



Appeal Decision

Site visit made on 20 March 2025

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 March 2025

Appeal Ref: APP/J1915/W/24/3348806

Wickham House, Station Road, Braughing, Ware, Hertfordshire SG11 2PB

- 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 J McAuliffe, LAR Traffic Services Ltd against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/2368/FUL.
 - The development proposed is the extension and change of use from existing commercial to 4no. residential units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted a statement in relation to the Sequential and Exception Test, drainage strategy, flood evacuation and a surface water drainage plan. Further information has also been provided in the form of a sustainability statement and air source heat pump specification. These submissions are in response to the Council's second and third reasons for refusal. These were submitted at the outset of the appeal. Taking into account recent judgments¹ I have accepted this information. The amended details do not change the substance of the proposal and the Council and other parties have had the opportunity to review the details.
3. Since the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2024. Those parts of the Framework most relevant to this appeal have not been substantially amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

4. The main issues are:
 - whether the proposal would comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding;
 - whether the proposal is in a suitable location having particular regard to the accessibility of the site; and

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney (2018), which refined the "Wheatcroft principles" set out in Bernard Wheatcroft v Secretary of State for the Environment (1982).

- whether appropriate measures to mitigate against climate change are proposed.

Reasons

Flood risk

5. The appeal site comprises a substantial and established two-storey red brick building and its small grounds. Formerly a dwelling before it was converted into office use, it has a residential appearance. The proposal seeks to change the use and alter and extend it to create four one-bedroom homes.
6. The Environment Agency Flood Map for Planning shows that the appeal site, is located within Flood Zone 2. This is land having between a 1% and 0.1% annual probability of river flooding. The appellant submitted a Flood Risk Assessment (FRA) with the application. They have provided further information with the appeal and concluded that the Sequential Test should not be applied because the Council's Level 1 and 2 Strategy Flood Risk Assessment (SFRA) advises that applications for minor development or change of use do not need to be apply the Sequential Test. The appellant contends the proposal is minor development.
7. The proposal is not a major development in the terms set out in the Town and Country Planning (Development Management Procedure) (England) Order 2015. However, it does not follow from that that it is minor development for the purposes of assessing flood risk. The Planning Practice Guide (the PPG) sets out what is meant by minor development in relation to flood risk². It excludes any proposed development that would create a separate dwelling within the curtilage of an existing dwelling (e.g. subdivision of houses into flats) or any other development with a purpose not incidental to the enjoyment of the dwelling. The change of use and construction of an extension, to create new dwellings, of whatever physical size, does not fall within that definition or the examples contained in Footnote 62 to Framework paragraph 176. Even if I were to take the previous residential use of the site into account, a Sequential Test would still be required.
8. As set out in the PPG the proposal would be classified as non-major development. The flood risk vulnerability classification set out in Annex 3 of the Framework, means the majority of the development would be 'More Vulnerable'. However, the proposed plans show a basement room. Such rooms raise particular concerns for mitigating risks and evacuation in a flood event due to their position below ground level. I cannot be certain how this room would be used. As such basement dwellings are classified as 'Highly Vulnerable.'
9. Ultimately the Framework does not provide a closed list of what is minor development, and given the above I am of the view the Sequential Test must be applied to assess whether new development can be steered to areas with the lowest risk of flooding. Although the appellant contends that there has been no guidance from the Council on this matter, no Sequential Test has been carried out.
10. The FRA details evidence to identify flood protection measures. There is also evidence in the form of the evacuation strategy and drainage plan to support the Exception Test being passed. However, I am not convinced they would be fully

² Paragraph: 051 Reference ID: 7-051-20220825

suitable given the potential use for the basement. In any event, there is no requirement to assess this until the Sequential Test has been passed.

11. Notwithstanding that a soakaway is proposed outside the flood zone, its location falls beyond the appeal site boundaries. I have no firm evidence that it falls within the appellant's ownership, I am not able to discern the full extent of any land shown in the appellants ownership on the plans, as blue line boundaries, which would indicate ownership are not complete and are not clear. Therefore I am not satisfied that any condition to secure compliance would be achievable or that it would be enforceable.
12. I therefore conclude the proposal fails to consider reasonably available sites with a lower probability of flooding. The proposal would be contrary to Policies WAT1 and WAT5 of the East Herts District Plan, October 2018 (the District Plan). Together these seek to ensure, amongst other matters, that development is steered to areas with the lowest probability of flooding and utilises the most sustainable form of drainage system.

Location

13. The site's location is between the settlements of Braughing to the north and Puckeridge to the south, both linked by Station Road (the B1368). There are sporadic homes, agricultural and commercial development along this short route between these two settlements. The appeal site also fronts Station Road and is sited at the entrance to a small industrial estate. It is surrounded on three sides by commercial buildings and businesses.
14. There is no dispute that the proposal lies outside any existing settlement, for the purposes of planning policy. However, Policy DPS2 of the District Plan permits development on sustainable brownfield sites and does not quantify they have to be within a settlement. The appeal site falls within the definition of brownfield land/previously developed land as set out in the glossary contained in Annex 2 of the Framework.
15. District Plan Policy TRA1 reinforces the above requirement for sustainable development. The officer report identifies the appeal site 650m from the edge of Puckeridge and 800m to Braughing. Both are category 1 villages, identified as being the most sustainable. Braughing in particular is fully accessible by footways. Routes to the villages are narrow, unlit and traffic could travel at the national speed limit. However the routes are generally flat and distance to the villages are not excessive. It would be possible for people without mobility issues and those without children (which is more likely to be the case for one-bedroom units) to access these facilities by foot or cycle. The appeal site is also conveniently served by a bus stop with weekday services up to 19:00.
16. I am of the opinion that because of the unlit and narrow footways, most journeys are likely to be undertaken by private car, and clearly later evening trips would also facilitate this. However, future residents could access locations further afield to meet their day to day needs such as food shopping, health services and schools during the day. I have taken into account the advice in paragraph 110 of the Framework, which guides that sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making. I am satisfied that the appeal site provides a genuine choice of transport modes, such that the private vehicle need not be wholly relied upon.

