



Appeal Decision

Site visit made on 26 October 2023

by Ian McHugh DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2023

Appeal Ref: APP/P0240/D/23/3328435
27 Wharf Mews, Biggleswade, SG18 0AW

- 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 Gary Barrett against the decision of Central Bedfordshire Council.
 - The application Ref CB/23/02059/FULL, dated 28 June 2023, was refused by notice dated 14 August 2023.
 - The development proposed is raised decking to rear garden area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the development contained in the planning application form differs from that used by the Council in its decision notice. The Council considers that the proposal should also be considered as a change of use from riverbank to residential garden. The appellant contends that a change of use is not involved and refers to the site layout plan (drawing number: RDC1034/11OE) that was approved by the Council when determining the planning application for the residential development.
3. Setting aside the matter of whether or not riverbank is a use of land, the evidence put forward on this issue is not, in my opinion, conclusive. It is clear that the redline shown on the site layout plan is drawn beyond a line annotated as a retaining wall and it appears close to the river. However, the proposed development has also clearly taken place beyond the original fence line and beyond the rear fences of the neighbouring properties.
4. Given this lack of clarity and the fact that ownership of land is different to its planning use, the status of the riverbank is something that should be pursued with the Council by an application for a Certificate of Lawful Development. Furthermore, the status of the land does not materially change the main issues in respect of the appeal. Therefore, I shall consider the appeal as being a proposal for raised decking at the rear of number 27 Wharf Mews.

Main Issue

5. The main issues are
 - The effect of the proposal on the character and appearance of the area;
 - The effect of the proposal on flood risk; and

- The effect of the proposal on the natural environment and associated ecology.

Character and Appearance

6. The appeal property is a modern three-storey, semi-detached dwelling, which occupies a plot backing onto the River Ivel. The plot sits at a higher level than the river and steep bank separates the water from the housing development. Open countryside and a public footpath running alongside the river are on the opposite side of the water. Consequently, the rear of the appeal property is clearly visible to the public.
7. The proposal (which has already been carried out) is to construct raised decking with steel supports, enclosed by privacy screening and close boarded timber fencing. A low timber picket fence has also been erected along the bottom of the structure.
8. Policy HQ1 of the Central Bedfordshire Local Plan (LP) seeks to ensure (amongst other things) that new development is of high quality that relates well to its surroundings and is complementary to the natural landscape. These principles are repeated in the Central Bedfordshire Design Guide and in paragraph 130 of the National Planning Policy Framework 2023 (The Framework).
9. In isolation, I consider that the raised decking is well-built and that contributes positively to the appellant's enjoyment of the property. However, when viewed from the opposite side of the river, it appears as a prominent and incongruous structure that is at odds and out of keeping with its surroundings, due to its projection beyond the garden fence line of neighbouring dwellings and because of the contrast with the more natural verdant appearance of the riverbank.
10. Although the structure is viewed against the backdrop of the dwelling, it is separated from the dwelling and this does not reduce its visual impact. Furthermore, whilst, in time the vegetation may regrow and the structure could be painted, I am not persuaded that this will be sufficient to mitigate the harmful intrusion into the riverbank.
11. Consequently, I conclude on this issue that the proposal has an unacceptably harmful effect on the character and appearance of the area and, therefore, it conflicts with Policy HQ1 of the LP, as referred to above.

Flood Risk

12. Policy CC4 of the LP relates to development close to watercourses. Amongst its provisions, the policy states that new development should conserve and, where possible enhance the flood storage value of the water environment. The policy also seeks to ensure that space for watercourse maintenance is retained or provided.
13. Regarding flood risk, I note that the appellant has secured a permit from the Environment Agency (EA) which gives approval for the works having considered flood risk and land drainage. Whilst the granting of a permit is separate from the planning process, it is also evident that the EA did not object to the proposal when consulted on the planning application. Consequently, in the absence of any substantive evidence to the contrary, I do not find against the proposal on this issue.

Impact on the Natural Environment/Ecology

14. Riverbanks have the potential to provide valuable habitats for both plants and wildlife. This is recognised in Policy CC4 of the LP, which seeks to ensure that new developments protect and enhance priority and protected species. This policy accords with Section 15 of The Framework, which requires planning decisions to contribute to and enhance the natural environment.
15. I note that the Council's ecologist has expressed disappointment that no prior assessment of the development's impact on ecology and the natural environment was submitted. Notwithstanding that comment, the Council's Ecologist also states that it would not warrant a refusal of the proposal. It is also evident that the permit granted by the EA considered the impact of the proposal on any protected or priority species and habitats.
16. In my opinion, the absence of any assessment on behalf of the appellant is a shortcoming. However, on balance, I accept the view of the Council's ecologist that a refusal of the development on this issue would not be warranted.

Conclusion

17. For the reasons given above in relation to the effect of the proposal on the character and appearance of the area, it is concluded that the appeal be dismissed.

Ian McHugh

INSPECTOR