
Appeal Decision

Site visit made on 3 December 2019

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2020

Appeal Ref: APP/L3625/W/19/3231027

8 Horley Road, Redhill, Surrey RH1 5AB

- 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 Ian Caplen against the decision of Reigate & Banstead Borough Council.
 - The application Ref 18/02713/F, dated 18 December 2018, was refused by notice dated 11 March 2019.
 - The development proposed is the demolition of existing 2 bed single storey house and construction of new 2½ storey block of 5 flats [2x1B, 3x2B] together with private amenity area.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Ian Caplen against Reigate & Banstead Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. Since the refusal of planning permission, the Council has adopted the Reigate and Banstead Development Management Plan 2019, which supersedes the Reigate and Banstead Borough Local Plan. The appellant has had the opportunity to comment on the new policies and as such there would be no injustice in me considering the proposal in light of the policies of the now adopted development plan.

Main Issue

4. The main issue raised in this case is whether or not the proposed development would be suitably located having regard to its flood zone location and the provisions of the development plan and the National Planning Policy Framework.

Reasons

5. The appeal site comprises an existing detached bungalow located along a generally residential street, characterised by two-storey development. The site lies within Flood Zone 3a, as defined by the Council's Strategic Flood Risk Assessment. The Council confirms that the site is at risk of fluvial flooding from

Earlswood Brook. Both the existing and proposed development is classified as 'more vulnerable' according to the Planning Practice Guidance (PPG)¹, albeit that the proposed development would result in a net gain of four residential units within the site.

6. The National Planning Policy Framework (the Framework) sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from the areas at highest risk (Paragraph 155).
7. Policy CCF2 of the Reigate and Banstead Development Management Plan 2019 (the DM Plan) requires that the Sequential Test (ST) shall be undertaken for development in flood zones 2 and 3, and where necessary the Exception Test (ET) must also be satisfied. Furthermore, development will not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. Policy CS10 of the Reigate and Banstead Core Strategy 2014 (the Core Strategy) also requires that development be located to minimise flood risk, through the application of the ST, and where necessary the ET.
8. The PPG sets out that the aim of the ST is to steer new development to Flood Zone 1. Where there are no reasonably available sites in Flood Zone 1, decision makers should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2, applying the ET if required. Only where there are no reasonably available sites in Flood Zones 1 and 2 should the suitability of sites in Flood Zone 3 be considered². The PPG also advises that a pragmatic approach should be taken to the consideration of alternative sites.
9. The appellant has provided an assessment of alternative sites on a Borough-wide basis. This assessment reviewed 304 sites across the Borough. However, the assessment was limited to sites which were between 0.02 hectares (H) and 0.08H, as well as those which had a capacity for between 2 and 8 dwellings. Moreover, the assessment does not include any assessment of the possibility of windfall sites coming forward, which the Council highlight contribute to housing land supply within the Borough.
10. The Council highlight that the assessment discounts sites that may not be available to the appellant insofar as they may come forward and be developed by other parties. Whilst these sites may not be available to the appellant, there is no reason to find that they will not come forward and deliver housing. Additionally, sites are discounted on the basis of their size, for example, they would deliver a development that would not be of a comparable size than that which is proposed.
11. Despite this assessment, I find that it is the availability of alternative sites that could accommodate four additional dwellings that should be considered, rather than the specific ability of the appellant to deliver the units, together with the wider need for the development. Whilst the appellant has discounted sites as I set out above, there is no substantive evidence to suggest that four units will not come forward in locations outside of the Flood Zone 3, either as a result of development on allocated sites or through windfall development. Furthermore, the Council is able to demonstrate a five years supply of deliverable housing

¹ Paragraph: 066 Reference ID: 7-066-20140306

² Paragraph: 019 Reference ID: 7-019-20140306

sites. Accordingly, I find that it has not been satisfactorily demonstrated that there are no available alternative sites.

12. I acknowledge that the Environment Agency raises no objection to the proposal, on the basis that a condition is imposed requiring the implementation of flood mitigation measures. However, the ability of the development to be safe for its lifetime is a matter for consideration under the ET, which is only applicable when a proposal satisfies the ST, which I have found that the proposal does not.
13. It is contended that the proposed scheme would remove a single storey dwelling from an area characterised by two-storey development, as well as mention being made of there being an existing residential use at the site, which would be removed from a flood risk situation. Whilst the existing property is somewhat of an anomaly in the area, its appearance is not harmful and as such its removal has limited bearing on my decision. Furthermore, whilst there is an existing residential use at the site that is located within a flood zone, the proposed scheme would add an additional four units of accommodation to an area at risk of flooding, when it has not been demonstrated that there are no alternative sites available which would have a lower risk of flooding.
14. My attention has been drawn to a number of examples where the Council has granted planning permission for development, which it considered passed the ST. There are however clear differences between these cases and that which is before me. Specifically, the Brook Road site³ resulted in localised and wider regenerative effects, was in a dilapidated condition and there would be positive townscape effects. The same benefits do not apply in this case. In respect of the other example cited, Maple Road, I do not have full details of the circumstances that led to the granting of planning permission in that case. Nonetheless, I have found harm in respect of the scheme that is before me and I attach greater weight to this, than to other decisions made by the Council, the full details of which are not before me.
15. Accordingly, I find that the proposed development would not be suitably located having regard to its flood zone location and the proposal would conflict with Policy CCF2 of the DM Plan and Policy CS10 of the Core Strategy. The proposal would also conflict with the provisions of the Framework. As I have found that the scheme would not meet the ST, there is no need for me to consider whether the proposal meets the ET.

Other Matters

16. I acknowledge that the scheme would deliver additional housing within the area. However, this is not sufficient to outweigh the harm that I identify above.
17. The appellant has highlighted that the appeal site is included within the Council's Brownfield Land Register, which indicates that the site has the potential to accommodate residential development. However, I note that it is not necessary for a site to undergo a detailed assessment of constraints in order to be included within the register. Consequently, the inclusion of the site on the register does not negate the requirement to undertake a full assessment of the planning merits of any scheme that may come forward, which includes

³ Council reference 18/0113/F

an assessment of flood risk. As such, this matter does not overcome the harm that I have identified in respect of the suitability of the location.

18. The appellant refers to the possibility of a scheme for the subdivision of the dwelling on the site into 5 units not being subject to a ST. However, the PPG makes it clear that the definition of minor development "excludes any proposed development that would create a separate dwelling within the curtilage of the existing dwelling e.g. subdivision of houses into flats". Thus, this matter has little bearing on my decision.

Conclusion

19. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR