



Appeal Decision

Site visit made on 23 February 2020

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2021

Appeal Ref: APP/W0340/W/20/3259302

1 and 3 Kennet Road, Newbury RG14 5JA

- 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 P Simmons against the decision of West Berkshire Council.
 - The application Ref 20/00152/FUL, dated 20 January 2020, was refused by notice dated 4 September 2020.
 - The development proposed is demolition of the existing dwellings and erection of 2No. semi-detached dwellings and 1No. detached dwelling with associated works.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue of the appeal is whether the proposal would comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

3. The application was accompanied by a Flood Risk Assessment (FRA) and a Flood Risk Sequential Test (FRST). The FRA identifies the site as being within Flood Zone 3 of the Environment Agency mapping system.
4. Policy CS16 of the West Berkshire Core Strategy (CS) states that areas that are subject to flood risk will only be acceptable for development if it is demonstrated that there are no suitable and available alternative sites at lower risk of flooding. It also states that the sequential approach to development will be strictly applied across the district.
5. The Framework¹ 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 by steering development to the lowest flood risk areas through the application of a sequential test. Consequently, planning applications, such as the appeal proposal, are required to apply a sequential test to establish whether there are other reasonably available sites for the proposed development in areas with a lower probability of flooding.
6. While a number of potential sites were identified in the FRST, all were subsequently discounted. The FRST focused on sites that have no flood risk implications. It excluded sites for being within Flood Zone 2 or Critical Drainage

¹ National Planning Policy Framework

Areas, considering they are not preferable to the appeal one due to the presence of flood defences.

7. Although the site benefits from flood defences, this does not alter the Flood Zone classification. The site remains within Flood Zone 3 with the existing and proposed use of the site constituting a 'More Vulnerable' use. The National Planning Practice Guidance (PPG) states that only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of site in Flood Zone 3 be considered.
8. Therefore, a site within Flood Zone 2 would be sequentially preferable than the appeal site in Flood Zone 3. In the absence of Flood Zone 2 locations being looked at in the FRST, I cannot be sure that there are no reasonably available alternative sites.
9. The FRST confined the search to sites for main urban areas, as defined by Policy ADPP1 of the CS. This sets out a settlement hierarchy and states that urban areas will be the focus for most development. Nonetheless, it does not limit residential development to only the urban areas. Reference is also made to Rural Service Centres and Service Villages.
10. Policy C1 of the HSA² states there is a presumption in favour of development in settlement boundaries and lists a number of settlements. An assessment of possible sites outside settlement limits for this scheme would be difficult given the extent of potential locations and criteria of Policy C1 of the HSA. The accessibility of urban areas to services and facilities may be greater than other locations. Nevertheless, limited evidence has been put forward to demonstrate that the development could not take place in other settlements outside the urban areas that have been looked at.
11. PPG refers to sequential test areas being defined by local circumstances relating to the catchment area for the type of development. The appellant acknowledges that the provision of a single dwelling could be accommodated in a number of locations in the District and that there is no defined catchment for this type of development. On the basis of the evidence before me, I have reached the same finding.
12. There has been no convincing case that the scheme would meet an identified local need or have to be located at the appeal site. On the individual circumstances of this case, I see no reason why the sequential search should be limited to the urban areas. Therefore, I cannot be certain that the search has considered all reasonably sequentially preferable locations and there are no other sites elsewhere in the District that could accommodate the proposed development in areas of lesser flood risk.
13. The scheme would involve the redevelopment of the site as well as the provision of an additional dwelling. However, the FRST has not discounted sites for 1 or 2 dwellings due to them being below the scale of the overall appeal scheme. Even if I were to agree with the appellant that the redevelopment aspect of the scheme is a limiting factor, the FRST has not been carried out on the basis of the redevelopment scheme as a whole.
14. The FRST represents a snapshot in time. There will inevitably be changes in the marketing of properties and land as well as in the status of planning

² West Berkshire District Council Housing Site Allocations Development Plan Document

permissions. I acknowledge that there would be practical difficulties in this instance in considering sites that were not being marketed or without planning permission. Schemes comprising a far larger number of units would not be directly comparable to the appeal scheme.

