



Appeal Decision

Site visit made on 11 June 2021

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 June 2021

Appeal Ref: APP/W0340/W/21/3269516

Land adjacent 67A and 67B Lancaster Close, Thatcham

Grid Ref Easting: 451071, Grid Ref Northing: 167682

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Optimo Ventures Ltd against West Berkshire Council.
 - The application Ref 20/02548/FUL, is dated 29 October 2020.
 - The development proposed is described as "Proposed extension to form new 1-bedroom flat at first floor with parking under".
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. I have used the site address from the appeal form within the banner heading above, as this more accurately describes the site location.

Main Issues

3. The Council failed to determine the appeal within the prescribed period. Having considered all the written evidence, which includes the representations of interested parties, and, having undertaken a site visit, I consider the main issues to be:
 - the effect of the development upon the living conditions of the occupiers of Nos 67A and 67B Lancaster Close in respect of outlook, daylight and sunlight; and
 - whether the appeal site is suitable for new housing having regard to local and national policies relating to development in areas at risk of flooding.

Reasons

Living conditions of the occupiers of Nos 67A and 67B Lancaster Close

4. The appeal property is a two-storey detached building, which is positioned at the southern end of Lancaster Close. The property has been subdivided into two maisonettes, which are known as Nos 67A and 67B Lancaster Close. To the eastern side of the building there is a large off-street parking area, whilst the land to the western side of the building provides a private garden area for the occupiers of the property.

5. The proposal is for a two-storey extension to the east elevation of the property, which would provide a one bedroom flat on the first floor with undercroft parking below. The extension would be constructed from materials to match the host building and it would protrude beyond the rear elevation of the existing building by approximately 2.9m.
6. As part of the proposed development, four secondary windows on the side elevation of the existing building, which serve the bedrooms of Nos 67A and 67B, would be blocked up. However, the proposed development would retain the primary bedroom windows which are located to the front and rear of the building.
7. Given the scale and positioning of the proposed extension, which would protrude beyond the rear elevation of the existing building in close proximity to the building's existing rear windows, I consider that the development would have a significantly dominating effect when viewed from the rearward facing bedroom windows of Nos 67A and 67B. Consequently, the development would have an oppressive and overbearing impact upon the outlook of the occupiers of Nos 67A and 67B.
8. In addition to the above, due to the overall scale of the proposed extension and its close proximity to the existing rear facing windows of the host property, and, owing to the location of the proposal to the east of the rear facing windows, the development would cause overshadowing thereby resulting in a material loss of daylight and sunlight to the rear facing windows of No 67A and 67B, especially during the morning and early afternoon.
9. For the reasons outlined above, I conclude that the proposed development would cause significant harm to the living conditions of the occupiers of Nos 67A and 67B Lancaster Close in respect of outlook, daylight and sunlight. As such, the proposal would not accord with Policy CS14 of the West Berkshire Core Strategy (2006-2026) Development Plan Document (the 'CS') which, amongst other things, states that new development must demonstrate high quality and sustainable design that respects and enhances the character and appearance of the area, and makes a positive contribution to the quality of life in West Berkshire.
10. Moreover, the proposed development would conflict with advice contained within the West Berkshire Council – Quality Design Supplementary Planning Document Part 2: Residential Development which explains that new developments should ensure that the living conditions of both future residents of new development and of neighbouring residential properties are not compromised by lack of daylight or unduly restricted outlook
11. Given the above, the proposal would also be inconsistent with the requirements of paragraph 127(f) of the National Planning Policy Framework (the 'Framework'), which requires that development does not have an adverse impact on the amenities of existing and future occupants.

Development in areas at risk of flooding

12. The West Berkshire Council Level 1 Strategic Flood Risk Assessment: Final Report – June 2019 (the 'SFRA') explains that there is a risk of ground water flooding in central and southern Thatcham, which includes the appeal site¹. In

¹ Appendix L of the SFRA – Groundwater Flooding Map

these areas, groundwater levels are estimated to be at or close to the ground surface during the 1 in 100 year event, which presents a risk of flooding to both surface and subsurface assets².

13. Policy CS16 of the CS states "The sequential approach in accordance with the NPPF will be strictly applied across the District. Development within areas of flood risk from any source of flooding, including Critical Drainage Areas and areas with a history of groundwater or surface water flooding, will only be accepted if it is demonstrated that it is appropriate at that location, and that there are no suitable and available alternative sites at a lower flood risk".
14. 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 (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere".
15. Paragraph 158 of the Framework states that "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment ('SFRA') will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding".
16. In this instance, the appellant explains that the proposed dwelling has been designed to respond positively to the water levels in the area. Therefore, he argues that the proposal would protect future occupants from flooding risks. However, this position is not supported by any technical evidence.
17. In any event, even if I were to accept the appellant's position, the appeal proposal is not supported by a site-specific sequential test. Therefore, I am unable to conclude that there are no other reasonably available sites appropriate for the proposal in areas with a lower risk of flooding, as required by the Framework.
18. In the absence of a sequential test, I am unable to conclude that the appeal site is suitable for new housing having regard to local and national policies relating to development in areas at risk of flooding. Accordingly, the proposal does not accord with Policy CS16 of the CS and paragraphs 155 and 158 of the Framework.

Planning Balance

19. The proposed development would provide an additional dwelling in a location close to local services and facilities, which would make a positive contribution to the Council's housing land supply. However, I have been unable to conclude that there are no other reasonably available sites appropriate for the proposal in areas with a lower risk of flooding, as required by the Framework. Moreover, I have found that the proposal would cause significant harm to the living conditions of the occupiers of the host building. These are matters of overriding concern and the benefit of additional housing would not overcome the very weighty conflict with the identified development plan policies as outlined in the main issues above.

² Paragraph 4.5 of the SFRA

Other Matters

20. The Council's appeal statement explains that the proposal would not meet the requirements of the Government's Technical housing standards – nationally described space standard. Moreover, the Council have expressed concern about the size and functionality of the proposed outdoor amenity area. However, these matters did not form part of the indicative reasons for refusal set out within the Council's appeal statement. Given my decision to dismiss this appeal, it is not necessary to consider these matters any further.
21. A local resident has drawn my attention to a restrictive covenant at the appeal site, which he explains requires a right of access to be retained over the development site to allow access into an adjoining property. However, this is a separate legal matter which falls outside of the scope of this appeal.

Conclusion

22. For the reasons given, I conclude that the appeal should be dismissed.

Christopher Miell

INSPECTOR