



Appeal Decision

Site visit made on 10 July 2020

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 04 August 2020

Appeal Ref: APP/Q3630/D/20/3245736

Abbey Chase Cottage, Abbey Chase, Bridge Lane, Chertsey KT16 8JW

- 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 T Dillon against the decision of Runnymede Borough Council.
 - The application RU.19/0331, dated 14 December 2018, was refused by notice dated 20 December 2019.
 - The development proposed is the construction of annexe for elderly care to family residence on land adjacent to Abbey Chase Cottage, Abbey Chase, Bridge Road, Chertsey, KT16 8JW
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. It is noted that the Reasons for Refusal in the Council's Decision Notice cited the Runnymede Local Plan Second Alteration 2001 (RMLP) Saved Policies GB1, GB6, and SV2. During the appeal process, the Runnymede Local Plan 2030 (LP) was adopted by the Council on 16 July 2020 which supersedes the saved policies of the RMLP. Both parties have had the opportunity to comment on this change in policy position. The Council have supplied copies of the relevant policies of the LP which this decision is to be assessed and have commented that this change in policy does not change any of the elements of the reasons for refusal. I have therefore made my decision on this basis and have only referred to the adopted policies of the LP in this decision
3. The applicant in their appeal statement refers to an option to provide a ramp to the proposed annexe, rather than a wheelchair lift. There is no evidence that this option has been assessed by Officers or has been the subject of community consultation. In accordance with the 'Wheatcroft Principles,¹' it would not be appropriate to consider this additional option within my decision as the acceptance of such would deprive those who should have been consulted on the changed development of the opportunity of such consultation. As such, I will base my decision solely upon the plans that were assessed by the Council during the original planning determination.

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

Main Issues

4. The main issues are:

- Whether the site would be suitable for residential development, having regard to its risk from flooding;
- Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
- The effect of the proposed development on the openness of the Green Belt; and
- Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Suitability of the site with regards to flooding

5. The appeal site is the side garden of an existing dwelling which is proposed to be utilised for the erection of an annexe building which is attached to the existing dwelling via a covered walkway. Adjoining the rear of the dwelling is the Abbey River, with the junction of the Abbey River with the River Thames being approximately 450 metres to the east of the appeal site.
6. The majority of the appeal site is located within Flood Zone 3b, where this classification as defined by the National Planning Practice Guidance (NPPG) means that the site is within the 'functional floodplain' during a flood event.² Components of the land are also within Flood Zone 3a which is categorised by the NPPG as being a 'high probability' area for flooding.³ The proposal would consist of a single storey, two bedroom plus study annexe to enable the care of elderly residents of the dwelling. The annex would be erected on stilts above the modelled flood events and be accessed via a lift for persons with mobility impairments, and via steps.
7. The submitted Flood Risk Assessment⁴ (FRA) undertakes an analysis of the risks to life as a result of modelled flood events in accordance with relevant policy and guidance. It is noted that the FRA states that the majority of flooding which could cause risk to human life is fluvial flooding from the Abbey and Thames rivers. Other sources of flooding, such as ground water flooding and surface water flooding from artificial sources, are seen to be at a lower risk. The FRA states that during a flood event, that safe refuge could be achieved by occupants by travelling via road to Chertsey, approximately 800 metres away.
8. When assessing sites within areas of flood risk, Policy EE13 of the LP seeks that a proposal for development will be expected to be constructed with adequate flood resilience and resistance measures suitable for the lifetime of the development, in line with Environment Agency advice and advice contained in the Runnymede Strategic Flood Risk Assessment. For developments that are

² Paragraph: 015 Reference ID: 7-015-20140306, Revision date: 06 03 2014

³ Paragraph: 019 Reference ID: 7-019-20140306, Revision date: 06 03 2014

⁴ 932-D02: Flood Risk Assessment, By Unda Consulting, Undated

residential in nature and affect the Flood Zone 3, the Framework applies a Sequential Test. It is noted that the NPPG seeks that the Sequential Test should be applied *'to the whole local planning authority' area to 'increase the possibilities of accommodating development which is not exposed to flood risk.'*⁵ Given that the application is for an annexe, there is a reliance on the host dwelling, so it may not be suitable to suggest that the site for the annexe be located elsewhere in the district and that in this particular circumstance, the site specific constraints be examined further.

