
Appeal Decision

by **M Philpott BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 3rd July 2020

Appeal Ref: APP/C3620/W/19/3240064

Land adjacent to 24 Myrtle Road, Dorking, Surrey RH4 1DA

- 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 Tom Grimshaw (Finesse Homes Fetcham Ltd) against the decision of Mole Valley District Council.
 - The application Ref MO/2018/1986/PLA, dated 14 November 2018, was refused by notice dated 1 August 2019.
 - The development proposed is demolition of existing buildings on site and construction of 3 no. residential dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In response to travel restrictions currently in place due to the COVID-19 pandemic I consider that this appeal can be determined without the need for a physical site visit. This is because I have been able to reach a decision based on the information already available. Both the appellant and the Council have been consulted on this approach and neither has objected to the appeal proceeding on this basis.
3. The address in the heading above has been taken from the appeal form, as it is more precise than the address provided on the planning application form.
4. The appeal form suggests that the appellant is a different company to that which is specified on the application form. The appellant has confirmed that the company name specified on the application form is correct. This is reflected in the heading above.

Main Issue

5. The main issue is whether the proposed development would be acceptable in respect of the risk from flooding, having regard to national and local planning policies on flood risk.

Reasons

6. There is some dispute between the main parties as to which Flood Zone the appeal site is located within. The Council contends that the site is within Flood Zone 3b, whereas the appellant's Flood Risk Assessment (FRA) suggests that it is partly within Flood Zones 1, 2 and 3a. Notwithstanding this, it is clear that at least part of the site is located outside Flood Zone 1 and adjacent to Pip Brook.

7. Paragraph 155 of the National Planning Policy Framework (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. This is achieved through the application of the sequential test. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Paragraph 158 of the Framework states that development should not be permitted if there are reasonably available sites for the development in areas with a lower risk of flooding.
8. Following the application of the sequential test, an exception test may also need to be applied, depending on the potential vulnerability of the site and the type of development proposed. However, considerations of vulnerability and the exception test should only be applied when the sequential test reveals that there are no appropriate sites with a lower risk of flooding.
9. Policy CS20 of the Mole Valley Local Development Framework Core Strategy (the CS), despite being informed by a superseded version of the Council's Strategic Flood Risk Assessment from 2009, is in accordance with the Framework's overall sequential approach to flood risk.
10. As some of the site lies within Flood Zones 2 and 3 the sequential test must be applied. Although the submitted FRA confirms that the development should be subject to the sequential test, I have not been provided with any evidence to demonstrate that the sequential test has taken place and that there are no other suitable alternative sites for the proposed development. Therefore, on the basis of the lack of substantive evidence before me, the proposal cannot pass the sequential test and there is no need to consider flood risk any further.
11. The FRA indicates that the proposal is compliant with a Council consultation document entitled 'Issues and Options: Setting a strategic direction for development', which seeks views on strategic options for a future local plan for the district, as the appeal site is brownfield land and the document suggests that housing development may be directed to such land. It is also suggested that the Council cannot meet its housing requirements outside of Flood Zones 3a and 3b. However, these matters do not demonstrate that there are no other suitable alternative sites for the development.
12. The proposal aims to provide additional flood storage capacity on the site and mitigation could be incorporated into the proposal to reduce the potential flood risks arising from the development. It has also been planned so the majority of the development would be located within part of the site that is of lower flood risk. In addition, anecdotal evidence has been provided which suggests that the site has not flooded in 80 years. However, these matters do not address the need to apply the sequential test in the first instance.
13. My attention has been drawn to an approved scheme located in Flood Zones 2 and 3 (reference MO/2018/1781). Permission has also been granted for office development at this appeal site (reference MO/2018/0907). I am not aware of all the planning circumstances that applied in those cases and they should not be seen as setting a precedent. In addition, residential development is classified as a 'more vulnerable' use and office development is classified as a 'less vulnerable' use by Planning Practice Guidance¹. In any event, the approval

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

of those schemes does not imply that the sequential test should be obviated for the purposes of this appeal.

14. I therefore find that there is insufficient information before me to conclude that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding than the appeal site. Thus the proposal fails to demonstrate that it represents an acceptable form of development having regard to its flood zone location. The proposal fails to accord with Policy CS20 of the CS and paragraph 158 of the Framework, which require that development is steered towards areas with the lowest risk of flooding.

Other Matters

15. The Council has confirmed that it does not have a 5 year supply of deliverable housing sites. However, as the proposal is contrary to the Framework's policies relating to areas at risk of flooding this provides a clear reason for refusing permission. Therefore, the presumption in favour of sustainable development, as set out at paragraph 11 of the Framework, does not apply to this appeal.
16. I am aware that some residents may believe that the proposed development would be more compatible with the area and provide greater benefits than the office development that has been approved on the site. I also note that the proposal would provide 3 new dwellings and make use of a previously developed site in an accessible location. Whilst these matters weigh in favour of the proposal, they do not outweigh the concerns that I have identified.

Conclusion

17. For the reasons stated above, the appeal is dismissed.

Mark Philpott

INSPECTOR