



Appeal Decision

Site visit made on 25 March 2025

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th April 2025

Appeal Ref: APP/P1805/W/24/3354450

Land to the rear of 17 Alexander Close, Catshill, Worcestershire B61 0PF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr Bill Heneghan against the decision of Bromsgrove District Council.
 - The application Ref is 24/00451/PIP.
 - The development proposed is described as 'Permission in Principle for the erection of one bungalow.'
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Bill Heneghan against Bromsgrove District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The proposal is for permission in principle. This is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (permission in principle) establishes whether a site is suitable in-principle, and the second stage (technical details consent (TDC)) is when the detailed development proposals are assessed. This appeal relates to the first of these stages.
4. The scope of the considerations for permission in principle are limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. The proposal is supported by a site location plan which denotes the proposed plot.

Main Issue

5. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

Flood Risk

6. The appeal site is Flood Zone 1 and at very low risk of fluvial flooding. However, the Council states that the area is at high risk from surface water flooding.
7. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at the highest risk (whether existing or future). The National Planning Policy Framework (the Framework) requires plans should apply a sequential, risk based approach to the location of development so as to avoid, where possible, flood risk to people and property. Specific to this proposal, Paragraph 173 of the Framework goes on to state that a sequential risk-based approach should also be taken to individual applications in areas known to be at risk.
8. The aim of the sequential test is to steer new development to the areas with the lowest risk of flooding from any sources. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
9. The Framework, at paragraph 175 does identify an exemption to this test, in situations where a site-specific flood risk assessment demonstrating that no built development would be located in an area that would be at risk of flooding from any source now or in the future. However, as a site specific flood risk assessment demonstrating this has not been submitted, this exemption is not applicable in this case.
10. Planning Practice Guidance (PPG) on flood risk clarifies that the sequential test “means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding including areas at risk of surface water flooding”. PPG goes on to clarify that even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied.
11. The appellant asserts that detailed matters of drainage and flood mitigation can be addressed at the TDC stage. Be this as it may, taken together with the Framework, the national guidance distinguishes between flood avoidance and flood control or mitigation in the application of the sequential test. In light of this, on sites where flood risk is identified, a particular location is unlikely to be acceptable in principle if there are other reasonably available sites for the development proposed located in areas at a lower risk of flooding.
12. The Framework states that the strategic flood risk assessment (SFRA) will provide the basis for applying this test. In this case I have been directed to an online service to check long term flood risk. This does not appear to be a local SFRA, but nevertheless, it is a Gov.UK source of information. Although not indicating that No 17 is at high risk of surface water flooding, this information shows that the appeal site is in an area that would have a medium yearly chance of flooding from surface water sources between 2040 and 2060.

13. The appeal site has as such been shown to be at a medium risk of flooding in the future, and I find nothing before me that establishes whether there are 'no reasonably available sites for this type of development in a location at a lower risk of flooding' than that identified in this case. Without this evidence, it is unclear whether new development would be steered to locations with the lowest risk of flooding. Consequently, it has not been possible to confirm whether this proposal accords with this locational aim of the Framework.
14. Regarding this matter, attention is drawn to another appeal decision where flood risk was identified and permission in principle was granted. However, while relatively recent, that decision predates the current Framework. Moreover, although the risk based approach to the location of development was a provision of the Framework that was in place at the time of that other decision, the new Framework sets out more detail on this particular matter than its predecessor. The national policy context for that previous appeal was significantly different to that which is applicable now. Accordingly, that other appeal decision has not altered my findings on this matter.

Character and Living Conditions

15. Existing development surrounding the appeal site comprises homes of a traditional 20th century form and layout. In the case of Alexander Close and neighbouring Montgomery Close, development is arranged around a circular headed cul-de- sac. In the wider area, such as properties that form Woodrow Lane to the rear of the appeal site, the pattern is linear. With these features the area has a distinct suburban quality.
16. While this traditional and linear arrangement and architectural style provides some consistency and coherency in the area, the rhythm of built form in the immediate setting of the appeal site has been disrupted with the later creation of Forge Close. This close has a mix of linear and corner plots and as such the built form in this locale appears somewhat fragmented. Consequently, development in Forge Close lacks the consistency evident in the wider area.
17. Although many rear gardens in this area are sizeable, there are plenty that are of a more modest scale. Indeed, the plot sizes of properties comprising Forge Close range from modest to small and this has noticeably altered the density of development in this corner of the residential estate.
18. As this proposal is for permission in principle only, the submitted plan does not provide design details at this stage. However, the plans show the extent of the intended plot, which is a modest size comparative to other plots sizes in this setting. Such a plot could easily accommodate a dwelling while retaining a good amount of garden space. The appropriate scale for the dwelling, sensitive to the prevailing character, is a matter that could be secured at the TDC stage.
19. Also, while the submitted plan may not show the proposed access, it appears that the likely option would be for a new access onto Forge Close. As such, while any future development is likely to be visible from other properties, the new development would inevitably have a stronger relationship with existing built form on that Close, as opposed the wider area.

