



Appeal Decision

Site visit made on 28 March 2023

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 June 2023

Appeal Ref: APP/C1625/W/22/3296913

Land adjacent to Lion House, Saul, Grid Ref Easting: 374814; Northing: 209241.

- 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 Jason Wasley of Parkend Developments against the decision of Stroud District Council.
 - The application Ref S.21/0026/FUL, dated 31 December 2020, was refused by notice dated 20 October 2021.
 - The development proposed is construction of 2 dwellings and associated landscaping works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether or not the proposed development represents an acceptable form of development having regard to its flood zone location and the provisions of local and national policy; and
 - whether the proposed development would preserve or enhance the character or appearance of the Saul Conservation Area and the setting of Lion House, a grade II listed building.

Reasons

Flood Risk

3. The appeal site is in Flood Zone 3, and therefore covers land that has a high probability of flooding¹. The proposal is for residential development, which is classed as being more vulnerable to the effects of flooding².
4. The site relates to the small settlement of Saul, which is also covered by Flood Zone 3. Core Policy CP3 of the Stroud District Local Plan, November 2015 (Local Plan) lists Saul as an unclassified settlement where there could be scope for very limited development where it meets a specific need identified by the community in a Neighbourhood Plan. Delivery Policy HC1 of the Local Plan permits residential development providing, amongst other things, it is not

¹ Planning Practice Guidance, Paragraph: 078 Reference ID: 7-078-20220825

² Annex 3: Flood risk vulnerability classification, National Planning Policy Framework, 2021

subject to any other over-riding environmental or other material planning consideration.

5. Paragraph 159 of the National Planning Policy Framework 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 through the application of the Sequential Test. The aim of the test is to steer new development to areas with the lowest risk of flooding. Paragraph 162 of the Framework states that development should not be permitted if there are reasonably available sites for the development in areas with a lower risk of flooding, these being areas with a low probability of flooding. Only where there are no reasonably available sites in Flood Zone 1 and 2 should the suitability of sites in Flood Zone 3 be considered.
6. If the Sequential Test demonstrates that it is not possible for development to be located in zones with a lower risk of flooding the Exception Test may have to be applied. To pass this it should be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk; and the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall³.
7. The appellant's Sequential Test concludes that there are no reasonably available sites in Flood Zone 1 and 2 within the search area, and in its view, the site passes the Sequential Test. The search area encompasses the settlement limits of Saul therefore given its flood zone status the findings of the Sequential Test are to be expected.
8. There may well be less vulnerable sites outside of the settlement, as indicated by the Council, however, the appellant's area of search, which is confined to Saul does not identify any. Moreover, I have not been directed to specific guidance for the assessment area, therefore basing it on the settlement, as is the case here, would not be unreasonable in this context. In any case, the site location has a high probability of flooding, and the proposal would need to pass the subsequent Exception Test to succeed.
9. From what I observed during my site visit, Saul has a bus service, a church, village hall and a small play area. There were no primary or secondary schools, shops or medical services and it would be highly likely that future residents would need to travel out of the village by car to access these. Therefore, it is a settlement with very limited amenities, and future residents would need to travel, most likely by car to access higher end services.
10. The addition of two dwellings in Saul would provide a small boost to local housing supply. However, given the basic level of facilities in the settlement, the development of two further housing units would not be critical to sustaining community vitality or the future sustainability of Saul, given the need to travel out of the village to access most day-to-day services. Moreover, there is no evidence before me explaining how the addition of two further dwellings, other than modestly increasing the local housing stock would improve the social sustainability and community vitality of Saul or address a specific need, as envisaged by the Local Plan, or if they were not developed, whether Saul would be significantly undermined in those respects.

³ Paragraph 164 of the National Planning Policy Framework, 2021

11. The emerging draft Local Plan lists Saul as a settlement where limited development could take place, and successful schemes must principally be infill or redevelopment sites. In this regard the appeal site is not bound by development to its south, such that it could be regarded as infill, while its largely open and undeveloped domestic appearance do not class it, in my view, as a redevelopment site. Accordingly, and notwithstanding the current stage of the draft Local Plan's preparation, I give the emerging policy limited weight.
12. Taking the above factors into account, the wider sustainability benefits of the scheme to the community are minor and would not outweigh the harmful risk associated with the high probability of flooding at the site.
13. In respect to the second strand of the Exception Test, the Planning Practice Guidance requires, in part, that the development is safe for its lifetime taking account of the vulnerability of its users. Similarly, Paragraph 167 of the Framework requires any residual risk to be safely managed, and the inclusion of safe access and escape routes.
14. In the event of breached local flood defences, climate change and the lack of future upgrading of fluvial/tidal protection measures, the flood modelling information shows that internal rooms within the proposed units would experience water inundation. This would be an extreme event, yet a worst-case scenario, that the Environment Agency states, should be planned for.
15. Evacuating the proposed development during this time would require residents to negotiate varying depths of flood water for approximately 670m before reaching land not affected by flooding. The appellant acknowledges in their Flood Evacuation Management Plan (FEMP) that even at shallow depths, the velocity of floodwater could be enough to knock someone off their feet. There would also be no guarantee of assistance during this time from emergency services, thus placing residents, including elderly and more vulnerable occupiers such as children or those with mobility impairments at serious risk during site evacuation. Safe access and escape routes from the site during residual flood events, as required by Paragraph 167 of the Framework, cannot therefore be secured during the development's lifetime. The Development would also be unsafe, taking account of the vulnerability of its future users.
16. The FEMP includes early warning systems prior to evacuation. But the effects of these cannot be guaranteed during times of sleep, while occupiers may not have devices to receive those warnings. Safe refuge could be sought in each dwelling within a first-floor room set about the anticipated flood level. Although this would not be appropriate as a place of refuge for those with mobility impairments. Moreover, it would place additional demands on emergency services, during flood events, to remove occupiers from those rooms.
17. Proposals to upgrade local flood defences in Saul between 2017-2027 are noted, yet there is no guarantee those measures would be in place in the event that the proposed dwellings were constructed and occupied.
18. The appellant refers to allocated sites which are at high risk of flooding in Brinscombe as recognition that the Council will permit more vulnerable development elsewhere in the District. However, I have not been given specific information on those sites and therefore I cannot make a comparison with the appeal scheme. Likewise, the examples of housing sites allocated elsewhere in