9. It is proposed to place the annexe at the highest point within the site, albeit on stilts which would require elderly occupants which may have mobility impairments to evacuate the building via a small lift. The elderly residents would then be required to leave the building and to travel approximately half a kilometre to a safe refuge, likely meaning that the occupants may be dependent upon others to leave the property. The FRA presents a topographical map which illustrates that the flood level would be 12.78 metres Above Ordinance Datum (AOD) and that the access road to Chertsey would be higher than this at the various measured points and therefore be likely dry during a flood event. Given the site is not within the built up area of the village with the access road being more of a country lane with no footpaths or street lighting into the village; I have concerns with regards of the ability to provide safe and accessible escape, particularly to those with mobility impairments and from evacuations occurring during hours of least light and night time.
10. The Environment Agency (EA) have also raised concerns with regards to the length of evacuation, as well as the potential for monitoring and cleaning of the void underneath the annexe which may likely trap debris and prevent the free flow of water, increasing potential flood risk as a result. There is no guarantee that this area underneath the annexe would be kept clear of debris for the lifetime of the development, with the potential for the area to be used for storage, or items becoming lodged underneath the building which could impede the free flow of flood water. I acknowledge the willingness of the applicant to sign a S106 Agreement for the void to be kept clear, however the agreement would be difficult to monitor or enforce. Furthermore, if the property is sold, future occupants may not be so willing to keep this area free.
11. There is also no evidence in the submission documents that other alternatives have been sought, such as the reconfiguration of the existing host dwelling to accommodate the elderly residents. Taking the site specific considerations into account, I am not convinced that the proposal would pass the sequential test referred to at paragraphs 157 and 158 of the Framework and the NPPG.
12. It is noted in the Framework that an 'exception test' may be required to be undertaken, dependent upon the Flood Risk Vulnerability Classification as provided by Tables 2 and 3 of the NPPG.⁶ A building that is used as residential accommodation is categorised as a 'More Vulnerable' use. According to Table 3 of the NPPG, development of more vulnerable uses should not be permitted in Zone 3a. This weighs further against the acceptability of the proposal.
13. Taking the above into account, the proposed site would not be suitable for permanent residential accommodation. The development would not provide wider sustainability benefits to the community that outweigh the flood risk and,

⁵ Paragraph: 020 Reference ID: 7-020-20140306, Revision date: 06 03 2014

⁶ Paragraph: 067 Reference ID: 7-067-20140306, Revision date: 06 03 2014

based on the information submitted, there are concerns as to whether the development would be safe for its lifetime taking account the ability of the void not to be blocked; the vulnerability of its proposed users; and that safe egress/exit from the site is problematic.

14. Additionally, the proposed scheme would be likely to be reliant on emergency services for safe evacuation which not only results in increased risk for future occupiers, particularly if they have mobility impairments, but to the safety of the emergency services themselves and the additional resources needed. I acknowledge that a flood warning evacuation plan has been undertaken which recommends a family flooding evacuation plan is made by future occupants. However, this does not alleviate the exposure of the occupants to real flood risk, the lack of safe and accessible escape as well as placing undue pressure on emergency services during a flood event.
15. In conclusion on this matter, the proposal would not be a suitable site for residential development as a result of risks due to flooding. The proposed development would therefore be contrary to LP Policy EE13 (which sets criteria in order to demonstrate acceptability of development within the Flood Zones) and Chapter 14 of the Framework and the NPPG (which prescribe tests for developments within the Flood Zone).

