



Appeal Decision

Site visit made on 5 November 2019

by Rachael Pipkin, BA (Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th December 2019

Appeal Ref: APP/Z3635/W/19/3233754

The Anchor Hotel, Church Square, Shepperton, TW17 9JZ

- 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 Shepperton Hotels Ltd against the decision of Spelthorne Borough Council.
 - The application Ref: 19/00474/FUL dated 30 January 2019, was refused by notice dated 12 June 2019.
 - The development proposed is the partial demolition of the existing hotel, with the retention of the front façade. The construction of 3 no. 4-bedroom townhouses, 2 no. attached 2-bedroom cottages, 2 no. 2-bedroom apartments with associated landscaping and cobbled parking court.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the appeal site would be suitable for housing with particular regard to flood risk and the provision of a safe means of access or escape during flooding;
 - whether the proposed development would preserve or enhance the character and appearance of the Shepperton Conservation Area; and
 - the effect of the proposed development on the living conditions of future occupants of the two-bedroom apartments, with particular regard to the provision of private outdoor garden space.

Reasons

Flood risk and access

3. The appeal site itself is located within Flood Zone 1 with a low probability of flooding. However, the site is located on a 'dry island' which is surrounded by land within Flood Zone 3a. Consequently, during times of flooding, the appeal site could become cut off from the surrounding area by flood waters. The Council's Flooding Supplementary Planning Document 2012 (Flooding SPD) states that dry islands should be treated the same as for the level of flood risk in the area surrounding them, regardless of their size. The proposal should therefore be assessed as an application for residential development within

Flood Zone 3a as this surrounds the site. This is not disputed by the main parties.

4. Policy LO1 of the Core Strategy and Policies Development Plan Document 2009 (CSPDPD) sets out the Council's approach to flooding. It states that residential uses within Flood Zone 3a will not be permitted where flood risks cannot be overcome. Whilst this policy pre-dates the National Planning Policy Framework (the Framework), it is broadly consistent with the approach taken by the Framework which states at paragraph 155 that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. To this end, paragraph 163 states that development should only be allowed in areas at risk of flooding where it can be demonstrated that any residual risk can be safely managed and safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
5. The appellant's Flood Risk Assessment (FRA) identifies that following the initial onset of flooding in the vicinity, a dry pedestrian access to the appeal site beyond the Flood Zone 3 would exist for around 2½ days after which this route would be subject to shallow flooding to a maximum depth of 200mm. This is expected to increase to a maximum of 500mm around 5½ days later which would still enable emergency vehicles to access and egress the site via Church Road. By the 6th day, there would be no safe access, effectively the site would be inaccessible, with flooding expected to be peak around day 8. The FRA assumes a similar time for levels to return to normal, although safe access would be resumed before that point.
6. The appellant has submitted an Outline Flood Risk Management Plan (FRMP) which sets out that the appellant, who is also the operator of the Warren Lodge Hotel, directly opposite the site, would undertake training and carry out the role of Flood Warden for the site and would provide assistance and facilities in the event of an evacuation. However, there is nothing to guarantee this arrangement should the hotel cease to operate or were to change hands. The Flood Warden would have 2½ days to organise the evacuation of residents wishing to leave.
7. While it may be possible to organise the evacuation of residents from the proposed development during this time, this is assuming people are prepared and ready to leave almost immediately on the river flooding and a warning being issued. Even taking into account that warnings prior to the river overtopping its bank may have been made, people may be reluctant to evacuate until they are certain they are at risk especially as the development itself would be unlikely to flood. Moreover, vulnerable residents may need more time or assistance from others to evacuate their property which would add further pressure on resources at a time of emergency when they are likely to be stretched.
8. The relatively short period when the route is dry and the anticipated low depth of floodwater when first flooded, may lead to people risking crossing flood waters. The Planning Practice Guidance (PPG)¹ states that even low levels of flooding can pose a risk to people in situ (because of, for example, the presence of unseen hazards and contaminants in flood water, or the risk that

¹ Paragraph: 039 Reference ID: 7-039-20140306

people remaining may require medical attention). A similar finding is also set out within the Flooding SPD, paragraph 4.37 which states that the Council does not accept that walking through flood water can be safe because where it is fast moving water, even of shallow depth, it can be dangerous particularly to children and those who are frail; and that still water can be dirty, full of debris and unseen obstacles and would be likely to be contaminated and therefore a health hazard.

