



Appeal Decision

Site visit made on 16 July 2024

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 July 2024

Appeal Ref: APP/Q1153/W/24/3340883

Land Adjacent to Wayleaves, Monkokehampton, Devon EX19 8SE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Steven Reed against the decision of West Devon Borough Council.
 - The application Ref is 2280/23/OPA.
 - The development proposed is erection of a pair of 2 bedroomed dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a pair of 2 bedroomed dwellings at Land Adjacent to Wayleaves, Monkokehampton, Devon EX19 8SE in accordance with the terms of the application, Ref 2280/23/OPA, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The proposal has been made in outline, with appearance and landscaping reserved for future consideration. The plans that accompanied the application included drawings showing elevational details and materials. However, as appearance is a reserved matter, I have considered these drawings solely on the basis that they have been submitted for illustrative purposes.

Main Issue

3. The main issue is whether the location of the proposal would be acceptable having regard to the risk of flooding.

Reasons

4. The appeal site is an overgrown parcel of land associated with Wayleaves, a bungalow that is situated on the northwestern edge of the village of Monkokehampton. The site is well-related to the settlement, and it is not disputed that the proposal would accord with the settlement policy set out in the Plymouth & South West Devon Joint Local Plan 2014-2034 (March 2019) (the Local Plan). However, the Hole Brook flows approximately 30 metres to the northeast, and part of the site lies within Flood Zones 2 and 3 of the Environment Agency's Flood Map for Planning. As the Council is able to demonstrate a five year supply of deliverable housing sites it contends that other sites in the district, which are at lower risk of flooding, are available to accommodate the development.
5. Paragraph 165 of the Planning Policy Framework (the Framework) advises that inappropriate development in areas at risk of flooding should be avoided, by

directing development away from areas at highest risk. To achieve this, paragraphs 167 and 168 say that all plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

6. Paragraph 173 of the Framework advises that a site-specific flood risk assessment (SSFRA) should be provided for all planning applications for development in Flood Zones 2 and 3. The SSFRA submitted with the application¹ was produced by a suitably qualified expert. It calculates flows in the Hole Brook catchment using two recognised models. As a conservative approach, the results from the model giving the higher flows were adopted. The model was applied using surveyed topographic sections, and the bridges and culverts were included to represent channel restrictions. The resultant flood plain drawing shows the site to be free from flooding in a 1 in 1,000-year flood event. The proposed 70.92 metre AOD floor level of the dwellings would be 1.03 metres above the modelled 1 in 100-year flood event with an allowance for climate change.
7. A sensitivity analysis of the SSFRA was undertaken, which increased flood levels by around 0.03 and 0.06m across the model. The model was also run assuming a 50% blockage of both bridges in the vicinity, which would increase flood levels by a maximum of 0.15 metres. Even applying both of these increases, the site and its proposed vehicular and pedestrian access to the highway would remain free from flood water in a 1 in 100-year event with an allowance for climate change. The SSFRA concludes that the site would be safe and free from fluvial flooding in all events considered. No issues with regard to groundwater or surface water flooding have been identified. Consequently, the SSFRA concludes that the site is at low risk from all sources of flooding. Where this is the case, the Planning Practice Guidance (the PPG) advises that the sequential test will not be required².
8. Notwithstanding the findings of the SSFRA, the Council contends that, in the absence of a formal flood map challenge, the site remains partly in Flood Zones 2 and 3, so the sequential test should still be applied. However, the Environment Agency's Flood Map for Planning sets out on its summary page that the information provided is largely based on modelled data, and is therefore indicative rather than specific. Furthermore, it says that the information indicates the flood risk to areas of land and is not sufficiently detailed to show whether an individual property is at risk of flooding. The SSFRA, on the other hand, is detailed and specific to the site. Neither the Environment Agency or the Council has contested its methodology or findings. It therefore carries greater weight in assessing the actual likelihood of fluvial flooding of the site than the Flood Map for Planning.
9. So, whilst the site is shown to be partly within Flood Zones 2 and 3, the SSFRA robustly demonstrates that it has a less than 0.1% annual probability of river or sea flooding. This places it at the same level of flood risk as sites in Flood Zone 1. Consequently, even if the sequential test were to be applied, there would be no sites at lower risk of flooding where the development could be

¹ EDS FLOOD RISK ASSESSMENT Reference J-2845-Rev.01

² Paragraph: 027 Reference ID: 7-027-20220825

accommodated. The proposal would, therefore, accord with the Framework's sequential risk-based approach, so the site would be an appropriate location for the development. It would also comply with Policy DEV35 of the Local Plan, which seeks to direct development away from areas that are at highest risk from flooding.

Conditions

10. I have attached conditions relating to the submission of reserved matters and the associated time limits. I have also included a condition specifying the relevant plans as this provides certainty. The Council and the Environment Agency have both suggested conditions covering other matters, on which the appellant has had the opportunity to comment. I have considered all the suggested conditions against the advice in the PPG. Where I have agreed that they meet the relevant tests, I have altered them, in the interests of clarity and precision, to better reflect the guidance.
11. Conditions relating to the floor level of the dwellings and the retention of the roadside bank are necessary to protect the occupants from any residual flood risks. However, as none of the site is liable to flooding, a condition restricting built development or ground raising within any areas shown as susceptible to flooding fails the test of necessity. Conditions relating to foul and surface water drainage are reasonable and necessary in the interests of pollution and flood control respectively. Conditions requiring the submission of details of carbon reduction measures and biodiversity enhancements are necessary to comply with the applicable policies of the Local Plan.
12. The Council has suggested a condition removing permitted development rights for a range of householder developments. However, I have not been provided with any justification for such restrictions, or evidence of why the limitations imposed by the legislation on the exercise of these permitted development rights would not be sufficient to avoid any significant harm. The PPG advises that blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity³. For these reasons, I have found the proposed condition would fail the tests, so I have not imposed it.

Conclusion

13. For the reasons given above, I conclude that the appeal should be allowed.

Nick Davies
INSPECTOR

Schedule of Conditions

- 1) Details of the appearance and landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

³ Paragraph: 017 Reference ID: 21a-017-20190723

- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with drawing nos Reed LocPI JAN23 - Location Plan; Reed BLPL semis Jan23 - Block Plan; Reed PL JAN23 - Floor Plans.
- 5) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.

- 6) No development shall take place until details of measures to limit carbon emissions from the development have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved measures, and they shall thereafter be permanently retained.
- 7) No development shall take place until details of biodiversity enhancement measures to be incorporated into the development, have been submitted to and approved in writing by the local planning authority. The measures shall be completed in accordance with the approved details prior to the first occupation of the dwellings hereby permitted and shall be permanently retained thereafter.
- 8) The Finished Floor Level of the dwellings shall be set no lower than 70.92 metres above Ordnance Datum (AOD).
- 9) With the exception of the works to create the approved access, the raised hedge bank shown around the perimeter of the site shall be retained for the lifetime of the development.
- 10) Foul drainage from the development (and no other drainage) shall be connected to the public foul or combined sewer.

END OF SCHEDULE