



Appeal Decision

Site visit made on 25 March 2024

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 April 2024

Appeal Ref: APP/N1730/W/23/3318005

Zenas, Reading Road, Hook, Hampshire RG27 9ED

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Ebbs against the decision of Hart District Council.
 - The application Ref is 22/02641/FUL.
 - The development proposed is described as 'Phased development for the erection of a detached (self-build) four bedroom house, a detached (self-build) three bedroom house and a detached cycle store following the demolition of two existing buildings; partial demolition of Building 1 and conversion to a garage; provision of amenity space, parking, hard and soft landscaping and associated flood mitigation works'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework (the Framework) has been published. This has not raised any new matters which are determinative to the outcome of this appeal.
3. The description of the proposed development in the heading above, which is taken from the planning application form, refers to the dwellings as self-build properties. The Planning Practice Guidance (PPG) is clear that in considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout. The appeal submissions indicate that the appellant intends to occupy one of the proposed dwellings, while the other would be advertised for sale to a potential self-builder, who would then be involved in the final design and layout of the dwelling. Nonetheless, given that the application is made in full, in the event that permission is granted, details pertaining to the design and layout of the property would have been agreed. There is no certainty that amendments would subsequently be sought to the scheme to ensure that the initial owner of the dwelling would in fact have a primary input into its final design and layout in order for the dwelling to constitute a self-build dwelling as stipulated in the PPG. Moreover, in the absence of a legal agreement to secure the dwellings as self-build units, the proposal falls to be considered as open market dwellings. For the avoidance of doubt, I have determined the appeal on this basis.
4. A unilateral undertaking (UU) pursuant to Section 106 of the Town and Country Planning Act 1990 was submitted as part of the application, the purpose of which is to secure mitigation measures in relation to the Thames Basin Heaths

Special Protection Area (SPA). I have had regard to the agreement in so far as it is relevant to the appeal.

Main Issue

5. The main issue is whether the site is a suitable location for the proposed development having regard to its vulnerability to flooding.

Reasons

6. The appeal site, which lies at the junction of Reading Road and Great Sheldons Coppice, is occupied by a number of single storey brick, timber and blockwork buildings. The surrounding area is predominantly residential in character, comprising dwellings of a range of ages and architectural styles. The proposal would see the demolition of the existing buildings and the construction of 2 detached dwellings and a bike store, and the conversion of part of an existing building to a garage. The development would be served by the existing vehicular access to the site from Reading Road.
7. The appeal site lies within Flood Zones 2 and 3 as defined on the Environment Agency's Flood Map, where there is a medium (Zone 2) and high probability (Zone 3) of flooding. The Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. This requires the application of the sequential test (ST). The aim of the ST is to steer new development to areas with the lowest risk of flooding 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.
8. The PPG outlines that reasonably available sites include those in a suitable location for the proposed development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. The PPG also indicates that a site could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development and a reasonably available site does not need to be owned by the applicant to be considered as such.
9. Policy NBE5(d) of the Hart Local Plan (Strategy and Sites) 2032 adopted April 2020 (HLP) sets out that development will be permitted provided a number of criteria are met, including that if located within an area at risk from any source of flooding, now and in the future, it is supported by a site-specific flood risk assessment and complies fully with national policy including the sequential and exceptions tests where necessary.
10. The PPG sets out the circumstances when a ST will not be required, none of which apply to the appeal scheme. The appellants' ST¹ seeks to demonstrate that there are no other suitable alternative sites for housing development within the search area, which the parties have agreed, is the settlement of Hook.
11. The ST discounts sites at 'Hook Village Centre Area: Area 4' which is allocated for mixed use development, land to the north east of the village, which benefits from planning permission for up to 500 units and land to the west of Hook House for a range of reasons, none of which are contested by the Council. In

¹ MLP REF: RR/15/288 May 2017

addition to sites at Kingfisher Dry Cleaners and Hook Barbers and land to the rear of Acorn House, which were discounted in 2017, a further site at 4 Sheldons Cottages has been identified by the appellant. The Council does not dispute that these sites² are not available as alternatives to the appeal site.

