
Appeal Decision

Site visit made on 3 December 2019

by S Shapland BSc (Hons) MSc CMILT MCIHT

an Inspector appointed by the Secretary of State

Decision date: 23 April 2020

Appeal Ref: APP/X0360/W/19/3236511

Willow Haven, Loddon Drive, Wargrave RG10 8HD

- 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 Gerard Greene against the decision of Wokingham Borough Council.
 - The application Ref 190195, dated 22 January 2019, was refused by notice dated 28 March 2019.
 - The development proposed is demolition of an existing dwelling and the erection of a new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of an existing dwelling and the erection of a new dwelling at Willow Haven, Loddon Drive, Wargrave, Reading RG10 8HD in accordance with the terms of the application, Ref 190195, dated 22 January 2019, subject to the conditions set out in the appended schedule.

Main Issue

2. The main issue is whether the proposal would be acceptable in respect of the risk of flooding, having regard to the local and national planning policy.

Reasons

3. The appeal site is a broadly triangular plot located on the northern side of Loddon Drive, fronting the east bank of the River Loddon. The site currently has a single storey one bedroom detached dwelling, with a separate utility room. The immediate area is characterised by large plots with sizeable dwellings set back from the river bank. The appeal proposal is for the replacement of the existing dwelling with a new three bedroom dwelling.
4. The appeal site benefits from an extant planning consent for the demolition of the existing dwelling, to be replaced with a larger elevated structure with two-bedrooms¹. Since the Council issued the decision notice for the application which this appeal relates to, the appellant submitted a revised application², for the demolition of the existing dwelling and the erection of a new two bedroom dwelling. That application received planning consent on 30 July 2019. The appellant has indicated that the latest extant scheme is virtually identical to the

¹ Application reference 170837

² Application reference 190957

appeal proposal, with the same overall area, footprint and levels. The only material difference between the two applications being the total number of bedrooms within the dwelling.

5. A flood risk assessment (FRA)³ has been submitted in support of the application, and indicates that the site lies within Flood Zone 3. The site has been classified by the Wokingham Borough Council Strategic Flood Risk Assessment (SFRA) as being within Flood Zone 3b, which is defined as being 'functional floodplain'.
6. Policy CP1 of the Wokingham Borough Core Strategy 2010 (CS) provides the strategic policy to guide sustainable development, with criterion 9 stating development will be granted for development proposals that avoid increasing (and where possible reduce) risks of or from all forms of flooding. Policy CC09 of the Wokingham Borough Adopted Managing Development Delivery Local Plan Document (LP) provides the specific development plan policies in respect of development and flood risk. This states that all sources of flood risk, including historic flooding, must be taken into account at all stages and to the appropriate degree at all levels in the planning application process to avoid inappropriate development in areas at risk of flooding. Furthermore, it requires that proposals must be consistent with the guidance within the National Planning Policy Framework (the Framework).
7. Paragraph 155 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. The Framework and the Planning Practice Guidance (PPG) requires a sequential risk-based approach to the location of new development through the use of the Sequential Test. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. It also indicates that a sequential approach should be used in areas known to be at risk from any form of flooding. No Sequential Test has been provided by the appellant, however I note that criterion 2 of Policy CC09 of the LP states that a Sequential Test would not be required for replacement of an existing single residential property.
8. Paragraph 159 states that if it is not possible for development to be located in zones with a lower risk of flooding, the Exception Test may have to be applied. The need for the Exception Test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in the PPG. In order for the Exception Test to be passed two criterion need to be satisfied. Firstly, it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk. Secondly that the development will be safe for its lifetime taking into account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
9. Table 2 contained within Paragraph 066⁴ of the PPG indicates that dwelling houses are deemed to be a 'more vulnerable' use. Table 3 contained within Paragraph 067⁵ is clear that in the case of Flood Zone 3b, development of more vulnerable uses should not be permitted. Given the sites location within the functional floodplain and the requirements of national policy, the proposal

³ Flood Risk Assessment Final Report v1.0 prepared by Weetwood Services Ltd dated January 2019

⁴ Reference ID: 7-066-20140306 Revision Date 06 03 2014

⁵ Reference ID: 7-067-20140306 Revision Date 06 03 2014

would not be acceptable having regard to the risk of flooding. In this respect the proposal would also fail to accord with the requirements of criterion 1 of LP Policy CC09 which requires proposals to be consistent with the guidance of the Framework.

