



Appeal Decision

Site visit made on 19 February 2025

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 MAY 2025

Appeal Ref: APP/K3605/W/24/3355193

7 Thames Camping and Boating Association, Wheatleys Eyot, Sunbury On Thames, Surrey TW16 6DA

- 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 Dr Daniel Hammond against the decision of Elmbridge Borough Council.
 - The application Ref is 2024/0814.
 - The development proposed is a cabin on Thames Camping and Boating Association on Wheatleys Eyot. The proposed development is to remove the current wooden cabin and to rebuild a new wooden cabin. The proposed development would sit 1130mm above ground level on brick piers and would be based on the standard size of most of the other 15 cabins on the island at 4300mm (Wide) x 6700mm (Long) x 3949mm (Height). Roof pitch 34degrees. There would be no change in use of the cabin (non-residential family holiday cabin used during Spring, summer and early autumn for short stays. Property is not rented). The proposed new cabin has a lounge, kitchen area and bathroom and has a mezzanine accessible by a ladder. It is a single storey property. It will have running water and electricity. The current cabin is 4220mm (wide) x 5100mm (Long) x 3500 (high).
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Decision

1. The appeal is allowed, and planning permission is granted for a detached single-storey camping hut following demolition of existing hut at 7 Thames Camping and Boating Association, Wheatleys Eyot, Sunbury On Thames, Surrey TW16 6DA in accordance with the terms of the application, Ref 2024/0814, subject to the attached schedule of conditions.

Preliminary Matters

2. Since the determination of this application a revised National Planning Policy Framework (The Framework) has been published. The main parties have been given the opportunity to comment on any implications for the appeal. I have considered these comments, and the revised Framework in my determination of this appeal.
3. In the course of the appeal the Environment Agency has objected to the proposed development on grounds of flood risk. Whilst this was not a reason for refusal, given the location of the site in the functional flood plain I consider this a main issue in the appeal. I have given both main parties the opportunity to submit further comments in light of the above and considered these comments.
4. In my decision above I have described the development using a different form of wording to that found on the application form (and as reproduced in the banner above) so as to remove extraneous details.

Main Issues

5. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies; and
- the effect of the development on flood risk.

Reasons

Whether inappropriate development

6. Policy DM18 of the Elmbridge Development Management Plan (2015) seeks, at subsection (b), to approve replacement buildings of the same use within the Green Belt, provided they are not materially larger. Thereafter, support is given to replacements that do not have a materially greater impact on the openness of the Green Belt, respond to context and local character, do not result in an increase beyond 10% in volume and 10% in footprint, or in building height, and are in the same position.
7. The Framework states that development in the Green Belt is inappropriate and, by definition, harmful, unless one of the listed exceptions applies. Following the revisions to the Framework, and pertinently to this appeal, paragraph 154(g) now exempts the complete redevelopment of previously developed land which would not cause substantial harm to the openness of the Green Belt. Previously developed land is that which has been lawfully developed, is occupied by a permanent structure, and any fixed surface infrastructure associated with it, including the curtilage of the developed land.
8. Policy DM18 is inconsistent with the Framework insofar as the former seeks to permit *replacement buildings* that are *not materially larger*, whereas the latter exempts the *redevelopment of land* which would *not cause substantial harm to the openness of the Green Belt* [my emphasis in each case]. In the context of the appeal, this is a notable point of distinction and significantly reduces the weight I attach to Policy DM18.
9. The appeal site (the site) is on a small island on the River Thames and includes an existing timber hut used for leisure purposes (the existing hut). It is one of a row of huts laid out side-by-side, facing the river. It is proposed to replace the existing hut with a similar but larger one serving the same purpose (the proposed hut).
10. There is no suggestion that the site has been unlawfully developed. The appellant refers to the proposed development as a replacement temporary structure. However, this language is used to distinguish camping huts from developments in which voids below the building are usually only accessible via narrow entry and exit points for the purposes of flood risk assessment, and I read nothing more into it. The Council makes no suggestion that the existing hut is anything other than permanent, or that the appellant is incorrect to describe it as having been in situ for some 40 years. I saw nothing in my site visit to indicate that the hut could be moved. I am content that the existing hut is a permanent structure for the purposes of paragraph 154(g).

