
Appeal Decision

Site visit made on 7 January 2025

by **Lewis Condé BSc, MSc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 February 2025

Appeal Ref: APP/Q3630/W/24/3351386

1A London Street, Chertsey, Surrey KT16 8AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Accrue Capital Ltd against the decision of Runnymede Borough Council.
 - The application Ref is RU.24/0739.
 - The development proposed is change of use from commercial, business and service (Use Class E) to form 4 residential units (Use Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above has been taken from the Council's decision notice¹, albeit it has been amended to remove wording that does not form an act of development.
3. The appeal scheme relates to a prior approval notification made under Article 3(1), Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) Order 2015, as amended (the GPDO). Development plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.
4. A revised Framework was published on 12 December 2024. Main parties have been given the opportunity to comment on the implications of the revised Framework. Where received, comments have been taken into account.
5. I am also the Inspector dealing with another appeal² in relation to the Council's refusal to grant prior approval under Class MA of the GPDO, for the same appellant, on a neighbouring site. Given the contextual similarities between the cases, there is a degree of duplication in my reports. Each case though has been determined on its own individual merits.
6. The original application was refused on the basis that it had not been demonstrated that all habitable rooms within the proposed development would be served by adequate natural light. Consequently, the Council deemed the scheme not to accord with condition M2.(2)(f) of Class MA of the GPDO.

¹ As also stated on the appellant's appeal form.

² APP/Q3630/W/24/3349839 – Abbey Cloisters Abbey Green, Chertsey, Surrey KT16 8RB

7. The appellant subsequently submitted a Daylight and Sunlight Report (DSR) as part of the appeal to address the Council's reason for refusal. Although new evidence, this has not led to the proposed scheme being amended or evolving, whilst it was provided in direct response to the Council's reason for refusal. Additionally, the Council has had an appropriate opportunity to consider and respond to the appellant's new evidence. Accordingly, having regard to case law³, I do not consider any party to be prejudiced by my acceptance of this new evidence.
8. Since the determination of the planning application, the Council has received updated flood hazard modelling data from the Environment Agency (EA). Based on this information, the Council contends that it has not been demonstrated that the proposal would be served by safe access and egress in a flood event. In turn it considers that the proposal would lead to increased risks from flooding for future occupiers of the proposed development and place additional pressure on emergency services.

Background Main Issues

9. In light of the above, the main issues are whether the proposed development would constitute permitted development under Schedule 2, Part 3, Class MA of the GPDO, with particular regard to:
 - Whether the proposal is suitable having regard to flooding risks in relation to the building (MA.2(2)(c)); and
 - Whether there would be provision of adequate natural light to all habitable rooms of the proposed dwellinghouses (MA.2(2)(f)).
10. There is no dispute that the other criteria of Class MA are satisfied. Consequently, there is no need to give them further consideration in this decision.

Reasons

Flood Risk

11. The appeal site is located in Flood Zone 1 (low risk of fluvial flooding), albeit it is located on a 'dry island' that is entirely surrounded by areas of Flood Zone 2, with sizeable areas of Flood Zone 3 also encompassing the wider area. The 'dry island' contains a large part of Chertsey town centre, including existing commercial and residential uses. The appeal site is already in a commercial use, but having regard to the advice of the Planning Practice Guidance (PPG) the proposal would introduce a more vulnerable use on to the site.
12. Policy EE13 of the Runnymede Borough Local Plan 2030 (adopted 2020) (the Local Plan) sets out that when a site is located in a dry island, applicants will be expected to consider the onset and duration of a flood, the vulnerability and willingness of occupiers to evacuate the site in a flood, and the ability of the site to operate an effective flood evacuation procedure.
13. The Runnymede Borough Council Strategic Flood Risk Assessment (2018) (the SFRA) further sets out detailed considerations associated with flood risk in the area. Notably, it highlights that dry islands are considered to be flood risk areas, as

³ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin); and Bernard Wheatcroft Ltd v SSE [JPL 1982]

whilst they may not flood, there is potential for properties to be affected by loss of key services and surrounded by deep floodwater during a flood event. As such, access and egress from dry islands is an important consideration.

14. The SFRA outlines that a safe access/egress route should allow occupants to safely enter and exit buildings and be able to reach land outside the flooded area, without the intervention of emergency services or others during flooding conditions, including climate change allowances. The SFRA also establishes that it is acceptable for access/egress routes to be wet during a flood event, so long as the flood hazard has a classification no greater than "Very Low Hazard – Caution"⁴. It also requires that the route is along publicly accessible roads/paths.
15. The above measures are broadly consistent with the aims of the Framework, which in respect of areas at risk of flooding, requires that safe access and escape routes are included where appropriate, as part of an agreed emergency plan.
16. Following the issue of the EA's updated flood hazard data, a previously established safe access/egress route to and from the dry island (the 'Guildford Street Route') is no longer considered safe and reliable in a 1 in 100 year plus climate change allowance flood event. This is due to parts of that route now being reclassified as having a greater hazard level of "danger to some"⁵ in such a scenario.
17. The appellant has commissioned a Flood Evacuation Appraisal for the proposed development (the Appraisal), which includes consideration of an alternative access/egress route from the appeal site (the Staines Road Route). To assess its suitability, site-specific topographical surveys along the proposed Staines Road Route have been conducted. This has allowed for refinement of the EA modelled flood depth and associated hazard ratings along sample points of the proposed route. The Appraisal's use of topographical survey data is a finer grained approach than using the EA's hazard mapping which has limitations due to its reliance on the use of LiDAR ground levels. Nonetheless, main parties dispute whether the Appraisal provides an accurate representation of the local flood hazard, given it has not involved re-running the EA flood model with updated topographic data along the full length of the proposed route.
18. Even if I were to be suitably satisfied with the robustness of the appellant's findings, it remains that I have fundamental concerns with the identified flood evacuation route that has been put forward. Notably, in a relevant flood event, the proposed 'Stains Road Route' would require evacuees to cross the public highway several times at very specific points, to remain entirely within areas subject to a 'Very Low Hazard' classification. I therefore find the identified route to be rather convoluted and impractical. There is also a significant risk that, if even slight deviations from the identified route were taken, then pedestrians would instead stray into areas of greater risk that would be classified as a 'danger for some' or potentially 'danger for most'.
19. Additionally, a section of the identified Stains Road Route (approximately 140m in length) would involve pedestrians walking along the A320 (a 50mph dual carriageway) whereby there would be no separate footway provision. Notwithstanding the highway safety risks associated with this section of the route,