9. The FRA indicates that floodwaters may remain for over a week and during this period there would be no access to or from the appeal site. Residents would need access to adequate water, food and medical supplies for the duration of flooding. Should any medical or other emergency occur during this period, then lives may be at risk if the emergency services were to attempt to gain access to the proposed dwellings. This would not accord with the advice in paragraph 39² of the PPG which sets out the access routes should allow occupants to safely access and exit their dwellings in design flood conditions. Vehicular access to allow emergency services to safely reach the development during design flood conditions will also normally be required.
10. Whilst I note the Environment Agency (EA) has not objected to the scheme it did set out a requirement that the applicant clearly demonstrates that a satisfactory route of safe access and egress is achievable. Given that the appeal site would be inaccessible within 6 days, the appeal proposal does not meet this requirement.
11. The Council has drawn my attention to a recent dismissed appeal³ for a new dwelling on a dry island in Staines within the same local authority area. The Inspector dismissed the appeal noting that the proposed development would not provide a safe dry means of access and egress to safety. In that case, the evacuation route would remain dry for the 100-200 hours after which the flooding would surround the dry island within 400 hours after which evacuation would be difficult. In the appeal before me, the evacuation route would be both under water and impassable significantly quicker than in that case. I have been given no reason to disagree with the findings of that Inspector and note the similar findings in the scheme before me.
12. The existing use of the site as a hotel and the proposed use are both classified as 'more vulnerable' uses. I accept that the hotel incorporates a residential flat and, if all guest rooms were full, could have more residents on site than the proposed development. Irrespective of this, there is, in my view, a difference between a temporary hotel guest or visitor and permanent resident households and how they would respond following the issuing of a flood warning or the onset of a flood.
13. I accept that hotel guests would be visitors to the area and therefore less familiar with the locality; nevertheless, hotel staff would be on hand to provide advice. However, it would be both quicker and easier to evacuate hotel guests who would have few possessions and no personal ties to the area to alternative accommodation away from any flooding. This is in contrast to a local resident who may be less inclined to leave their home and personal possessions, may be less mobile or may have pets that they need to stay and look after. Even if the hotel were at full capacity, it would be possible to safely evacuate hotel

² Paragraph: 039 Reference ID: 7-039-20140306

³ Ref: 3197907

guests within the 2½ day window of opportunity before the escape route would be flooded.

14. Furthermore, during a period of flooding, the hotel could shut before the onset of a flood which would force guests to evacuate therefore avoiding the risk. The same could not be applied to local residents who would make a choice as to whether to leave their homes or not. It also seems likely that in the event of a flood, the majority of travellers to the hotel could be contacted given that most people have access to their mobile phones or emails whilst travelling. In any event, on arriving in the area during a period of flooding, they would either not be able to access the hotel as the route would be flooded or would be notified either by local news, signage and other means of flood warnings that would be issued. In this regard, I consider the proposed use would lead to a greater risk of harm to people from flooding.
15. The Council states that it does not accept an evacuation plan as a way to overcome a safe means of escape. This appears to go further than the requirements of the Framework. However, even if I was to accept an evacuation plan as a way to overcome a lack of safe means of escape, I am not satisfied that the proposed evacuation plan submitted by the appellant, for the reasons I have already set out, would be sufficient and therefore that it could ensure the safety of residents.
16. I accept that the area around Church Square has a few commercial uses, including public houses, hotels and hairdressers, associated with the central location with the village. However, there are also several residential uses both within the square and along adjacent roads. The overriding character and function of the area is not commercial. As such, paragraph 4.10 of the Flooding SPD would not apply.
17. I conclude that the appeal site would not be suitable for housing with particular regard to flood risk and the provision of a safe means of access and escape during flooding. It would therefore conflict with Policy LO1 of the CSPDPD and the Flooding SPD. These seek to reduce flood risk and its harmful effects on people and to ensure that there is a safe means of escape.
18. My attention has been drawn to two planning applications for residential development in respect of Shepperton Bar and Grill and Castellos on Church Road⁴, both within the same dry island as the appeal site. In both these cases, planning permission was granted because there was no overall increase in the number of residential units on the site although there could be an increase in occupancy levels. This is not comparable to the appeal scheme which, while it would result in a net reduction of bedrooms, would lead to a net increase of six additional permanent residential units and occupants of the site.
19. The appellant has referred me to two decisions⁵ by the Secretary of State. I am mindful that both these cases pre-date current guidance and understanding about flood risk and in particular the effects of climate change. Furthermore, both relate to development within a different local authority. They are not therefore directly comparable to the appeal scheme. Nevertheless, I accept that in certain circumstances a dry route may not be an absolute requirement, as was found in respect of these decisions. However, in the scheme before me,