Whether the proposal is inappropriate

16. Paragraph 145 of the Framework states that the construction of new buildings within the Green Belt should be regarded as inappropriate, unless the development falls within certain listed exceptions. The relevant exception which is sought to be applied to the appeal site under paragraph 145 of the Framework is (c) *'the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.'*
17. I note Policy EE14 of the LP gives further guidance and criteria on the extension, alteration or replacement of existing buildings in the Green Belt. Policy EE14 states that extensions would not be inappropriate development provided that it does not result in disproportionate additions over and above the size of the original building.
18. According to the Council's calculations, if the proposed annexe is considered as an extension to the existing dwelling, the proposal with the covered walkway would result in an increase of floorspace of 104% when compared with the size of the original dwelling. The appeal proposal would result in disproportionate additions over and above the size of the original house; and whilst the proposal is sought to be an extension, the proposed annexe would have the appearance of an additional dwelling and would largely function as such. The building's size, layout and positioning would allow it to be occupied independently, and would represent a disproportionate addition.
19. In considering the proposal against LP Policy EE14, the development of the appeal site would not constitute a proportionate extension or alteration of a building and would likely lead to the development of the site for a self contained unit of accommodation. As such, there is a significant conflict between the proposal and the exceptions specified by LP Policy EE14, and the Framework.

20. Consequently, in accordance with Paragraph 145 of the Framework, I find that the proposal would be 'inappropriate development' in the Green Belt. I therefore attach substantial weight to the harm arising due to the inappropriate nature of the appeal development.

Openness

21. Whilst there is no definition of 'openness' in the Framework, in the Green Belt context, it is generally held to refer to freedom from, or the absence of, development. Openness has also been shown to have both spatial and visual dimensions. In this particular case the appeal site is experienced as the open lawned area within the surrounding countryside location. The harm caused to the openness is related more towards the visual dimension in that the scheme would increase the visual bulk and massing of existing buildings on site with the proposed building form being much more elongated. This type of extension would accentuate the massing and scale of the building to an unacceptable degree.
22. Paragraph 133 of the Framework states that 'the fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belt are their openness and their permanence.' As a result, the scheme would further erode the open aspect currently experienced and introduce alterations in the form of built form which would further erode the aims of the Green Belt. The proposed annexe when combined with the previous built form would be a material addition to the amount of built development on the site, which would have a detrimental effect upon the openness of the Green Belt in this location. This additional effect of the development on the openness of the site, and on the Green Belt, adds to the harm already caused by reason of its inappropriateness.

Other Considerations

23. Very special circumstances to justify inappropriate development will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
24. The benefits stated in the appeal documents include the provision of care within the family unit, rather than reliance on dedicated facilities and institutions provided by the local authority. These are matters that weigh slightly in favour of the proposed scheme. However, these benefits are to be weighed against the great weight attributed to the harm caused to the Green Belt, as well as to the great weight applied to the failure to provide safe and suitable access from the site during a flood event.
25. These other considerations do not, in my view, either separately or cumulatively, clearly outweigh the substantial harm to the Green Belt by reason of inappropriateness and the harm to the openness of the Green Belt. As a result, the very special circumstances that are required to permit the development do not exist. The appeal development would therefore contain a lack of consistency with the provisions of the LP Policy EE13; and with the Framework, as referred to above.

Other Matters

26. I note the applicant's commentary about the dissatisfaction with the Council as a result of the prolonging of the application process by granting a number of

extensions of time in the hope that this would lead to an approval. Whilst it is unfortunate that it has taken a long period for the Council to make a determination, it would appear that this was based upon a number of periods of dialogue with the Council and Stakeholders involved in the decision making process for this quite complex application which involves matters such as flooding and green belt considerations. I am not aware of any legislation which binds the Council to approve applications once they have sought the determination date be extended, and hence this issue has not factored into this decision.

Conclusion

27. In conclusion, the appeal proposal would be inappropriate development in the terms set out in the Framework and, in addition, it would lead to a loss of openness to the Green Belt and would not be appropriate in terms of exposing occupants to risks of flooding. These issues are not outweighed by the considerations advanced by the applicant and I find that the other considerations in this case do not clearly outweigh the harm that I have identified.
28. Consequently, the very special circumstances necessary to justify the development do not exist. Therefore, for the reasons given above I conclude that the appeal is dismissed.

J Somers

INSPECTOR