garden land and is located adjacent to 1 Nursery Way but fronts onto Fairfield Approach, a private road. There is no pavement and some properties have grass verges adjacent to the road. The area is predominantly residential with a mix of house styles, design and sizes, including bungalows, detached and semi-detached properties, most of which are generally set-back from, but fronting, the road. Most properties have hipped or gable tiled roofs and the predominate materials are brick with some render. The site also lies within Flood Zone 3, part of which is Zone 3a (high

probability of flooding) and part Zone 3b (part of the functional floodplain). The River Thames is to the east and Wraysbury Reservoir and others to the west.

5. The appeal proposal is for the erection of a modest contemporary designed flat roof two-storey 2-bedroom dwelling. It would be set back from the road approximately in line with the adjacent bungalow 18 Fairfield Approach and forward of 1 Nursery Way. Vehicular access would be off Fairfield Approach leading to a driveway with on-site parking for one vehicle. There would also be private garden area to the rear, cycle parking, waste and recycling bin storage and a green roof.

Flood risk

6. The Environment Agency (EA) has confirmed that part of the site is within Flood Zone 3b as well as Flood Zone 3a of the Royal Borough of Windsor and Maidenhead Strategic Flood Risk Assessment. Table 1 of the Planning Practice Guidance (PPG) states that Zone 3a has a high probability of flooding and Zone 3b is part of the functional floodplain. The proposed development is classed as a 'more vulnerable' type of development in table 2 of the PPG. Tables 1 and 3 of the PPG advise that this type of development is not compatible with the flood zone and should not be permitted.
7. The appellant submitted a site specific Flood Risk Assessment (FRA) with the application to which the Environment Agency (EA) objected. A further FRA response was submitted with the appeal to seek to show the development would have a negligible effect across the wider floodplain.
8. The EA advise that the FRA has not demonstrated that the site does not fall within Flood Zone 3b, and that the development is appropriate for this zone. Therefore, there is no suitable basis to make a proper assessment of flood risk arising from the proposed development and that the loss of the floodplain can be adequately mitigated against.
9. The appellant is required to demonstrate that the flood risk sequential test has been appropriately addressed and that there are no sites available in areas with the lowest risk of flooding, in accordance with paragraphs 157 and 158 of the National Planning Policy Framework (the 'Framework'). The appellant has not submitted a sequential test, which in itself is a reason for refusing planning permission.
10. Furthermore, paragraph 163 of the Framework requires Councils to ensure that flood risk is not increased elsewhere, once a sequential test and exceptions tests have been undertaken. Notwithstanding that no sequential test has been submitted, the appellant has sought to demonstrate flood resistance and resilience measures to protect the dwelling from flooding, such as recommending that future residents register with the EA Flood Waring Service. The dwelling would have finished floor levels across the site that would be above the long-term flood level. The design of the house would also include voids beneath the floors as part of the appellant's flood risk mitigation. However, voids can silt up or become blocked over time hence leading to a loss of the proposed mitigation. For this reason, the Council does not like voids and maintaining voids them as designed is not always enforceable, even with maintenance plans. The EA prefers level-for-level flood plain compensation to ensure floodplain capacity is not reduced and flood risk elsewhere is not increased. The appellant has not shown he has considered and explored this or

explained why it cannot be provided on site to justify other mitigation measures and to demonstrate properly that flood risk would not be increased elsewhere. Whilst sustainable drainage can help minimise surface water discharge, it would not overcome the flooding risk.

11. To conclude, the appellant has not submitted a sequential test to satisfactorily demonstrate that other areas less prone to flooding are not suitable for the development, nor has he adequately demonstrated that the development would not increase flood risk elsewhere. I have not been presented with any substantive wider sustainability objectives arising from the development of a single dwelling to outweigh the harm to flood risk. Accordingly, the proposal would be contrary to paragraphs 157 and 158 of the Framework.