⁴ In line with Defra's 'Framework and Guidance for Assessing and Managing Flood Risk for New Development' FD2320/TR2

⁵ *Ibid.*

the perceived danger of walking alongside the A320 may potentially also encourage evacuees to take alternative routes, subject to greater levels of flood risk.

20. Although the use of the Staines Road Route would only be used in emergency circumstances, it remains that it may be necessary to be used by a range of vulnerable people including elderly, infirm or children. Users of the route will also likely be under a high degree of duress as they attempt to evacuate the area. I am therefore not convinced that providing occupants of the proposed development with prior detailed guidance of the route (through a flood evacuation plan to be secured as part of a permission) would result in it being safely navigable should a relevant flood event occur.
21. Consequently, I find the appellant's identified flood evacuation route to be unsuitable. In reaching this view, I recognise that as the proposal is being progressed via the prior approval process there will be constraints on the building design. As such, the proposed development is unlikely to be occupied by wheelchair users or persons with severe mobility impairments. Still, this will not prevent other vulnerable persons from occupying the proposed development, who may still have difficulties navigating the identified evacuation route.
22. Whilst there may be a period of several days warning before impending flooding takes effect, I consider it unlikely that occupants of the proposed development would leave their homes at such an early stage. This is because of the potential for flooding to ultimately not occur/subside, or because it is unlikely that the residents' own properties would be flooded. I therefore do not consider that having future residents sign up to the EA's flood warning system, together with an evacuation plan to persuade residents to leave the site at an early opportunity (via alternative routes), would provide a suitable level of mitigation from flood risk.
23. The dry island already contains residential uses, but this does not justify introducing further residents who would also be placed at risk during a flood event, or the placing of greater pressure on emergency services. Similarly, although the appeal site may remain free of flooding, and there may be facilities nearby that residents of Chertsey dry Island could utilise in a flood event, this does not absolve the need for a safe evacuation route.
24. Accordingly, I do not find the proposal suitable having regard to flooding risks in relation to the appeal building. The appeal scheme therefore does not satisfy condition MA.2(2)(c) of the GPDO. Consequently, prior approval should not be granted.
25. Insofar as they are relevant, the proposal would also conflict with Local Plan Policy EE13, the related provisions of the SFRA, and the aims of the Framework, in respect of managing flood risk for new developments.

Adequate Natural Light

26. The proposal would involve the delivery of four studio-apartments at first-floor level of the appeal building. The submitted DSR has been undertaken in accordance with Building Research Establishment's Publication 'Site layout planning for daylight and sunlight. A Guide to good practice' (2022) (the 'BRE guidelines').

27. The DSR identifies that all four studio units will achieve daylight in accordance with BRE guidelines, namely that at least 50% of their area would achieve a lux of 150 for at least half the annual daylight hours.
28. In respect of sunlight, the BRE guidelines outline that a dwelling will appear reasonably sunlit provided that at least one main window falls within 90° due south; and a habitable room, preferably a main living room, can receive a total of at least 1.5 hours of sunlight on 21 March. The BRE guidelines further acknowledge that this is not always possible and therefore highlights that where groups of dwellings are planned, site layout and design should aim to maximise the number of dwellings that meet its recommendations.
29. Three of the proposed units would also meet the recommended BRE guidelines in respect of availability of sunlight. However, one unit with an entirely north facing aspect would not. Given that the proposal involves the conversion of an existing building within a town centre location, there are constraints on the ability of its conversion to meet the BRE guidelines in their entirety. The site's location within a town centre environment is also such that future occupants are not likely to have the same expectations of daylight and sunlight compared to a suburban or rural environment. Nonetheless, the relevant proposed unit would be served by six windows providing the unit with a good level of daylight. Therefore, despite not meeting the BRE guidelines in respect of sunlight, it is unlikely to be a particularly dark or gloomy unit.
30. Furthermore, the BRE guidance is not mandatory, indeed, it advises that the guidelines should be interpreted flexibly. The Framework also highlights that when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards). Moreover, the prior approval matter requires the provision of adequate natural light to each habitable room, as opposed to good levels of sunlight.
31. Drawing the above together, I am content that each of the proposed dwellings would receive sufficient natural light overall to provide acceptable living standards for future occupants. Consequently, in respect of the requirements of condition MA.2(2)(f) of the GDPO, I find that adequate natural light would be provided to all habitable rooms of the proposed dwellinghouses.

Other Matters

32. Given the EA's updated flooding data and its implications for Chertsey, planning decisions will need to strike a balance between the increased risks of flooding and wider issues, including socio-economic matters related to the vitality and viability of the town. Still, in this instance it has not been demonstrated that the more vulnerable use that is proposed would be served by appropriate flood evacuation measures. Additionally, there is no robust evidence before me to support the appellant's contention that the only way to sustain the local economy is to replace vacant commercial buildings with homes. As such, my decision does not turn on these matters.

Conclusion

33. For the reasons outlined above the appeal is dismissed.

Lewis Condé

INSPECTOR