



Appeal Decision

Site visit made on 10 December 2024

by K Reeves BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2025

Appeal Ref: APP/D0121/W/24/3348771

172 Locking Road, Weston-Super-Mare, North Somerset BS23 3LU

- 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 John Paul Hayes of Streetworks CE Ltd against the decision of North Somerset Council.
 - The application Ref is 23/P/2380/FUL.
 - The development proposed is proposed demolition of existing outbuilding and erection of 1no. dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the planning application process, concerns were raised by the Council in relation to flood risk and the appellant submitted amended plans to introduce an external staircase on one of the side elevations, providing an emergency access/escape. However, the inclusion of the external staircase has resulted in different areas of concern and is the subject of the Council's second and third reasons for refusal. The appellant has therefore submitted amended plans during the appeal process to remove the external staircase and install obscure glazed windows in both gable side elevations. Whilst a proposal without the external staircase was initially considered by the Council and consulted on with relevant parties, including neighbours, the amended scheme now put forward by the appellant include obscure glazed windows in the gable side elevations. Given that this is a substantive difference from the proposal considered by the Council, it would be procedurally unfair for me to accept the amended plans as the Council and third parties have not had an opportunity to comment on the introduction of the first floor windows. As such, I cannot accept the amended plans.
3. A revised National Planning Policy Framework (the Framework) was published on 12 December 2024. Further written comments regarding these changes were submitted by the main parties. This decision is based on the current Framework and has taken account of the further representations made on this.

Main Issues

4. The main issues are:
 - whether the appeal site is a suitable location for the proposed development having regard to the risk of flooding;

- the effect of the proposed development on the character and appearance of the area; and
- the effect of the proposed development on the living conditions of occupiers of neighbouring properties with regard to privacy.

Reasons

Flooding

5. The appeal site is within Flood Zone 3 (high probability of flooding). The Framework and Planning Practice Guidance (PPG) aim to steer development to areas with the lowest probability of flooding through a sequential test. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas at a lower risk of flooding. The appellant has demonstrated that there are no sequentially preferable sites, and as such, the proposal passes the sequential test and is subject to the exception test.
6. In accordance with Paragraph 178 of the Framework, for the exception test to be passed it should be demonstrated that (a) the proposal would provide wider sustainability benefits to the community that outweigh the flood risk; and (b) the development will be safe for its lifetime, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. Both parts of the exception test must be satisfied for development to be permitted.
7. The Council has accepted that part (b) of the exception test has been passed as the appellant's flood risk assessment provides mitigation measures to ensure that the development would be safe for its lifetime and would not exacerbate flood risk elsewhere. Based on the evidence before me, I have no reason to disagree with the Council's conclusion.
8. Turning to part (a) of the exception test, the PPG sets out that wider sustainability benefits could include the re-use of suitable brownfield land as part of a local regeneration scheme, an overall reduction in flood risk to the wider community, or the provision of multifunctional sustainable drainage systems. The identified sustainability benefits need to be balanced against any associated flood risks, informed by the flood risk assessment.
9. The flood risk assessment includes a letter from the Environment Agency (EA), dated 25 April 2023, which provides advice on matters relating to flooding and flood defences. The data on coastal/tidal flood levels and depths indicates that the flood defences provide sufficient defence against predicted flooding events up to and including the 0.1% annual exceedance probability (AEP) and the 0.5% AEP including the 2068 climate change allowance.
10. The 0.5% AEP including the 2118 climate change allowance suggests that an overtopping of the flood defences would result in a likely site-specific flood level of 1.31 metres. The proposal has been designed to have a minimum finished floor level of 1.61 metres as the Lead Local Flood Authority advised that the sea level rise modelling data may be underestimated and recommended adding an additional 300mm above the likely flood level of 1.31 metres.
11. The flood level for the 0.5% AEP including the 2118 climate change allowance with no flood defences is likely to be 2.05 metres, which is higher than the finished floor level of the proposed dwelling. As such, the flood defences form an important part

of the strategy for addressing flood risk as set out in the appellant's site-specific flood risk assessment.

12. The PPG sets out that where flood risk management infrastructure such as flood defences form part of the strategy for site-specific flood risk assessments should, where appropriate: (i) identify how this infrastructure will be operated, funded and maintained; (ii) ensure there is space for future maintenance or new flood risk management infrastructure that is likely to be needed; (iii) consider the consequences of flood risk management infrastructure failing or its design standard being exceeded; (iv) consider the likelihood of defences keeping pace with climate change, e.g. is funding available and what are the funding options. This should inform the nature of residual risk to be considered.
13. It is asserted in the appellant's flood risk assessment that the EA and local government are committed to upgrading the UK flood defences to ensure that they are upgraded in line with the new climate projections as part of the Flood and Coastal Erosion Risk Management Capital Scheme. However, there is limited information before me to support this assertion. Additionally, the appellant's site-specific flood risk assessment does not consider the consequences of flood risk management infrastructure failing or its design standard being exceeded. Without all the information suggested by the PPG, I cannot be sure that the flood risk arising from rising coastal waters that rely on the long-term maintenance and upgrading of flood defences would be at the lower end of the scale of risk in the long term.
14. Turning to the potential wider sustainability benefits arising from the proposal, the Council's does not have a five year housing land supply with a quoted supply of 3.88 years. This is an increase of 0.38 years from the time that the Council determined the application, but there is still a chronic need for new housing in the district. Moreover, there is a clear drive from the government to increase house building substantially across the country. The proposal would contribute a single dwelling towards the existing housing stock through the use of a site located within the town. However, the benefit would be limited given the small scale of the proposal.
15. There would also be associated social and economic benefits through providing support to the local economy (including during the construction phase) and local community facilities. However, such benefits would be limited given the small scale nature of the development under consideration.
16. I note that after the construction of a dwelling the currently untidy site would potentially be better kept, and this would benefit those that live around the site. However, I have nothing before me that demonstrates that this benefit cannot be achieved through a scheme that does not result in flood issues.
17. Additionally, the appellant refers to the proposal utilising brownfield land. The site comprises an existing building, vehicular access and hardstanding situated in the town, but as it is a residential garden in a built-up area, it is excluded from the Framework's definition of brownfield land.
18. On balance, I therefore conclude that the proposal would not provide wider sustainability benefits to the community that outweigh flood risks, and the proposal fails the exception test overall.