17. Policy TRA1 also seeks to aid carbon emission reductions. The above transport options would aid this. Furthermore, the appeal site is likely to attract vehicular activity from members of staff or visitors to the appeal property as a commercial business. It has not been demonstrated that residential use of the site would result in excessive vehicle trips or carbon emissions in comparison to the existing or the former use as a residential property.
18. I therefore conclude that taking into account the site specific factors in this case, that the appeal site is in a suitable location for residential development with particular regard to the accessibility of the site. The proposal would therefore be in accordance with Policies DPS2 and TRA1 of the District Plan.

Climate Change

19. The submitted Sustainability Checklist states the extension and conversion will be in accordance with the Building Regulations Approved Documents. It advises that it proposed increased insulation, triple glazing and ventilation systems, air source heat pumps. Water reduction and harvesting measures, waste management plan, solar panels, low Lux Level lighting and electric vehicle charging points have also been proposed.
20. Although the above does not quantify how the Council has not provided any further details regarding the levels required. In my view I am satisfied that such matters could be satisfactorily dealt with by condition. Therefore, subject to condition, the proposed development would be in accordance with the relevant provisions of policies CC1 and CC2 of the District Plan. Together, these seek, amongst other matters, to ensure all new development proposals demonstrate how the design, materials, construction and operation of the development would minimise overheating in summer and reduce the need for heating in winter, and how carbon dioxide emissions will be minimised across the development site.

Other Matters

21. I have had regard to the statutory duty under section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The application site is surrounded by the scheduled monument Roman site located on the River Rib (National Heritage List for England list number 1005249) and lies within an area of archaeological significance of national importance. The proposed development site has a high potential to contain archaeological remains related to the late Iron Age and Roman periods. The Historic Environment Advisor for the County Council has suggested various investigations, monitoring and recording if the proposal were to be allowed which could be imposed via suitably worded planning conditions. I am therefore satisfied that subject to the imposition of condition that the proposal would not harm the significance or historic interest of the designated heritage asset.
22. There are various designated and non-designated heritage assets within the vicinity of the site. These include the Grade II Ford Bridge. A road bridge, whose significance is derived from the architectural quality and age. The Braughing Conservation Area is located to the north of the site. Its significance can be derived from the age of the settlement and quality of the buildings. That being said, I have no evidence the appeal site is within the setting of the aforementioned listed building or conservation area. Noting their distance and the limited inter-visibility of the site with these I consider their significance would not be harmed.

23. Notwithstanding my concerns about the basement within the property, the Council has identified that the proposal would provide suitable living conditions for future occupiers in terms of internal and external space, and I do not disagree on these matters. The proposed alterations would be acceptable in terms of the character and appearance of the area. There would be no adverse impacts on the occupiers of neighbouring buildings. Nor have any concerns been raised in relation to highway safety, parking, landscape, and ecology. These matters weigh neither for nor against the development. Although the proposal has the potential to increase and improve the biodiversity of the site, the overall scale of the benefits in this respect are not quantified and are likely to be small.
24. The proposal would re-use the building for residential purposes, and would make a small, but positive contribution towards the supply of housing in a suitable location. Whilst the proposal is of limited scale the Framework is supportive of small and medium sized sites. The development would also give rise to some economic benefits during the construction phase and provide limited support to local services from future occupiers.
25. The proposal would provide personal benefits for the appellant, who does not wish to see the property remain vacant. However, I have no substantive evidence that the relocation of any business is dependent upon this proposal or that the building is not suitable to continue as a commercial business either through marketing or internal adaptations. This therefore weighs very little in favour of the development.
26. I note the reference to various appeals³ and other examples where development has been permitted. However, I consider these relate to the main issue of whether the site is in a suitable location, which I am in agreement with the appellant. I have not been provided with all the evidence in relation to these appeals and decisions, therefore I cannot be certain they are relevant to the other main issues, and thus carry little weight in favour of the appeal.

Planning Balance

27. The Council cannot demonstrate a five-year housing land supply. Nevertheless, as set out in Footnote 7 the policies in the Framework in relation to areas at risk of flooding, mean there is a strong reason for refusing the development. In such circumstances the provisions at paragraph 11d)ii of the Framework do not apply.
28. I have already concluded that the appeal site fails to consider, reasonably available sites with a lower probability of flooding. The proposal therefore conflicts with District Plan Policies WAT1 and WAT5. The proposal also conflicts with the guidance within the Framework contained in paragraphs 170 and 173 to 179. The proposal would result in harm in terms of the failure to adequately address flood risk and conflict with the development plan and national policy on this matter, which I attach significant weight to. The neutral matters and limited benefits of the proposal are not sufficient to outweigh the harms arising from flood risk.

Conclusion

29. For the reasons given above, the proposed development would conflict with the development plan and the material considerations do not indicate that the appeal

³ Appeal references: APP/J1915/W/20/3258799; APP/J1915/W/16/3147738; APP/J1915/W/18/3205669 and planning application 3/23/0158/FUL.

should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

K Williams

INSPECTOR