12. The Council has identified two alternative sites within the search area, which are located in Flood Zone 1 and at a lower risk of flooding and considered to be reasonably available for the development proposed. These are land west of Brown Croft (formerly Land At High Ridge Farm)³ and land at Geffery's House⁴, where residential development is proposed of 65 and 59 dwellings respectively, and residential development is considered to be acceptable in principle.
13. I note the appellant's contention that neither benefit from planning permission and by virtue of their size, they are not the same or similar to the appeal proposal, as set out in the Government Guidance (produced by the Environment Agency and Department for Environment, Food & Rural Affairs updated in February 2017). While not directly comparable in size to the appeal site, the alternative sites nonetheless comprise larger sites which would be capable of accommodating the proposed development and would therefore represent reasonably available sites, as set out in the PPG. Moreover, there is no substantive evidence that these sites could not accommodate 2 self-build residential units of the plot sizes proposed, or that the presence of flats on the land at Geffery's House would prevent the redevelopment of the site. Consequently, I cannot be certain that there is no alternative reasonably available site suitable for the proposed development which is located within an area at a lower risk of flooding.
14. The Flood Risk Assessment and Surface Water Drainage Strategy⁵ includes measures to mitigate the harm that would be caused to future occupiers of the development in terms of flood risk. As well as not exacerbating flood risk in the vicinity, the proposal would see off site benefits in terms of flood risk through a range of measures to be incorporated into the development. These include attenuation of all proposed impermeable areas on the site and holding tanks which would reduce the overall surface water discharge rate when compared to the existing situation. Nonetheless, whilst such measures may offer benefits in terms of a reduction in flood risk elsewhere, it has not been shown that the proposal would have a material effect downstream, or how significant any effects would be to offsite flooding overall or the direct social or economic benefits that may arise as a result.
15. There is a clear policy expectation that the ST should be satisfied. The proposal would introduce built development on the site, which is at risk of flooding and, where it has not been satisfactorily demonstrated that an alternative site is not available. Moreover, given the uncertainty regarding any wider benefits in terms of a reduction in flood risk elsewhere, the weight to be attributed to any benefits in that regard would be limited and would not outweigh the policy conflict on this issue.
16. For the foregoing reasons I conclude that the site is not a suitable location for the proposed development having regard to its vulnerability to flooding.

² LPA Refs 13/01562/EXT, 17/0111/FUL and 19/02553/FUL

³ LPA Ref. 22/01506/FUL

⁴ LPA Ref. 23/00578/FUL

⁵ Flood Risk Assessment and Surface Water Drainage Strategy for Planning by UNDA dated March 2022

Accordingly, the proposal would be contrary to Policy NBE5(d) of the HLP, and the aims of the Framework which seek to direct development to towards areas with the lowest risk of flooding.

Other Matters

17. The proposal would contribute to the supply of housing in the area, in terms of the delivery of 2 additional residential units on land within the settlement boundary. It would also reflect the aims of the Framework which seek to significantly boost the supply of housing and would offer economic benefits during the construction phase and beyond. The Framework also acknowledges the important contribution small sites can make to meeting the housing requirement for an area, including the benefits of using suitable sites within existing settlements for homes.
18. However, given the small scale of the scheme such benefits would be modest and therefore the weight to be attributed to them is limited. Moreover, the Council is currently able to demonstrate a deliverable five-year supply of housing sites as required by the Framework. There is no substantive evidence before me to demonstrate that the Council's housing supply targets will not be met in the future. Whilst there is an expectation that windfall sites would contribute to housing land supply in the district, it has not been demonstrated that development on such sites cannot be provided elsewhere, on land at lower risk of flooding. Moreover, housing land supply is considered on a district wide basis and is not limited to the confines of Hook, which is the focus of the ST in this case.
19. My attention is drawn to an extant permission in principle (PiP) for the change of use of the existing buildings to two dwellings⁶ and a planning permission for the change of use to storage and a hairdresser⁷. The appellant contends that these would represent a realistic fallback position as to the development that would be carried out if this appeal was to be dismissed. The extant planning permission relates to the conversion of the buildings to commercial uses and is therefore not comparable to the appeal scheme. Whilst the PiP would introduce residential use onto the site, albeit through the conversion of the existing buildings, there is no guarantee that this would go ahead without the grant of technical details consent. Moreover, there is nothing before me to suggest that either of these proposals would be significantly more harmful than the appeal scheme.
20. Several interested parties consider that the proposal would offer benefits in terms of the appearance of the site. Nevertheless, from my observations on site it was evident that it is not particularly unsightly and consequently, any perceived benefits with regards to the appearance of the land would be of very limited weight. Furthermore, I have not been presented with any compelling evidence that the existing site and buildings are not suitable for business use, for which there is an extant planning permission, or that the existing use has a significant detrimental effect on the living conditions of neighbouring properties or the character and appearance of the area.
21. I note that the lawfulness of the current use of the site is disputed. However, it is not within my remit to comment upon the lawfulness of that use.

⁶ LPA Ref. 23/01606/PIP

⁷ LPA Ref. 23/01007/FUL

22. The absence of harm in terms of highway safety, ecology, the character and appearance of the area and the living conditions of the occupiers of the neighbouring properties are normal expectations of new development.
23. I understand that on some occasions development has been permitted in areas at risk of flooding and the appellant has drawn my attention to a number of appeal decisions where this has been found to be the case. However, I note that the schemes appear to be in different local authority areas and each case must be determined on its own merits with regard to their particular circumstances. It has not been demonstrated that the situation in each of the cases cited is so similar to this appeal that they would lead me away from the conclusion I have drawn here.
24. The site lies within the zone of influence of the Thames Basin Heaths Special Protection Area (SPA) which is of national and international importance for its rare bird species. To avoid an adverse effect upon the integrity of the SPA, the appellant proposes that financial contributions would be made towards the provision of a Suitable Alternative Natural Greenspace, secured via the UU, and a financial contribution towards Strategic Access Management. If I were minded to allow the appeal, I would need to be satisfied that the proposal would have no adverse effects on the integrity of the SPA including through the undertaking of an Appropriate Assessment. However, even if that were the case, it would at most be a neutral factor in this appeal.

Conclusion

25. The proposal would conflict with the development plan taken as a whole. Material considerations have not been shown to carry sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

E Worley

INSPECTOR