



Appeal Decision

Site visit made on 17 August 2021

by B Davies MSc FGS CGeol

an Inspector appointed by the Secretary of State

Decision date: 3 September 2021

Appeal Ref: APP/P0119/W/20/3264817

Ableton Court, Ableton Lane, Severn Beach, BS35 4PY

- 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 Fran Connolly (Connolly and Callaghan Ltd) against the decision of South Gloucestershire Council.
 - The application Ref PT18/5034/F, dated 6 November 2018, was refused by notice dated 19 November 2020.
 - The development proposed is the erection of 2 no. two-storey rear extensions to create 9 no. self-contained dwellings (emergency accommodation – use class C3).
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The National Planning Policy Framework (the 'Framework') was revised on the 20 July 2021, during the appeal period. Both parties have had the opportunity to comment on the implications of this for their case.

Main issue

3. The main issue is whether or not the proposal would comply with planning policy that seeks to steer new development away from areas at the highest risk of flooding.

Reasons

4. The appeal site is a large, modern 2-storey block set back from the road in landscaped gardens, with a car park to the rear. It comprises 22 self-contained units, currently used for emergency accommodation. It is located in a predominantly residential area, adjacent to a primary school. The proposal would add 2 rear extensions to accommodate a further 9 self-contained dwellings, creating a single, U-shaped structure.
5. The site lies approximately 500 metres from the Severn Estuary and is located in Flood Zone 3. Paragraph 159 of the Framework states that development should be directed away from areas at highest risk. To this end, the Planning Practice Guidance ('PPG') recommends application of a sequential, risk-based approach to all development in Flood Zone 3¹. The geographical area for

¹ Paragraph: 018 Reference ID: 7-018-20140306, Revision date: 06 03 2014

application of the Sequential Test is defined by local circumstances relating to the catchment area for the type of development proposed.

6. The permission applied for would not restrict the apartments to emergency accommodation. However, the appellant has offered to accept a restrictive condition and, notwithstanding that I have not assessed if this would be enforceable, I see no reason to doubt that the intention of the appellant is to use the flats as emergency accommodation, rather than as general C3 use.
7. The appellant states that the development has to be at this specific location because the site has existing infrastructure for use as emergency accommodation, including liaison staff and management. I am mindful that there is no provision of care in this use class, and there is a lack of explanation as to why this modest level support is critical or cannot be provided elsewhere. While I don't doubt that it would be efficient for the developer to combine sites, for the reasons above I do not find the argument that the development has to be on this site compelling.
8. Looking beyond the site, the appellant has highlighted that the entirety of Severn Beach and Pilning are within Flood Zone 3, suggesting that there are no better alternatives locally. However, it is not explained why the emergency accommodation needs to be in these settlements. In the absence of this, I find it reasonable that the Sequential Test is applied across the entire district.
9. To meet this requirement, the appellant has submitted searches from two property sales websites that suggest there is no suitable land available across the district. As per the Environment Agency's flood risk standing advice, it is reasonable to expect consideration of allocations in the development plan, readily available land not yet for sale, those with planning permission and windfall sites. While I concur that the exercise should be pragmatic, the property search provided does not meet these guidelines.
10. In addition, I note that the appellant provides accommodation for more than 700 people every night across the district. I have no evidence that these other sites, presumably all of which are supported with similar infrastructure, have been reviewed for suitability.
11. In the alternative, the Council states that they have sufficient land for housing outside Flood Zone 3. Although no further details are provided, I note that a large part of the district is beyond Flood Zone 3 and, with the Council's comments in mind, I consider it highly likely that there would be alternative sites available. The onus is on the appellant to demonstrate otherwise and for the reasons above their property search does not achieve this.
12. I have reviewed the permissions for recent local residential development brought to my attention². In both cases, the minutes of the planning committee merely record that they 'accepted that [the sequential test] had been passed'. In the absence of any explanation for this conclusion, I am unable to make a meaningful comparison with the appeal before me.
13. The appellant argues that application of local policies allowing small-scale development within settlement boundaries creates an expectation that proposals successfully addressing flood risk will be acceptable. I do not agree with this interpretation. Other policies in the plans clearly state that a

² PT17/0821/F (Severn Beach United Church, Beach Road), P19/7848/F (Rustic House, 123 Beach Road)

successful Sequential Test is necessary prior to development being deemed appropriate.

14. I also do not agree that policies protecting property from flooding prevent development in Severn Beach. The policies and guidance are clear that where a local need is identified, including housing, then the area of the Sequential Test can be drawn accordingly. In this case, evidence has not been provided of an exceptional need locally for emergency accommodation, nor for general C3 use.
15. In support of the scheme, the appellant refers to the lack of objection by the Environment Agency. The acceptability of the Sequential Test must be decided by the local planning authority, taking advice from the Environment Agency as appropriate. The Environment Agency has commented on whether the site would remain safe for its lifetime, an approach that accepts there remains a residual risk to occupiers.
16. I conclude that insufficient evidence has been provided to show that all options to meet the development's needs have been assessed in the Sequential Test. Consequently, the proposal has not met the requirements of the test and conflicts with the Framework, Policies CS5 and CS9 of the South Gloucestershire Core Strategy (December 2013) and PSP20 of the Policies, Sites and Places Local Plan (November 2017), which together aim to steer new development towards areas with the lowest probability of flooding.
17. In light of this, there is no need for me to consider the Exception Test for this site.

Planning balance and conclusion

18. There would be benefit from contribution to the housing supply in an accessible location. The likely use of the site for emergency accommodation would contribute to social support for the wider community, and sharing infrastructure and services in this regard would be advantageous. There would also be a small degree of investment in the local economy from construction and potentially from contribution of future residents to the local community.
19. However, the proposal would introduce residential use into Flood Zone 3, and insufficient evidence has been provided to demonstrate that suitable sites at a lower level of flood risk cannot be found. I conclude that this factor significantly outweighs the minor benefits from the scheme.
20. The proposal would conflict with the local development plan when read as a whole, and there are no other considerations that would lead me to determine other than in accordance with this. The appeal is therefore dismissed.

B Davies

INSPECTOR