The Planning Inspectorate

Appeal Decision

Site visit made on 27 July 2020

by Robin Buchanan BA (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2020

Appeal Ref: APP/A3655/D/20/3252550
St Olives, Thornash Way, Horsell, Woking, Surrey GU21 4UN

- 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 Nathaniel Kaile against the decision of Woking Borough Council.
- The application Ref PLAN/2019/1246, dated 9 December 2019, was refused by notice dated 27 February 2020.
- The development proposed is described as a double storey side extension, a single storey rear extension and a single storey front porch.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Nathaniel Kaile against Woking Borough Council. An application for costs was made by the Council against the appellant. These applications are the subject of separate Decisions.

Preliminary Matter

3. The Council's officer report refers to a 'Special Protection Mitigation Area' and to a 'Thames Basin Heaths SPA Zone B (400m-5km)' but contains no further explanation. There is also no relevant reason for refusal in the Council's decision. I deal with these considerations in 'other matters' below.

Main Issue

4. The main issue is the effect of the proposed development on existing and future occupiers or users of property, and to the structure and fabric of property, having particular regard to flood risk.

Reasons

5. The appeal site contains a two storey semi-detached house in a residential suburb of Woking. It has a reasonably long rear garden and there is an appreciable gap on one side, next to the adjoining house. The two storey side extension would be quite narrow in width and includes a replacement porch. At the rear it would reduce to a single storey across the width of the house and enlarge the house further in depth into the rear garden. The development would reduce the area of garden available for surface (rain) water run-off to ground, with some rainwater channelled into the main sewer system.

6. I note that there have been no interested party comments on the proposed development and that the Council did not object to its design, materials and layout, nor to its effect on the character and appearance of the area or the living conditions of occupiers of adjoining properties. As I saw at my site visit, I have no reason to reach a different view in these regards.

7. The Council's Strategic Flood Risk Assessment (the SFRA)[1] confirms that surface water flooding may occur when rainfall does not infiltrate into the ground, resurfaces elsewhere or discharges to a watercourse and causes flooding elsewhere, and that flooding from sewers occurs when rainfall exceeds the capacity of the network. The SFRA explains that the probability of such flooding can be reduced by controlling the rate of surface water run-off in development, including by the use of a sustainable drainage system (SuDS).

8. On the evidence before me in this appeal, neither main party has justified whether or not any part of the appeal site (including the house) or the proposed development is within an area at medium risk of surface water flooding. However, the Environment Agency surface water flood risk map (the EA map) shows that the end of the rear garden is within a wider area at high risk of surface water flooding. The EA map is broadly comparable to maps in the SFRA which also show that this part of the appeal site is within an area at high risk of surface water flooding (Figures 8.1 and 14.1).

9. Furthermore, while the SFRA shows that the appeal site is not in the Rive Ditch watercourse catchment or Preliminary Drainage Area (PDA), as the Council has otherwise suggested, it is nonetheless in the Addlestone Bourne, Knophill Brook and Parley Brook catchment and PDA (Figure 10). The SFRA confirms that individual or cumulative development in PDAs may increase surface water flood risk elsewhere so it is necessary for development to reduce the rate of surface water run-off on brownfield sites (such as the appeal site) towards greenfield site rates, or rates prior to development.

10. I do not have full details before me of the other developments that are referred to by the appellant, including whether any flood risk assessment was material to the Council's decision or the need for a pre-commencement of development SuDS condition. I am therefore unable to reach a view on whether these decisions are in fact directly comparable to the appeal proposal and/or appeal site. Nor do I have full details of the appeal decision in the Council's borough that is referred to by the appellant,[2] including whether that development was within or adjacent to an area at risk of surface water flooding, though I note that it did not involve a householder development so can be distinguished from the current appeal. I have, in any event, determined this appeal on its individual planning merits and the evidence before me.

11. I appreciate that for the purposes of Framework paragraph 163 (footnote 50) and paragraph 164 (footnote 51), regarding site-specific flood risk assessment, that the appeal proposal would be a householder development. I also acknowledge that the EA map shows that the house and the top of the rear garden at the appeal site, including the location of the proposed side and rear extensions, are not in an area at high risk of surface water flooding. Nonetheless, the proposed development would be adjacent to an area, including elsewhere on the appeal site, at high risk of surface water flooding

[1] Woking Borough Council Strategic Flood Risk Assessment, November 2015.
[2] APP/A3655/W/19/3233027.

and would be within a PDA. I consider that it is therefore a significant development for these reasons.

12. Prior to its decision, the Council sought to agree with the appellant a pre-commencement of development SuDS condition to attenuate surface water disposal. Subject to the appellant's agreement, the Council would otherwise have granted planning permission. Having regard to the advice and tests in Framework paragraphs 54 and 55, and in Planning Practice Guidance,[3] I am satisfied that such a condition would be necessary and reasonable to make the otherwise unacceptable development, acceptable by the approval of details of an appropriate SuDS. Moreover, such approval would need to be before the development commenced so as not to prejudice the ability of the appellant to implement the approved details.

13. However, the appellant does not agree to the imposition of such a condition. Furthermore, the appellant has not substantiated the efficacy of the proposed arrangements for surface water disposal, for example through a site-specific flood risk assessment, or provided clear evidence that a SuDS would be inappropriate. I cannot therefore be certain that the proposed development would not increase flood risk on the appeal site, and so it could become at risk of flooding, or increase flood risk elsewhere.

14. Consequently, there would be a likelihood of substantial harm to existing and future occupiers or users of property, and to the structure and fabric of property. It would not accord with Policy CS9 and Policy CS16 of the Woking Core Strategy, October 2012. These policies include that a flood risk assessment will be required for (any) development that is adjacent to areas at risk of surface water flooding as identified in the SFRA, that development should work towards mimicking greenfield run-off situations and that all significant forms of development should incorporate necessary infrastructure, including flood alleviation measures such as SuDS which may need to be provided before development commences. It would also conflict with the National Planning Policy Framework (Framework) paragraph 163(c) which includes that development should ensure that flood risk is not increased elsewhere and incorporates SUDS in areas at risk of flooding.

Other Matters

15. The evidence before me in this appeal does not explain whether the appeal proposal needs to mitigate any impact of the proposed development on a Special Protection Area (SPA) to avoid adverse effect on the integrity of any SPA. On the very limited evidence before me I am therefore unable to reach a view in this matter. However, having regard to the main issue above, I intend to dismiss this appeal and so I do not need to consider this matter any further.

Conclusion

16. For the reasons given, the appeal does not succeed.

Robin Buchanan

INSPECTOR

[3] Paragraph: 003 Reference ID: 21a-003-20190723.