



Appeal Decision

Site visit made on 2 May 2024 by Andreea Spataru BA(Hons) MA MRTPI

Decision by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2024

Appeal Ref: APP/B3030/W/23/3334685

Land adjacent to Fosse Road, Farndon, Nottinghamshire NG24 3UB

- 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 P Palmer (P Palmer Construction) against the decision of Newark & Sherwood District Council.
 - The application ref is 23/01429/FUL.
 - The development proposed is described as 'erection of four bedroom bungalow'.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of four bedroom bungalow at land adjacent to Fosse Road, Farndon, Nottinghamshire NG24 3UB in accordance with the terms of application ref 23/01429/FUL and subject to the conditions outlined in the schedule at the end of this decision.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary matter

3. Since the application was determined, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023. However, as any policies that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party. I have had regard to the latest version of the Framework in reaching my decision.

Main Issue

4. The main issue is whether the proposal is in an appropriate location for residential development in respect of flood risk.

Reasons for the Recommendation

5. The appeal site is located within Farndon settlement, on the north-western side of Fosse Road. Part of the site, where the proposed bungalow would be located, is in Flood Zone 1. The other part of the site, where the access to the bungalow would be, is in Flood Zone 2. The development plan for the district includes the Newark & Sherwood Local Development Framework Allocations & Development Management Development Plan Document 2013 (LDF) and the Amended Core Strategy 2019 (CS). LDF Policy DM5 and CS Policy CP10 state that
-

- development proposals within Environment Agency Flood Zone 2 and 3 will only be considered where it constitutes appropriate development and it can be demonstrated, by application of the Sequential Test, that there are no reasonably available sites in lower risk Flood Zones.
6. The Framework requires that inappropriate development should be avoided in areas at risk of flooding by directing development away from areas at highest risk. It sets out a sequential test to steer new development to areas with the lowest risk of flooding. The Planning Practice Guidance (PPG) adds that when applying the sequential test, a pragmatic approach on the availability of alternatives should be taken.
 7. The planning application was accompanied by a site-specific flood risk assessment (FRA), which does not include a sequential test. The FRA indicates that the proposal is at low risk of flooding from fluvial, groundwater, existing sewers and the failure of a large, raised reservoir. The Environment Agency flood map for planning which shows the appeal site being divided into 2 parts, Flood Zone 1 to the north-west and Flood Zone 2 to the south-east. However, the detailed flood risk data illustrated at Figure 4.1 in the FRA indicates that only a small area of the site is at risk of flooding. This small area would be approximately 5.6% as stated by the appellant, and that risk appears at 1 in 1000 year (0.1%) Modelled Extent. I note that Flood Zone 1, which has the lowest probability in terms of flooding, is defined as less than 1 in 1000 annual probability of river or sea flooding.
 8. The land levels vary within the site, with the lowest levels being next to Fosse Road. The FRA states that the 0.1% floodplain level on site is 12.65 metres AOD, and the elements of the proposal, including the access road would be at higher levels than 12.65 metres AOD. Furthermore, as illustrated in the appeal statement, The Modelled Flood Extents Map with Climate Change shows that even in the 50% climate change scenario the appeal site would not be at risk of flooding, and that it is only partially at risk in the 1 in 1000-year scenario.
 9. The FRA proposes mitigation to address the identified risk of flooding, and I note that the proposed site plan takes them into account, such as locating the access road at 12.70m AOD, the garage at 12.90m AOD, and the ground floor level of dwelling at 13.05m AOD. Given the evidence before me, I find that although part of the site is in Flood Zone 2, the general characteristics of the site, including the flood risk, resemble those of Flood Zone 1. Furthermore, the higher level proposed for the access road demonstrates that safe access could be achieved for the proposed bungalow.
 10. Accordingly, given the site-specific circumstances and the proposed mitigations, I consider that a sequential test is not necessary in this instance. Therefore, the proposal would be an appropriate form of development having regard to its flood zone location. Consequently, the proposal accords with Policy DM5 of the LDF, Policy CP10 of the CS, and the Framework guidance.

Other matters

11. I have taken into account the consultees and third parties' comments, particularly regarding conditions for highway safety, landscaping, and biodiversity. For conciseness I have addressed them in the conditions' section below.

12. The appellant has drawn my attention to several cases¹. Whilst I have had regard to the evidence before me, my conclusion above is based on the merits of the appeal case and its site-specific circumstances.

