



Appeal Decision

Site visit made on 24 January 2024

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 February 2024

Appeal Ref: APP/W3710/W/23/3325517

26A Seymour Road, Nuneaton, Warwickshire CV11 4JD

- 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 Malaravan Sivalingam (of Aims Bargains Ltd) against the decision of Nuneaton and Bedworth Borough Council.
 - The application Ref 039566, dated 13 April 2023, was refused by notice dated 3 July 2023.
The development proposed is Change of use from storage (Class B8) to dwellinghouse (Use Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development above is taken from the Council's decision notice, and which the appellant uses on his appeal form. It adequately and simply describes the proposed development, instead of the detailed description given on the application form.
3. During the course of the appeal a revised National Planning Policy Framework (the Framework) was published on 19 December 2023. However, as any policies in the Framework that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party and I have had regard to the latest version in reaching my decision.

Main Issue

4. The main issue is whether the proposed residential development would be safe from flooding.

Reasons

5. The appeal site comprises an end-of-terrace property in a road with a mix of old residential terraced dwellings and a number of commercial businesses, including one adjacent to the appeal site. The property was granted planning permission in 1979 to be used for storage for the adjacent storage and distribution business. Before that it was a dwelling.
6. The appellant confirms that he has renewed and refurbished the property back to residential use, without making any structural changes. On my site visit I saw this to be the case as the property was laid out as a dwelling with reception rooms, kitchen, bathroom and upper floor bedrooms, as shown on the submitted floor plans. It had a long narrow rear garden that extended to the banks of the River Anker although it was not possible to get to the

riverbank due to fencing across the site. The same river passes along the bottom of other rear gardens on the southern side of Seymour Road.

7. From the submitted evidence the nearby River Anker is the source of river flooding in the vicinity and the site lies within Flood Zones 2 and 3, which are areas most at risk from flooding. The appellant's submitted flood map information shows the appeal property and other properties at the western end of Seymour Road are most affected by river flooding.
8. The proposed development does not involve the erection of a new building and I acknowledge that the property was once a dwelling, similar to neighbouring properties in Seymour Road that have existed in the area for a good many years. Nonetheless, the proposal would involve changing the use of the property from a commercial use back to a dwelling. This would reintroduce people to live in an area at risk of flooding. Consequently, the proposed residential use of the property would be a more vulnerable use.
9. This triggers the application of the Borough Plan Policy NE4, that requires development to be first located in areas of lowest flood risk as defined by the Environment Agency. In areas at most risk of flooding a site specific Flood Risk Assessment (FRA) will be required in order to determine the risk to the site and surrounding area. This would be expected to show that the development has been designed to be safe for occupants over the lifetime of the development. This is in accordance with paragraph 173 of the Framework.
10. The Environment Agency's Standing Advice for vulnerable development is replicated in the Council's delegated report. This sets out, in brief, the need for minimum finished floor levels and the use of construction materials with low permeability up to at least the same height as finished floor levels. If finished floor levels cannot be raised, then extra flood resistance and resilience measures should be used, such as using flood resilient materials; raising sensitive electrical equipment, wiring and sockets; making it easy for water to drain away after flooding; and ensuring soil pipes are protected from back-flow, by using non return valves for example. Furthermore, national policy in the Framework states that a "site-specific flood risk assessment should be provided for all developments in Flood Zones 2 and 3."
11. The appellant's submitted Flood Map (by Landmark Information Group Ltd) and a floor plan of the property do not constitute a FRA. The Council requested additional information which was not submitted and nothing more has been submitted as part of the appeal. Therefore there is nothing to indicate the appellant has carried out sufficient FRA measures in the Environment Agency's standing advice to ensure the long-term safety of future occupants of the property.
12. It may be the case that existing neighbouring properties in Seymour Road, some of which are closer to the river, have not been required to carry out flood resilience works if they have remained in residential use. With climate change flooding is generally becoming more frequent and national and local flooding policy, as well as the Environment Agency's advice, has changed and adapted over the years.
13. To conclude, the change of use of the property back to a residential dwelling would introduce a more vulnerable use into a zone at high risk of flooding. Without a FRA future occupants would be put at risk. Accordingly, the

development would conflict with Borough Plan Policy NE4, whose aims are outlined above. It would also be contrary to the Environment Agency's Standing Advice, the Framework and national flood risk policy.

Other Matters

14. I am aware that the appellant is paying Council Tax and that the sale of the property has fallen through. However, I have only be concerned with the planning merits of the case before me.

Conclusion

15. The proposal would attract modest social and economic benefits through the provision of one house to the Council's housing land supply along with the contribution of future residents to the local economy. However, the proposed development would not accord with the development plan as a whole and the material considerations do not outweigh this finding.
16. Accordingly, for the reasons given, the appeal should not succeed.

K Stephens
INSPECTOR