Character and appearance

12. The proposed dwelling would respect the building line and the site could be regarded as a transition between the two storey property of 1 Nursery Way and the bungalow 18 Fairfield Approach. However, the proposed flat-roofed tiered structure, with the first floor having a smaller footprint than the ground floor, would introduce an unduly incongruous and intrusive form of development in the street. Furthermore, the use of white render on a two-storey tiered flat-roof structure, coupled with the timber cladding, would compound the incongruity. When approaching from the north, the site is more exposed and visible, due to 1 Nursery Way being at an angle to the appeal site. Hence the proposed dwelling would be unduly prominent in the street scene. Despite the variety of house styles and designs and the visual interest a contemporary design would bring to the area, the proposed dwelling would not be in keeping with the general character and appearance of the area.
13. The proposed dwelling is orientated such that the 'front door' is to the side of the property. I concur with the appellant that the position of the door to the side is not crucial *per se*. However, its placement to the side and the configuration of the internal space would result in a relatively blank and inactive frontage facing the road, that would generally be out of keeping with the area.
14. I find the combination of the design, orientation, layout and choice of materials for the proposed dwelling would harm the character and appearance of the area. It would be contrary to Policies DG1 and H10 of the adopted Royal Borough of Windsor & Maidenhead Local Plan (LP). These policies seek, amongst other things, to require high standards of design, to enhance the existing environment and be compatible with the street, including the roofscape and materials used. It would also run contrary to the advice in paragraph 127 and 130 of the Framework about new development being sympathetic to local character. The emerging Borough Local Plan Submission Version 2017 has been submitted for examination but is not yet adopted. Therefore, I give Policy SP3, which seeks to ensure high quality design that respects the local character, moderate weight.

Highway safety

15. LP Policy T5 expects all new development to comply with its design standards to ensure it does not place an undue burden or create problems of congestion on the highway network or adversely affect the living conditions of residents. LP Policy P4 requires new development to provide car parking in accordance

with the Council's parking standards, which are replicated in Appendix C of the Highway Authority's Statement. These require dwellings with 2-3 bedrooms in areas of poor accessibility to have 2 parking spaces. The proposal would provide one on-site vehicle parking space, which would fall short of the parking requirement.

16. People can choose to live in a property with reduced parking, and home and remote working can reduce the need to drive to work. The High Street would be walkable for some people, as would Wraysbury railway station further away. However, a 2 bedroom dwelling would likely attract 2 cars and this would lead to permanent parking of one car on the road, which is different to occasional visitor parking. Fairfield Approach is a private residential road unlikely to attract heavy through-flow of traffic. Nonetheless I find that inadequate on-site parking would lead to additional vehicles parking on the street and this would be detrimental to highway and pedestrian safety, especially in the absence of pavements. Accordingly, the proposal, is contrary to LP policies T5 and P4, whose aims are outlined above.
17. The Highways' Authority consider a second parking space could be provided on site. Furthermore, the appellant acknowledges there is sufficient frontage to provide two parking spaces and is amenable to a condition requiring such. Whilst parking could theoretically be resolved, a condition would not overcome the harm I have identified on the other two main issues.

Planning Balance

18. The Council confirms in its Statement that it is not able to demonstrate it has a 5 year housing land supply (4.8 years) and therefore the relevant housing policies are deemed out of date. In such instances paragraph 11d) of the Framework requires that permission is granted unless there are policies in the Framework that protect areas of importance (which includes areas at risk of flooding in footnote 6) or where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
19. The erection of one dwelling on this small windfall site would make a modest contribution to the Council's housing supply and I have no reason to doubt it would not be built out quickly. There would be some modest economic and social benefits arising from the construction of a dwelling and its contribution to the local area. I acknowledge the appellant's environmental efforts to embrace the principles of sustainable design and construction, including high levels of insulation, low water use and a green roof.
20. The appellant refers to 'previously developed land', but residential gardens in built up areas are excluded from the definition in the Glossary in Annex 2 of the Framework.
21. Despite there being Green Belt constraints on the location of housing, building in the floodplain and within an area at high risk of flooding is not a suitable alternative. There would also be harm to the character of the area and highway safety. Therefore, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Conclusion

22. For the reasons set out above, having regard to all other matters raised, I conclude that the appeal should be dismissed.

K Stephens

INSPECTOR