19. For these reasons, the appeal site is not a suitable location for the proposed development having regard to the risk of flooding. Consequently, the proposal would conflict with Policy CS3 of the North Somerset Core Strategy (2017) (CS) and Policy DM1 of the Development Management Policies Sites and Policies Plan Part 1 (2016) (SPP Part 1), which collectively seek, in part, to discourage inappropriate development in flood risk areas and to ensure that the impact of new development on flooding is fully taken into account, by only allowing proposals for development in Flood Zone 3 that have passed the sequential test and, where applicable, the exception test. The proposal would also conflict with the Framework, insofar as it requires both elements of the exception test to be satisfied for development to be permitted.

Character and appearance

20. The appeal site is triangular in shape and is located on the corner of Locking Road and Marconi Close. It includes a detached dwelling facing onto Locking Road, which was previously in commercial use until a change of use to residential was granted under planning application reference 23/P/0229/FUL, and a small outbuilding to the rear of the dwelling. The area around the site is predominantly residential consisting of a mix of different styles and sizes. There is a commercial site on the opposite side of Marconi Close.
21. The Council's sole concern in relation to the effect on the character and appearance of the area is the external staircase on one of the side elevations of the proposed dwelling. Whilst the staircase would be visible from the public realm, the lightweight design, relatively small scale and location of the staircase on the gable end would not be a visually dominant nor an incongruous feature on the dwelling. Moreover, the agreement of suitable materials and colour can be secured through the attachment of a suitably worded planning condition.
22. For these reasons, the proposed development would not materially harm the character and appearance of the area. Consequently, the proposal would comply with Policy CS12 of the CS and Policies DM32 and DM37 of the SPP Part 1, which collectively seek, in part, to achieve high quality design and place making and that new dwellings on infill, backland plots, garden land or other sites within predominantly residential areas do not adversely affect the character of the area.
23. The Council has stated that the proposal would also conflict with the North Somerset Supplementary Planning Document: Residential Design Guide – Section 2. However, this supplementary document relates to the appearance and character of house extensions and alterations, and as the proposal does not involve either, it is not determinative in my consideration of the appeal.

Living conditions

24. The proposed external staircase would be provided on the basis of only allowing a means of accessing the first floor during times of flooding. The primary means of access to the dwelling would be via the doors at the ground floor level. During times of flooding, the occupiers of the dwelling would be able to potentially overlook neighbouring properties, namely 172, 174 and 176 Locking Road. However, given that the staircase would be used only for emergency purposes during flooding events, the use of the staircase would be only for very short periods of time and occur very infrequently.

25. Furthermore, the external staircase at first floor level would lead to an entrance that would have a solid door with no vision panel. As such, the privacy of the neighbouring occupiers would not be compromised by the formation of an opening in the gable end of the dwelling. A suitably worded planning condition could be attached to any planning permission to ensure that the door does not have a vision panel.
26. For these reasons, the proposed development would not harmfully affect the living conditions of the occupiers of neighbouring properties when having regard to privacy. Consequently, the proposal would comply with Policies DM32 and DM37 of the SPP Part 1, which collectively seek, in part, to prevent the living conditions of the occupiers of adjoining properties being prejudiced. The proposal would also comply with the North Somerset Supplementary Planning Document: Residential Design Guide – Section 1, insofar as it expands on the aims and objectives of the development plan to protect the living conditions of the occupiers of neighbouring properties. It would also comply with the Framework and National Design Guide (PPG), insofar as they seek to create places with a high standard of amenity for existing users.

Other Matter

27. I note the appellant's comments regarding the Council's handling of the planning application, but that is not determinative in my consideration of the appeal and is a matter for the parties.

Planning Balance

28. The Council accepts it cannot demonstrate a five year housing land supply. In these circumstances, Paragraph 11(d)(i) of the Framework states that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development, having regard to Footnote 7. This includes areas at risk of flooding.
29. I have already concluded that the appeal site is not a suitable location for the proposed development having regard to the risk of flooding. As such, the proposal conflicts with the development plan when taken as a whole.
30. The flood risk, which is not outweighed by the wider sustainability benefits, means that the climate change, flooding and coastal change policies in the Framework provide a strong reason for refusing the development proposed. Paragraph 11(d)(ii) is not therefore engaged.

Conclusion

31. For the reasons given above, the proposed development would conflict with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

K Reeves

INSPECTOR