⁴ 18/01217/FUL and 16/01038/FUL

⁵ APP/T0355/V/07/1202153 and APP/Q3630/A/05/1186514

I am not satisfied that it has been demonstrated that a safe means of access would be provided beyond the initial 2½ days when the escape route is not flooded.

Character and appearance

20. The Shepperton Conservation Area (CA) retains the character of a traditional village and includes a mix of residential properties including traditional cottages and larger houses and commercial properties, with a central focus around a small and attractive square, Church Square. The square is enclosed by a range of buildings including the appeal building, the Anchor Hotel, and a number of statutorily listed buildings including St Nicholas Church and Erasmus House. A terrace of listed cottages are located on the west side of Church Road opposite the appeal site. These buildings and the traditional pattern of development around Church Square together contribute to the significance of the CA.
21. The appeal property, the Anchor Hotel, dates back to the 19th century and is a locally listed building and as such is a non-designated heritage asset. The hotel occupies a prominent corner position at the junction of the square with Church Road and its significance is derived from its façade, which features two large hipped bay roofs either side of a central porch, which forms an important part of the enclosure of Church Square with the neighbouring listed buildings. The hotel car park, whilst within the CA boundary, has an open character but does not contribute to the significance of the CA.
22. The proposed short terrace of two-storey properties on the site of the existing hotel car park along the Church Road frontage would be positioned slightly forward of the line of the detached houses along the east side of Church Road and would be set back from the pavement behind front gardens. However, due to the curve of the road, the garden space to the front of the apartment block would become quite narrow bringing the building significantly closer to the pavement. The resulting development although of an appropriate height, design and scale in relation to existing development and whilst broadly in line with the adjacent house, Aldermay, would nevertheless be set forward considerably from this house when viewed from the street. The inclusion of windows and a doorway within this side elevation would provide some visual interest. However, its proximity to the pavement would make it appear very prominent within the Church Road streetscene both heading towards and away from Church Square.
23. The proximity and the angle of the proposed terrace to the pavement would result in an awkward relationship between the building and the public highway, narrowing what is currently a more spacious arrangement. This would make it appear incongruous in the context of the pattern of development on the eastern side of Church Road just outside the CA. Whilst the existing hotel car park has a similar separation distance from the pavement to this proposed building, its boundary wall is significantly lower in height and less bulky than the proposed building, screened by vegetation and therefore appears as what it is, a boundary wall which follows the line of the road.
24. The side elevation of the new houses fronting Church Square would be directly adjacent to the footpath. However, this block of development would be separated from the development fronting Church Road by an area of surface parking and both parts of the development would have main frontages to