20. 6 Forge Close has a common building line with its immediate neighbours. However, that neighbouring dwelling is part of only a short row of properties, and dwellings at 14 - 17 Forge Close are set back from this. Moreover, the submitted plan shows that the new development could not encroach considerably beyond the building line that currently exists at 14 – 17 Forge Close. For this reason, in my judgement, one additional unit in this existing line of development, if carefully designed, could be integrated into Forge Close, without harmfully disrupting the original existing positive built arrangements elsewhere.
21. Furthermore, given the prevailing density of development on Forge Close, the addition of just one dwelling at the appeal site would not incongruously increase the density of built form in this immediate vicinity. Also, a design could be secured at TDC stage to ensure that the style of the dwelling is in keeping with the surrounding traditional residential aesthetic which characterises this area.
22. It is asserted that development of this site would harm the living conditions of neighbours, with regards loss of privacy and outlook. In particular, harm would arise for occupants of 6 Forge Close. Concern in respect of these matters has also been raised by the occupants of the existing dwelling at 17 Alexander Close, who are also worried about noise disturbance.
23. Related to this, attention is drawn to separation distances set out in the Council High Quality Design SPD with reference to these amenity impacts. However, although a key aim of this SPD is to protect residents' living conditions in respect of outlook, light, noise disturbance and privacy, these distances are advisory.
24. This aside, the scope of this decision is focused on the acceptability of the location, use and amount of development. The site would be a residential use and in principle compatible with existing surrounding similar land uses. While the appeal site has a shared boundary with 6 Forge Close and 17 Alexander Close, it is set back from the former and is divided by a rear garden in respect of No 17 such that there may be scope to achieve an acceptable level of separation between properties. However, this could only be confirmed once a detailed scheme is submitted. In any event, if this appeal succeeded, there is a further stage that would need to be satisfied, where matters of detailed design can be considered with reference to relevant national and local policies so as to ensure an acceptable outcome with regards matters of living conditions.
25. Concern has been raised about trees on and around the site. Trees are largely seen as positive features in urban settings, and changes to them can have an adverse visual impact on the character of an area. However, in this case, given the size of the site and the proposed amount of development, and subject to the consideration of detailed matters, there could potentially be space to accommodate such features as suitable trees and vegetation. I am therefore content that tree protection and replacement issues could be reasonably addressed as a TDC matter.
26. In summary on character and living conditions, insofar as these matters may be considered at this stage, I find the proposal at this location would be acceptable, subject to a sensitive design being secured. I find no conflict with Policies

BDP1, BDP7 and BDP19 of the Bromsgrove District Plan (District Plan) at this initial stage.

27. However, for the reason outlined above, it has not been demonstrated in this case that the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development with reference to national flood risk policy. In respect of this matter, the proposal conflicts with Policy BDP23 of the District Plan and the Framework. These Policies collectively seek to ensure development addresses flood risk from all sources, adopting a risk based approach.

Other Matters

28. Concern is raised about communication during the application process. However, this is a matter between the Council and the appellant.
29. The site had outline planning permission for a dwelling, but this has lapsed. Moreover, it was granted prior to the adoption of the current development plan and publication of the latest Framework. The policy context has changed significantly, particularly with regards flooding, such that this matter has not altered my findings.
30. The appellant's evidence indicates that the Council is unable to demonstrate a five year housing land supply, which is stated as standing at 3.67 years. With a requirement to deliver over 700 new dwellings per annum in the district, over the current plan period, even one new dwelling would significantly contribute to helping address this substantial shortfall. In these circumstances, the provisions set out in paragraph 11 of the Framework are relevant. However, the application of policies in the Framework that protect areas, in this case areas at risk of flooding, provide a strong reason for refusing the development proposed. The presumption in favour of sustainable development is therefore not applicable.
31. The proposal has the potential to make efficient use of land. The site is also in a large built up area with reasonable access to services and public transport. The District Plan policies provide support for housing development in such locations. These matters weigh in favour of the proposed use at this location. However, these benefits are not sufficient to outweigh the conflict with flood risk policy identified in this case. Moreover, while the Council may not raise objection regarding highways, drainage and contamination, subject to consideration of details, this factor does not overcome this policy conflict.

Conclusion

32. For the reasons stated above and having regard to the development plan, and material considerations, including the Framework, the appeal should be dismissed.

A J Sutton

INSPECTOR