



Appeal Decision

Site visit made on 31 January 2023

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2023

Appeal Ref: APP/R0660/W/22/3307298

Land on Langley Road, Langley, Sutton, Macclesfield SK11 0DP

- 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 Mr A Penkett (Corringate Properties Ltd) against Cheshire East Council.
 - The application Ref 22/0390M, is dated 2 February 2022.
 - The development proposed is a New Build Pair of Semi-Detached 3 Bed Houses incl. Associated Parking, Landscaping & Site Drainage.
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Decision

1. The appeal is allowed and planning permission is granted for a new build pair of semi-detached 3 bed houses incl. associated parking, landscaping & site drainage at Land on Langley Road, Langley, Sutton, Macclesfield SK11 0DP in accordance with the terms of the application, Ref 22/0390M, dated 2 February 2022 subject to the conditions in the attached schedule.

Preliminary Matters

2. I have utilised the address from the appeal form, as the application form only provides a partial address.
3. The application form also refers to a new build pair of semi-detached 4 bed houses, but the proposal before me is for a pair of 3-bedroom houses. It is clear from the representations before me that the interested parties to this appeal are aware of this and I have amended the description of development to reflect this and determined the appeal on this basis.

Background and Main Issue

4. The Council failed to determine the planning application within the statutory timescale. They have subsequently confirmed that had they proceeded to a decision, it would have been refused due to insufficient information in relation to flood risk. As such, the main issue is the effect of the proposed development on flood risk.

Reasons

5. The appeal site comprises of part of a larger agricultural field that has a frontage to Langley Road. It is within an area of ribbon development to the southern side of this road. The proposal seeks consent for a pair of semi-detached houses, with associated works.

6. The appeal application was accompanied by a Flood Risk Assessment & Drainage Strategy (Waterco Limited, December 2021) (FRA) and a Hydraulic Modelling Report (Waterco Limited, November 2021) (HMR). Although the FRA identifies the site is within Flood Zone 1, it is common ground between the main parties that the site has experienced flooding. The HMR also states the development site experienced shallow depth flooding in simulated events. A number of flood mitigation measures are however proposed to reduce the flood risk on the site and ensure that the proposed development remains flood free.
7. The Council, as Lead Local Flood Authority (LLFA) has however raised concerns on the hydraulic modelling not replicating existing flood outlines. The appellant has stated that the modelling has been undertaken in line with the Environment Agency's modelling guidelines and whilst I note the inherent uncertainties in undertaking such modelling, the modelled flood extents correspond well to the extent of flooding shown in photographs provided in the Council's Appeal Statement. Furthermore, in relation to concerns on the hydraulic modelling, the appellant has set out how the hydrology assessment was undertaken using the data available in the absence of specific data within the subject catchment.
8. The Council's concerns extend to the level of detail provided in a number of areas, including the design of flood walls and foundations. Although the LLFA state this information should be provided prior to determination, I consider that detailed design and maintenance matters, such as the ability of walls to withstand flood water pressures, can be addressed through planning condition. Similarly, whilst noting the comments by United Utilities on drainage design, this consultee does state that the proposals in the drainage strategy are acceptable in principle and a condition could be attached requiring further detail, as could a condition to address the management and maintenance regime of any sustainable drainage system.
9. I note the concerns by local residents of flooding through the appeal site and on Langley Road which have been corroborated by photographs. Flooding along roads can result from various causes, such as blocked drains on the highway, and there was evidence of standing water on the highway at the time of my visit but none on the appeal site itself. Many of the concerns relate to the existing culvert being inadequate and overwhelmed, but the proposal, which includes replacing the existing culvert, as well as other measures, would not based on the evidence before me increase flood risk elsewhere and would conversely reduce flood depths on Langley Road. This includes climate change scenarios where there may be more extreme weather in the future than there is presently.
10. I therefore conclude that the proposal would not have an unacceptable harmful effect on flood risk. As such, it would not be contrary to Policies SE 12 and SE 13 of the Cheshire East Local Plan Strategy 2010-2030 or Policies ENV 7, ENV 16 and INF 9 of the Cheshire East Local Plan Site Allocations and Development Policies Document, which I consider to be of most relevance to the appeal proposal. These seek, amongst other matters, development that is located and designed so it does not result in a harmful impact upon surface water and groundwater, that development does not increase flood risk on the site or elsewhere and opportunities to reduce the risk of flooding are sought. It would also not be contrary to Section 14 of the Framework, which seeks, amongst other matters, to ensure that flood risk is not increased elsewhere.

Other Matters

11. The appeal site is situated within the Green Belt, but the Council has referenced that limited infilling in villages, such as Langley, as not being inappropriate development. As the proposal would infill a modest gap within the village, I have no reason to disagree with this position.
12. Reference has been made to alterations to the existing watercourse/culvert requiring a land drainage consent application under the Land Drainage Act 1991. This is a separate legislative process to the appeal before me.
13. A number of extracts of guidelines or policy relating to building over a culvert and when building near a culverted watercourse have been provided. Although one of these is said to be an 'extract from EA policy', no further details on which document is being referenced and its status have been provided.

Conditions

14. I have considered the conditions suggested by the Council and consultees, having regard to the six tests set out in the Framework. For the sake of clarity and enforceability, I have amended the wording of some of the suggested conditions as appropriate.
15. I have attached materials, boundary treatment and landscaping conditions in the interests of ensuring the development's acceptable appearance in order to safeguard the area's character and appearance.
16. Conditions are also necessary to ensure the adequate drainage of the site and for maintenance of the drainage system, in the interest of flood prevention and avoiding pollution. It is essential for details relating to the drainage scheme to be approved before any works commence to ensure risks from flooding and pollution are minimised. The suggested drainage condition has been amended to include details of finished floor levels, the foundation design to the proposed dwellings and of the wall to the southern boundary.
17. Conditions are required in relation to the provision of parking spaces and also for the provision of Electric Vehicle Charging Points to secure adequate parking for each proposed dwelling and to enable the use of electric vehicles and reduce emissions. Conditions are also necessary to test any soil brought on to site and on contamination found during construction to minimise risks from land contamination.
18. I also consider conditions to be necessary to secure biodiversity improvements and for details of any pile driving operations to be agreed in the interests of biodiversity and living conditions respectively.

