



Appeal Decision

Site visit made on 1 May 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 MAY 2023

Appeal Ref: APP/Y3615/W/22/3313203

The Cottage, Meadow Close, Ash Vale, Surrey GU12 5PY

- 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 Ben Bryant against the decision of Guildford Borough Council.
 - The application Ref 22/P/00666, dated 11 April 2022, was refused by notice dated 18 October 2022.
 - The development proposed is described as the extension and conversion of the existing detached 3 bedroom house to provide 1 No. 3 bedroom house and 2 No. 2 bedroom houses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was submitted the Council has adopted the Guildford Borough Local Plan: Development Management Policies (LPDMP) on 22 March 2023, which forms part of the development plan. The Council has confirmed which policies are now in place and the appellant has had opportunity to comment on them. I will therefore reference the revised policies in my decision.

Main Issues

3. The main issues are whether, having regard to flood risk, the appeal site is a suitable location for the proposed development and whether it would provide adequate finished floor levels; and the effect of the proposal on the Thames Basin Heaths Special Protection Area (SPA).

Reasons

Flood risk

4. The appeal site constitutes a detached residential dwelling on a large plot. It is situated on Meadow Close adjacent to 4 recently completed detached dwellings, between a small residential estate and water treatment plant. To the rear of the appeal site is an area of meadows and woodland leading up to the Blackwater River. The main parties agree the site is located within Flood Zone 2 (medium risk) and that the existing and proposed residential use would be classed as more vulnerable to flood risk, as set out in Annex 3 of the National Planning Policy Framework (the Framework).
5. Policy P4 of the Guildford Local Plan: Strategy and Sites (LPSS) seeks to strategically control development areas at medium or high risk of flooding as well as minimise the flood risk of new development. This includes the need for

new development to pass the sequential and exception tests (as required) as set out in the Framework.

6. Paragraph 162 of the Framework states that the aim of the sequential test (ST) is to steer new development to areas with the lowest risk of flooding from any source, 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. Paragraph 162 goes on to state that the basis of this test should be the strategic flood risk assessment (SFRA).
7. The Council completed its SFRA¹ in 2017 and this has gone on to form the basis of its Land Availability Assessment (LAA). As the appeal site was not assessed within the Council's SFRA, the appellant submitted a Sequential Test Assessment (STA) and this used the LAA, amongst other Council produced documents, as the basis to identify potential reasonably available sites throughout the Borough.
8. The Planning Policy Guidance² states that reasonably available sites are those in suitable locations for that proposed with a reasonable prospect of them being available to be developed at the point in time envisaged for the development. Notably it confirms that this could include a series of smaller sites or be part of a larger site.
9. The STA identified 463 sites for assessment, and this was reduced to 27 by sifting out sites within higher risk flood zones and sites which did not meet the specific size parameters. In paragraph 5.7 of the STA the size parameters were identified as being between 0.6 and 1 hectares. Whereas in appendix 2 of the STA, the shortlisted 27 sites bare no relation to these parameters and vary in size between 0.02 and 0.14 hectares. There is nothing before me to justify this significant difference in site sizing parameters not how they would represent sites which could accommodate a similar type of development to that proposed, either singularly, in part, or in combination. Thus, it has not been demonstrated that the initial sift is an adequate method to disregard sites for further consideration relating to their availability and other forms of flooding.
10. As the initial sift significantly reduced the number of potential sites, the STA cannot be relied on to demonstrate that all potential sites have been considered. Thus, from the evidence before me it has not been satisfactorily shown that there are no other reasonably available sites in areas of lower flood risk, and so the proposal does not pass the ST.
11. Turning to the proposed finished ground floor levels (FgFLs). Within the appellant's site-specific Flood Risk Assessment (FRA), it states that the new build elements of the proposal would have FgFLs set at a minimum of 66.96m above ordnance datum (AOD) and the FgFL of the retained elements of the existing dwelling are 66.52m AOD.
12. The Environment Agency's (EA) standing advice is that vulnerable development in flood zone 2 should provide FgFLs which are above the estimated river or sea flood level by a minimum of 600mm. The FRA confirms that using the modelling provided by the EA the maximum 1:100-year flood level for the appeal site, taking into account an increase of 15% to compensate for climate

¹ Guildford Borough Council Level 1 Strategic Flood Risk Assessment: Flood Risk Sequential and Exception Test December 2017, as submitted by the appellant

² Flood risk and coastal change PPG Paragraph 082 Reference ID: 7-028-20220825 Revision date 25 08 2022

change, would be 66.36m AOD. Accordingly, the proposed new build elements would comply with the standing advice.

13. The EA standing advice goes on to say where FgFLs cannot be raised above the estimated flood levels then extra flood resistance and resilience measures should be considered. The FRA has set out a series of design measures which would provide additional flood resistance and resilience for the retained areas of ground floor. The existing FgFL is below the 600mm recommendation but is still above the calculated flood level. Therefore, in this case, I am satisfied the conditioning of the afore mentioned measures could provide adequate protection against flooding for the existing FgFL.
14. It is appreciated on the plans that the FgFL is shown as 66.92m AOD for the new build elements of the proposal. However, I am satisfied that a difference of 4cm in ground floor level could be incorporated into the proposal without significantly altering its visual and physical impact on its surroundings, and compliance with the FRA figures could be conditioned.
15. Nevertheless, although the proposed development could provide adequate finished floor levels, with appropriate mitigation measures, this does not overcome its failure to pass the ST. Consequently, in relation to flood risk, the appeal site is not a suitable location for the proposed development and the proposal would not comply with LPSS Policy P4 and the Framework insofar as they seek to steer new development to areas with the lowest risk of flooding.

SPA

16. The appeal site is within the 400m to 5km buffer zone of the SPA and would create a net increase of 2 residential dwellings. It is likely that its contribution to the increase in population could lead to an increase in visitor and recreational pressure within the SPA. Given the likely susceptibility and vulnerability of the SPA to such uses, it cannot be concluded that the development would not adversely affect the integrity of this protected site in combination with other projects.
17. The SPA Avoidance Strategy 2017 provides for contributions to be made to mitigate the effect of development such as that proposed. However, there is nothing before me to secure such an obligation nor has any other form of mitigation been identified. Therefore, the proposal fails to comply with LPSS Policy P5, LPDMP Policy P6, and Policy NRM6 of the South East Plan insofar as they seek to protect priority species and habitats.
18. It is appreciated that a section 106 agreement or unilateral undertaking could be sought to secure such mitigation, however as I intend to dismiss the appeal for other reasons, I have not pursued this matter further with the main parties.

Other Matters

19. A lack of harm in relation to the design of the proposed dwellings, their impact on the character and appearance of the area, living conditions of future and neighbouring occupants, highways, parking, and biodiversity are neutral factors, so do not weigh for or against the proposal.

Planning Balance

20. Although the Council has a 5 year housing land supply (5YHLS), it is noted that the Framework seeks to boost the supply of homes and make more efficient use of land in accessible locations, such as the appeal site. The proposal would provide an additional 2 homes in a reasonably accessible location. Along with the associated economic and social benefits, this contribution to the windfall element of the Council's 5YHLS attracts limited weight based on the number of houses involved.
21. However, housing provision should not come at the cost of potential flood risk or the protection of priority species and habitats, both positions supported by the Framework. Consequently, when weighed against the policies in the Framework taken as a whole, I find that the adverse impacts of granting planning permission would outweigh the proposed benefits.

Conclusion

22. For the reasons given above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed

RJ Redford

INSPECTOR