10. The appeal site benefits from an extant consent for a replacement two bedroom dwelling, and I have been provided with the full details of this extant consent. Whilst the two proposals are broadly similar including the footprint there are a number of differences between the schemes. The extant scheme has altered the internal layout of the upper ground floor and replaced bedroom 1 with a laundry/utility room. Furthermore, the design of the void openings underneath the property which provide the mitigation for loss of floodplain storage differs slightly. I attach significant weight to the fallback position that the extant scheme provides.
11. Criterion 4 of LP Policy CC09 states that in exceptional circumstances, new development in areas of flood risk will be supported where several requirements are met. These requirements are broadly consistent with the requirements of the Exception Test as set out within National Policy. Criterion 4b states that for the proposal to be acceptable it should demonstrate that the development will be safe for its lifetime, taking account of the vulnerability of its users, not increase flood risk in any form elsewhere and where possible reduce flood risk overall, and incorporate flood resilient and resistant measures into the design.
12. The Council has raised concerns the submitted FRA does not adequately assess the flood risks posed by the development. As such it has not been demonstrated that the proposal would not be at risk of flooding or that it would not increase the risk to people and properties in the site and surrounding area. I note that the Environment Agency (EA) have maintained an objection to the proposed scheme, with their primary concern relating to the design of the voids underneath the proposal which would be required to mitigate against the loss of floodplain storage.
13. From the submitted elevation plans, the proposal would contain a number of void openings which would convey water during a flooding event. The design of these differ slightly from the extant scheme, which was found acceptable by the EA. However, the FRA and plans confirm that the proposed voids would be of an appropriate design and height to adequately mitigate against the loss of floodplain storage. I am therefore content that the proposal would ensure the dwelling would be flood resilient. As such, in this respect the proposal complies with criterion 4b of LP Policy CC09.
14. The Council is concerned that the addition of an extra bedroom in this location would increase the risk from flooding to the number of people within the functional flood plain. I note that the development plan does not specifically make reference to the increased risk from additional people residing within new dwellings. Whilst the introduction of an additional bedroom in this location could increase the number of people within the dwelling, I am satisfied from the evidence provided that a dwelling can be built in this location which is adequately flood resilient. In this respect the provision of an extra bedroom is unlikely to provide any additional harm in respect of flood risk. Consequently, taking into account the flood mitigation measures proposed, I find that the

provision of an additional bedroom when compared to the extant scheme would unlikely lead to an unacceptable increased harm to flood risk.

15. I therefore conclude on the main issue that although the appeal proposal conflicts with criterion 1 of the LP Policy CC09 in so far as more vulnerable development in functional floodplain should not be permitted, it would meet the other requirements of this policy. This includes providing a development which would be safe for its lifetime and would not increase flood risk elsewhere and incorporates flood resilient and resistant measures into the design. Furthermore, the extant permission for a similar dwelling on this site is a material consideration which provides significant weight in favour of the proposal. The proposal would also accord with the requirements of LP Policy CC01 and CS Policy CP1 and their objectives in favour of providing sustainable development. Consequently, taking all these factors into account, and having regard to the fallback position described above, despite the element of conflict with the development plan I have identified, I find that the proposal would be acceptable in respect of flood risk subject to the imposition of a suitable planning condition.

Conditions

16. The Council has suggested a number of conditions, and I have amended these in the interest of precision. The written agreement of the appellant was received in respect of the pre-commencement conditions. I attach a standard time limit condition and a condition requiring the development to be carried out in accordance with the approved plans (1,2). These are necessary to prove clarity and certainty. It is necessary to include a condition relating to the demolition and removal of existing structures on site in order to protect the amenity of the countryside (3). A condition relating to materials is required to safeguard the character and appearance of the area (4).
17. I have imposed pre-commencement conditions relating to the protection of trees during the construction of the development (5,6,7,8). These are necessary to ensure that existing trees and shrubs on site are adequately protected throughout the time the development is being carried out. A condition relating to landscaping works is required to ensure the character and appearance of the area is safeguarded (9).
18. It is appropriate that there is a condition relating to the details of the sustainable drainage scheme, in order to prevent increased flood risk from surface water run off (10). It is necessary to include a condition in respect of the flood risk mitigation measures as outlined in the FRA (11). This is to reduce the risk of flooding to the proposed development. A condition relating to the vehicular parking areas is necessary to ensure adequate off-street parking is provided in the interest of highway safety (12).
19. The Council has also sought a condition restricting permitted development rights. I have not been provided with any evidence from the Council in respect of the need to remove permitted development rights. I am not satisfied that it is necessary to make the proposal acceptable.