Conclusion

19. The proposed development would accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this.

F Rafiq

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 21068 200 Site Location Plan, 21068 230 A Proposed Flood Plan Levels, 21068 201 Proposed Floor Plans, 21068 210 Proposed Elevation and Street Scene, 21068 231 Proposed Sections of Minor and Major Flood Routes and 21068 220 Proposed Site Plan.
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on the submitted details.
 - 4) Prior to the commencement of development, details of a sustainable surface water drainage scheme and a foul water drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage schemes must include:
 - (i) An investigation of the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent amendment thereof). This investigation shall include evidence of an assessment of ground conditions and the potential for infiltration of surface water in accordance with BRE365;
 - (ii) A restricted rate of discharge of surface water agreed with the local planning authority (if it is agreed that infiltration is discounted by the investigations);
 - (iii) Levels of the proposed drainage systems including proposed ground and finished floor levels in AOD, foundation design to the proposed dwellings and details of the wall to the southern boundary of the site;
 - (iv) Incorporate mitigation measures to manage the risk of sewer surcharge where applicable; and
 - (v) Foul and surface water shall drain on separate systems.
- The approved schemes shall also be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards. Prior to the first occupation of the proposed development, the drainage scheme shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.
- 5) Prior to the first occupation of the development hereby permitted a sustainable drainage management and maintenance plan for the lifetime of the development shall be submitted to the Local Planning Authority and agreed in writing. The sustainable drainage management and maintenance plan shall include as a minimum: a. Arrangements for adoption by an appropriate public body or statutory undertaker, or, management and maintenance by a resident's management company; and b. Arrangements for inspection and ongoing maintenance of all elements of the sustainable drainage system to secure the operation of the surface water drainage scheme throughout its lifetime. The development shall subsequently be completed, maintained and managed in accordance with the approved plan.
 - 6) Prior to the commencement of development above foundation level, a plan showing the provision of 3 no car parking spaces per dwelling on site

- measuring 4.8m x 2.5m shall be submitted to and approved in writing by the Local Planning Authority. The approved car parking spaces shall be first laid out and provided free from any impediment to their use prior to occupation of the respective dwelling and maintained thereafter.
- 7) Prior to the commencement of development above foundation level, details of all boundary treatments shall first be submitted to and approved in writing by the Local Planning Authority. Works shall proceed in accordance with the approved details.
 - 8) Prior to the first occupation of the development hereby permitted, a scheme for the landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The landscaping scheme shall include details of hard landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes, the proposed numbers and densities and an implementation programme.
 - 9) The approved landscaping plan shall be completed in accordance with the following:-
 - a) All hard and soft landscaping works shall be completed in full accordance with the approved scheme, within the first planting season following completion of the development hereby approved, or in accordance with a programme agreed with the Local Planning Authority.
 - b) All trees, shrubs and hedge plants supplied shall comply with the requirements of British Standard 3936, Specification for Nursery Stock. All pre-planting site preparation, planting and post-planting maintenance works shall be carried out in accordance with the requirements of British Standard 4428(1989) Code of Practice for General Landscape Operations (excluding hard surfaces).
 - c) All new tree plantings shall be positioned in accordance with the requirements of Table A.1 of BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations).
 - d) Any trees, shrubs or hedges planted in accordance with this condition which are removed, die, become severely damaged or become seriously diseased within five years of planting shall be replaced within the next planting season by trees, shrubs or hedging plants of similar size and species to those originally required to be planted.
 - 10) Prior to the commencement of development above foundation level, a scheme for the incorporation of features to enhance the biodiversity value of the proposed development shall be submitted to and agreed in writing by the Local Planning Authority. The submitted strategy should include proposals for the provision of features for nesting birds including swift and roosting bats (any external lighting should avoid direct light spill upon bat roost features), and native species planting. The proposals shall be permanently installed in accordance with approved details.
 - 11) If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find). Prior to further works being carried out in the identified area, a further assessment shall be made and

- appropriate remediation implemented in accordance with a scheme also agreed in writing by the Local Planning Authority.
- 12) Details of the method, timing and duration of any pile driving operations connected with the construction of the development hereby approved shall be approved in writing by the Local Planning Authority prior to such works taking place and shall be implemented in accordance with the approved details.
- 13) Any soil or soil forming materials to be brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use prior to importation to site. Prior to first occupation of the development hereby permitted, evidence and verification information (for example, laboratory certificates) shall be submitted to, and approved in writing by, the Local Planning Authority.
- 14) Prior to first occupation of the development hereby permitted, an Electric Vehicle Infrastructure plan shall be submitted to and agreed in writing by the Local Planning Authority. The Vehicle Infrastructure plan shall aim to meet the following specification:
- A single Mode 3 compliant Electric Vehicle Charging Point per property with off road parking. The charging point shall be independently wired to a 30A spur to enable minimum 7kW Fast charging or the best available given the electrical infrastructure.
 - Should the infrastructure not be available, written confirmation of such from the electrical supplier shall be submitted to the Local Planning Authority.
 - Where there is insufficient infrastructure, Mode 2 compliant charging may be deemed acceptable subject to the previous being submitted. The infrastructure shall be implemented and maintained throughout the use of the development.

End of Conditions