the country all relate to large strategic schemes that are not comparable to the modest amount of development proposed in this instance.

19. Reference has been made to a scheme nearby approved by the Council in 2016. I do not have full details of that case and cannot be certain that it was assessed having regard to the latest guidance on flood risk. Therefore, I have given that matter limited weight.
20. Taking account of the above assessment, the proposed development would fail the Exceptions Test outlined in the PPG and Paragraph 164 of the Framework. In addition, the proposal would fail to accord with Policy ES4 of the Local Plan, where it requires development to meet the Exception Test. On this basis, the proposal represents an unacceptable form of development having regard to its flood zone location and the provisions of local and national policy.

Heritage

21. The appeal site is within the Saul conservation area (SCA) and adjacent to the Grade II listed Lion House.
22. The Saul Conservation Area's special features include several vernacular dwellings that line High Street. The appeal site's largely undeveloped appearance is visible in medium to long range views from the south and helps to reveal a sequence of well-maintained historic buildings, to its immediate north, that form a gateway into the built-up part of the settlement. Therefore, insofar as it relates to the appeal site, the SCA derives some of its significance from the spaces around the settlement's historic architecture.
23. The proposed dwellings would be set back from High Street and behind the front building line of Lion House, the first in a sequence of tightly arranged historic buildings to the north. The proposed shared private drive between the proposed dwellings and High Street would retain a sense of space to the south of Lion House and maintain its presence in views from that direction. The gap between Plot 2 and Lion House would also reinforce the separation between the proposed development and the historic buildings to the north.
24. The proposed dwellings have been designed to sympathetically assimilate with the older properties in the settlement in terms of their scale, roof span, subtle architectural detailing, and use of materials.
25. Considering the proposal's sensitive scale, recessed siting and sense of space maintained from the SCA's historic southern gateway, it would have an acceptable presence in the street that would preserve the significance of the SCA.
26. Lion House is a modest, brick fronted dwelling incorporating a simple two-storey form. The symmetrical placement of chimney stacks and vertical sash windows give it an attractive appearance, particularly when viewing the building's front elevation from High Street. The significance/special interest in the building includes the evidential, aesthetic, and historical value of a vernacular domestic building in the locality.
27. The appeal site's largely undeveloped appearance allows for clear views of Lion House from High Street, from where the simple form and roof profile of the listed building can be seen. Accordingly, the appeal site, in part, makes a

moderate contribution to the setting of Lion House and therefore its significance.

28. The nearest proposed dwelling at Plot 2, has a recessed siting that would be appreciably set back from the frontage of Lion House. It would also maintain a reasonable gap from the north flank wall of Lion House. A catslide roof would be incorporated into the design of Plot 2 to reduce its massing. This would ensure that views of the flank wall of Lion House, which depict its historic silhouette are maintained across the appeal site from the south. Plot 1 is similarly recessed within the site and positioned so that views of Lion House are largely preserved.
29. The proposal's proximity to the south of Lion House would ensure that views of the listed building's attractive frontage from High Street remain. Furthermore, the unfussy appearance and sympathetic scale of the proposed units would not disturb the historic charm of Lion House and its setting.
30. In conclusion, the proposed development would preserve the character and appearance of the SCA and the setting of the Grade II Listed Lion House. It would therefore accord with the provisions of Policy ES10 of the Local Plan and Chapter 16 of the Framework, which together require development proposals, amongst other things, to conserve or enhance the significance of designated heritage assets, including their setting.

Other Matters

31. The appeal site is within the catchment of the Severn Estuary SPA/SAC/Ramsar site. A Council mitigation strategy advises that a financial contribution to reduce the effects from new residential development on the habitat sites will be required, either by condition or legal agreement. Despite assurances from the appellant that the required mitigation will be secured by condition, I have not been provided with the relevant terms of the condition. Nonetheless, as I am dismissing the appeal on other grounds and therefore there is no prospect of planning permission being granted it has not been necessary to consider this matter any further in this case.
32. As the proposal would preserve the character and appearance of the heritage assets and therefore their significance, this effect would generate neutral weight in the planning balance and does not alter the conclusions reached in the first main issue.

Conclusion

33. The development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
34. Therefore, for the reason given above, I conclude that the appeal should be dismissed.

R E Jones

INSPECTOR