Conclusions

20. For the reasons set out above, I conclude that the appeal should be allowed.

S Shapland

INSPECTOR

SCHEDULE OF CONDITIONS – APP/X0360/W/19/3236511

- 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: LOD 00 110 Location Plan dated November 2018, LOD 00 004 Existing Plan dated November 2018, LOD 00 003 Neighbour Plans dated November 2018, LOD 00 50 Existing Elevations dated November 2018, LOD 00 100 Site and Landscape Plan Rev A dated November 2018, LOD 00 101 Lower Ground Plan Rev A dated November 2018, LOD 00 102 Upper Ground Plan Rev A dated November 2018, LOD 00 103 Mezzanine Plan Dated November 2018, LOD 00 104 Roof Plan dated November 2018, LOD 00 200 Proposed Sections Rev A dated November 2018, LOD 00 300 Proposed Elevations Rev A dated November 2018, LOD 00 301 Proposed Elevations 2 dated November 2018
- 3) No building operations in connection with the erection of the new dwelling shall take place on the site until the existing structures shown to be demolished on the approved plans have been so demolished. All materials arising from the demolition of buildings on the site shall be permanently removed from the site before the new dwelling is occupied.
- 4) No development above slab level shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 5) No development shall commence on site until an updated Arboricultural Method Statement (that includes engineered pile solution of piled foundations to support the building and cellweb beneath the gravel drive) and Scheme of Works which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site in accordance with BS5837: 2012 has been submitted to and approved in writing by the local planning authority. No development shall take place except in complete accordance with the details as so-approved (hereinafter referred to as the Approved Tree Protection Scheme)
- 6) No operations shall commence on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening or any other operation involving use of motorised vehicles or construction machinery) until the tree protection works required by the Approved Tree Protection Scheme are in place on site.
- 7) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within an area designated as being fenced off or otherwise protected in the Approved Tree Protection Scheme
- 8) The fencing or other works which are part of the Approved Tree Protection Scheme shall not be moved or removed, temporarily or otherwise, until all building or engineering external works excluding any

landscaping have been completed and all equipment, machinery and surplus materials removed from the site.

- 9) The development hereby permitted shall not be occupied until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
- i) Information on the green roof proposals
 - ii) Replacement tree planting and hedges as per Landscape Character Assessment
 - iii) a statement setting out the design objectives and how these will be delivered;
 - iv) earthworks showing existing and proposed finished levels or contours;
 - v) means of enclosure and retaining structures;
 - vi) boundary treatments;
 - vii) vehicle parking layouts;
 - viii) other vehicle and pedestrian access and circulation areas;
 - ix) hard surfacing materials;
 - x) minor artefacts and structures [e.g. furniture, play equipment, refuse or other storage units, signs, etc.]; and
 - xi) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. Any trees or plants which, within a period of five years after planning, are removed, die or become seriously damaged or defective shall be replaced in the next planting seasons with others of species, size and numbers as originally approved and permanently retained.

- 10) The development hereby permitted shall not be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
- i) a timetable for its implementation; and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime
- 11) The development shall be carried out in accordance with the submitted flood risk assessment prepared by Westwood Services Ltd Version 1 dated January 2019, and the following mitigation measures it details:
- i) Finished floor levels shall be set no lower than 35.39 metres above Ordnance Datum (AOD)

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing

arrangements. The measures detailed above shall be retained and maintained thereafter through the lifetime of the development.

- 12) No part of the development hereby permitted shall be occupied or used until the vehicle parking and turning space has been provided in accordance with the approved plans. The vehicle parking and turning space shall be retained and maintained in accordance with the approved details and shall remain available for the parking and turning of vehicles at all times.