- different roads. Consequently, they would neither directly relate to each other nor be read as a continuation of the same development.
25. Development on the opposite side of Church Road is much closer to the pavement being set behind very shallow front gardens with some cottages having front porches directly onto the footpath. From the evidence it is clear that this type of development previously existed on the eastern side of the road but has since been replaced by a more spacious form of development, set back from the street, which is now well-established along this side of the street albeit not within the CA. The proposed short terrace to Church Road, due to its odd angle in relation to the pavement, would neither align with the pattern of this more recent form of development nor would it reflect the more traditional pattern of development associated with the cottages on the opposite side of the road. The resulting incongruous development would harm the character and appearance of the CA.
26. The proposed development would retain the front façade of the appeal building. This part of the building provides the enclosure to Church Square, which in combination with the surrounding buildings on the square, contributes to its setting. Given this, the significance of the non-designated heritage asset would not be unacceptably harmed through the partial demolition of the building with the important front façade retained. The building would therefore continue to make this contribution.
27. In this context, the proposed development would help to preserve the setting of the listed buildings also fronting the square, as required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires that special regard must be given to the desirability of preserving a listed building or its setting. Furthermore, with a reduction in the bulk of the rear part of the hotel building adjacent to Erasmus House and opposite the listed terrace of cottages, the setting of these listed buildings would be enhanced.
28. I have paid special attention to desirability of preserving or enhancing the character or appearance of CA, as required by Section 72(1) of the Act. The unsympathetic layout of the development along Church Road would detract from the streetscene which would fail to preserve or enhance the character and appearance of the CA. The harm would be less than substantial and therefore in accordance with the requirement of paragraph 196 of the Framework, this harm should be weighed against the public benefits of the proposal.
29. The scheme would provide 7 dwellings, including two-bedroom units for which there is an identified need, within an existing mixed use area where residential development would be appropriate. The proposed houses would be in a location with good public transport links and access to local services and occupiers would not be reliant on the use of a private car. It would also enhance the setting of listed buildings. I give these moderate weight. However, I attach considerable importance and weight to the harm that would be caused. Whilst there are public benefits of the scheme, I conclude that they would not be sufficient to outweigh the harm to the character and appearance of the Shepperton CA.
30. I conclude that the proposed development would not preserve or enhance the character and appearance of the Shepperton CA. It would therefore conflict with Policies EN1 and EN6 of the CSPDPD which seek a high standard of design

and layout which respects local character and preserves and enhances the character of conservation areas.

Living conditions

31. The proposed flatted development would have an irregularly shaped rear garden area of approximately 40 square metres. The space would be an awkward shape with a narrow area of garden wrapping around the side and rear of the building opening out into a slightly wider, but small area of garden space behind the parking area for the proposed development. The space, due to its limited size and irregular shape, would not provide a spacious area for sitting out in private or performing a range of outdoor household tasks, especially as it would be shared by two separate households. Its small size would make it feel cramped. It would therefore not provide satisfactory garden space for the future occupants.
32. The Council's guidance of the provision of private garden space is set out in the Design of Residential Extension and New Residential Development Supplementary Planning Document 2011 (Design SPD). This states that in the case of flats, shared space should be of a sufficient size, shape and position. An area of 35 square metres per unit of shared amenity space would be required for each of the flats. The proposed development would fall significantly below this minimum space standard, being only just slightly larger than the amount of space required for a single flat.
33. I conclude that the proposed development would significantly harm the living conditions of future occupants of the two-bedroom apartments, with particular regard to the provision of private outdoor garden space. It would therefore conflict with Policy EN1 of the CSPDPD which requires a high standard of design and layout in new development. It would also not meet the standards for the provision of garden space as set out in the Design SPD.

Other Matters

34. The appellant considers that if residential development is not permitted on the site this raises a concern about what other use the site could be put to, especially given the conservation area status and the appeal buildings location. The appellant has indicated that the hotel use is not making money and the rooms are appearing dated, which I observed on site. However, I have not been provided with any firm evidence that the business is no longer operationally viable, nor that the site has been marketed either in its current use or for alternative purposes. I therefore give this no weight in my decision.

Planning Balance and Conclusion

35. The Government is seeking to significantly boost the supply of housing. The scheme would contribute seven dwellings within an accessible location including smaller units, for which there is an identified need. It would also enhance the setting of nearby listed buildings. These are benefits of the scheme and I give these moderate weight. It would also preserve the setting of other listed buildings. The effect of this is neutral in the balance.
36. The proposed development would not provide a safe means of access and escape to safety during times of flooding. It would fail to preserve or enhance the character and appearance of the Shepperton CA. It would also fail to provide adequate living conditions for occupiers of the proposed flats in respect

of the provision of private garden space. It would consequently be contrary to the development plan in these respects. This harm would not be outweighed by the benefits of the scheme and there are no other material considerations that indicate my decision should be taken otherwise than in accordance with the development plan. For this reason, I conclude that the appeal should be dismissed.

Rachael Pipkin
Inspector