Conditions and Recommendation

13. In the interest of proper planning and to provide certainty I have recommended the standard time limit condition and specified that the development should be carried out in accordance with the approved plans.
14. In order to protect the character and appearance of the area, and in the interests of biodiversity of the site, the Council's suggested conditions requiring the approved dwelling to be constructed of the materials as submitted as part of the application, and further details on landscaping and boundary treatments, are reasonably and necessary and are therefore attached.
15. In the interests of highway safety, conditions are attached requiring the areas shown on the submitted plans to be reserved for parking of vehicles to be retained as such. Conditions regarding driveway surfacing and access crossover are also necessary for highway safety.
16. In the interest of implementing appropriate flood risk management at the site, a condition is required to ensure that development is undertaken and subsequently occupied in full accordance with the mitigation measures outlined in the submitted FRA.
17. Notwithstanding the length of the private driveway, the Council's suggested condition regarding refuse collection point is not necessary as there are other mechanisms in place to secure this (the Environmental Protection Act 1990).
18. Highways Development Control stated in their response that the application can be considered under 'Standing Advice'. I note that the Planning Officer's report has included NCC Highway Authority comments from the previous application, which indicate that 'the width of the drive should be a minimum of 3.6m to accommodate an emergency'. Having had regard to the extract from Nottinghamshire Highway Design Guide, which was provided by the appellant, the requirement states that for a single private drive a minimum 3m width is acceptable (3.6m if bound by walls). The proposed site plan indicates that the driveway would be 3.2m in width, and there are no walls proposed to its sides. Accordingly, I find that the Council's suggested condition regarding a driveway width of 3.6m is not necessary.
19. Where required, I have revised the wording of the Council's suggested conditions to better reflect the requirements of the PPG.
20. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed subject to these conditions.

Andreea Spataru

APPEAL PLANNING OFFICER

¹ LPA ref: 18/01833/OUT; LPA ref: 17/00218/FUL; Appeal ref: APP/H1705/W/21/3281406; Appeal ref: APP/B3030/W/18/3205827; Appeal ref: APP/E3715/W/23/3327432.

Inspector's Decision

21. I have considered all the submitted evidence, and my representative's report, and on that basis the appeal is allowed.

Ben Plenty

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details: location plan revised 11.07.2022, drawing no 1D/11/2020 Rev D Site Plan, drawing no 2D/11/2020 Rev D Proposed bungalow and plans elevations, drawing no 3/11/2020 Topographical survey plan, Flood Risk Assessment June 2023, unless otherwise varied by the following conditions.
- 3) The development hereby permitted shall be constructed entirely of the materials details submitted as part of the planning application (Drawing No 2D/11/2020 Rev D Proposed bungalow plans and elevations).
- 4) Prior to first occupation/use of the development hereby approved full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:
 - full details of every tree, shrub, hedge to be planted (including its proposed location, species, size and approximate date of planting) and details of tree planting pits including associated irrigation measures, tree staking and guards, and structural cells. The scheme shall be designed so as to enhance the nature conservation value of the site, including the use of locally native plant species;
 - existing trees and hedgerows, which are to be retained pending approval of a detailed scheme, together with measures for protection during construction;
 - proposed finished ground levels or contours;
 - means of enclosure;
 - car parking layouts and materials;
 - other vehicle and pedestrian access and circulation areas;
 - hard surfacing materials.
- 5) The approved soft landscaping shall be completed during the first planting season following the first occupation/use of the development, or such longer period as may be agreed in writing by the local planning authority. Any trees/shrubs which, within a period of five years of being planted die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless otherwise agreed in writing by the local planning authority. All tree, shrub and hedge planting shall be carried out in accordance with BS 3936 -1992 Part 1-Nursery Stock-Specifications for Trees and Shrubs and Part 4 1984-Specifications for Forestry

Trees ; BS4043-1989 Transplanting Root-balled Trees; BS4428-1989 Code of Practice for General Landscape Operations. The approved hard landscaping scheme shall be completed prior to first occupation or use.

- 6) Prior to the first occupation of the dwelling a minimum of three parking spaces shall be provided within the curtilage of the site, as shown on plan reference 1D/11/2020 Rev D and thereafter remain in perpetuity.
- 7) No part of the development hereby permitted shall be brought into use until all drives and any parking or turning areas are surfaced in a hard-bound material (not loose gravel) for a minimum of 8.0 metres behind the highway boundary. The surfaced drives and any parking or turning areas shall then be maintained in such hard-bound material for the life of the development.
- 8) No part of the development hereby permitted shall be brought into use until a dropped vehicular footway crossing is available for use and constructed in accordance with the Highway Authority specification to the satisfaction of the Local Planning Authority.
- 9) No part of the development hereby permitted shall be brought into use until the access driveway is constructed with provision to prevent the discharge of surface water from the driveway area to the public highway. The provision to prevent the discharge of surface water to the public highway shall then be retained for the life of the development.
- 10) The development shall be undertaken in accordance with the flood mitigation measures proposed within the submitted Flood Risk Assessment, Roy Lobley Consulting dated June 2023, and these shall be installed in accordance with Improving the Flood Performance of New Buildings (DCLG 2007) and retained for the lifetime of the development.

END OF SCHEDULE