15. There were no objections to the scheme from the Environment Agency or the Land Drainage Team subject to the imposition of conditions at the time of the Council making their decision. Moreover, measures are proposed to mitigate the effects and risk of flooding. However, the consultee comments did not relate to the FRST. Moreover, PPG states it is for the local planning authorities to consider the extent that the sequential test has been satisfied. As the sequential test has not been passed, I do not need to consider the acceptability of the scheme with regard to the exception test.
16. The proposal would not comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding. The proposal would be contrary to Policy CS16 of the CS where it states development will only be accepted in areas with a history of flooding if there are no suitable and available alternative sites at a lower risk of flooding.
17. It would also fail to accord with the Framework where it states that development should be steered to areas with the lowest risk of flooding and that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

Other Matters

18. Planning permission for the conversion of the existing buildings on the appeal site to an increased number of residential units provides a fallback position. The appeal scheme would have less units. Nevertheless, it would also have a lower number of bedrooms than the fallback scheme, potentially resulting in less residents in the flood risk area. Moreover, the appeal scheme would introduce a new building as well as replacing the existing ones, therefore covering a greater part of the plot. From the details before me, the fallback position would be less harmful than the appeal scheme and it does not offer a basis to allow the appeal.
19. The proposal would accord with the aim of the Framework to significantly boost the supply of housing. However, while any contribution is worthwhile, the number of units would be small. For the same reason benefits arising from the construction period and future spend of occupants giving support to local services and facilities, and the energy efficiency of the buildings would be minor.
20. There are no refusal reasons relating to the living conditions of existing or future occupiers, the accessibility of the site, principle of this type of development at the site and highway safety. As I have found sufficient harm in relation to the main issue to warrant dismissing the appeal, I do not need to consider these matters further. In any event, a lack of harm would be a neutral factor.
21. The significance of the nearby grade II listed buildings³ are in their age and architectural detailing. The significance of the nearby Newbury Conservation

³ 29 and 31 Craven Road and 26-32 Craven Road

Area (CA) in part derives from the extent of historic buildings and their connection with the original street layout of the town. The proposal would remove what the appellant indicates to be substandard extensions and buildings in disrepair. I have reached the same finding as the Inspector in the previous appeal⁴ in that the existing site makes a neutral contribution to the character and appearance of the area. The proposal would remove the existing spacious corner. Notwithstanding this, the presence of corner buildings is prevalent in the area, and the design and scale of the proposed dwellings would be comparable to nearby ones. The scheme would have a neutral effect on the setting of the listed buildings and the CA.

22. The proposal has been amended from that subject to the previous appeal at the site in an attempt to overcome the reasons for dismissal. However, I have found that harm would arise from the scheme before me.
23. My attention has been drawn to other appeal cases⁵ by the main parties. The Farndon appeal identified an outstanding requirement for market housing in the area that satisfied a local need. The Church Lane scheme was for 5 dwellings. While the Inspector stated that a district wide search was not appropriate, they did comment that there may be suitable sites in other settlements in the area. The Leverington appeal acknowledged that despite the presence of flood defences, the flood zones that inform the sequential test are defined by the Environment Agency flood maps. It was also the case that the parties were in agreement over the extent of the search area. The Newspaper House proposal relates to a far larger scheme with different locational characteristics. The Upper Lambourn scheme did not specify any particular search area.
24. Consequently, these schemes are not directly comparable to the one before me which I have considered on its own merits.

Conclusion

25. Therefore, for the reason given above and having regard to all matters raised, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR

⁴ APP/W0340/W/19/3243640

⁵ APP/B3030/W/18/3205827, APP/E2734/W/19/3238055, APP/D0515/W/15/3131562, APP/W0340/W/20/3252212 and APP/W0340/W/19/3240289