11. The site plan shows the site as being rectangular in shape and including the existing hut along with ground to the side, rear, and front of it (the ground). The long edges of the site are marked by existing low rails in front of the existing hut, and the rearmost edge of the site lines up with the rear elevation of neighbouring huts, which themselves are arranged in a clear building line. A concrete hardsurface sits in front of the existing hut and occupies the width of the site. It terminates the same distance from the river as the rails. Very similar arrangements exist in front of most of the other huts, and the possession of each hardsurfaced area by the adjacent hut is evident.
12. Overall, the ground up to the riverside edge of the hardsurface in front of the existing hut is recognisably within its demise and, for the purposes of this appeal, comprises the curtilage of a lawful, permanent structure on previously developed land. As a result, the proposed development would occur within the curtilage of the existing hut and would be in accordance with paragraph 154(g) of the Framework, provided it does not cause substantial harm to the openness of the Green Belt.
13. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects. Notwithstanding the hardsurfaces and rails described above, land between the row of huts and the river is largely open, in that much of it is grassed and it has minimal vertical development. Views of the sky and trees behind the huts are available to users of the island and of the far riverside bank. The proposed hut would be some 8cm wider, 1.6m longer, and 45cm taller than the existing one. It would also be raised some 61cm further from ground level, and include an overhanging roof and enclosed external deck area, adding to its overall size. As the proposed development would result in a larger, higher building it would inevitably have an erosive effect on openness.
14. That said, the existing hut is one of a continuous and tightly packed row, in which most neighbouring huts are similar in size to the proposed hut. Furthermore, the land behind the huts is residentially developed, with the immediate backdrop to the existing hut being dominated by a tall building at Strathellie. As a result of this context the proposed development would do little to alter the overall presence of the row of huts, or to hinder any views or features that engender a sense of openness. Overall, the harm to openness would be material but not substantial. As such, the proposal is not inappropriate development in the Green Belt by virtue of paragraph 154(g) of the Framework.

Flood Risk

15. The site is within Flood Zone 3b (the functional floodplain). As such, and irrespective of whether the proposed development is classed as highly, more, or less vulnerable in terms of its flood risk vulnerability, it is inherently incompatible with flood risk as set out in Table 2 in the Planning Practice Guidance (PPG). The Environment Agency (EA) objects to the proposal on this basis, and also on the basis that it would impede flood flow and/or reduce storage capacity, thereby increasing the risk of flooding.
16. Notwithstanding the position as set out in Table 2 of the PPG, Framework paragraph 176 refers to development sufficiently modest in scale as to require a site-specific flood risk assessment (FRA) only, rather than sequential and exception tests, and paragraph 181 sets out circumstances in which, in light of an FRA, such development may be allowed.

17. An FRA has been supplied in support of the appeal proposal. In assessing it I am mindful of the specific circumstances at the site, particularly the presence of the existing hut which is in lawful use for leisure purposes. The Council considers that the existing hut could be maintained, whereas the appellant contends that it requires replacement based on the prohibitive cost of ongoing repair and maintenance work. It is not evident, however, that any faults the hut may possess will lead to it being unusable in the near future, or that even in such circumstances the hut would be removed. Overall, I proceed on the basis that the existing hut will likely remain in place.
18. The existing hut is raised off the ground by simple brick piers, such that its finished floor level (FFL) is 10.32 metres Above Ordnance Datum (AOD). The proposal would use similar piers, but taller, to raise the FFL to 10.93 AOD. Some time prior to making the application, the appellant obtained confirmation from the EA that this approach would not lead to a reduction in flood storage or increase in flood risk.
19. Thereafter the PPG was updated such that when assessing the suitability of development where there is a possibility it will increase flood risk elsewhere, the use of stilts and voids below buildings is now not seen as reliable compensation for any loss of flood plain storage¹. The reason for the change is made explicit: it is because voids do not allow water to freely flow through them, trash screens get blocked, voids get silted up, they have limited capacity, and it is difficult to stop them being used for storing belongings or other materials.
20. The appellant contends that the proposed development would not lead to the loss of flood plain storage, as the proposed hut would be raised above flood water levels such that its larger size would not affect the flow of water. I have no evidence leading me to doubt that this is so, and the objection from the EA does not suggest any concern over the scheme beyond its reliance on a stilts and void approach.
21. To my mind, any possible drawbacks to the stilts and void design of the proposed hut are already a feature of the site. I have nothing to show me that, to the extent that any of the concerns listed in the PPG are applicable to the proposed hut, they are not already true of the existing one or that, given the context of the site as it already exists, the choice of that approach would increase flood risk.
22. The EA cites conflict with Policy CS26 of the Elmbridge Core Strategy (2011) (the CS), the pertinent text of which it has reproduced in its objection. The Council has only cited conflict with the PPG. Given the respective ages of the CS and the PPG, and the extent to which the EA objection turns on the latter, I attach far greater weight to the PPG. In any event, I am content that the proposal adheres to Policy CS26 for the same reasons that it adheres to the Framework and the PPG.
23. The proposed development would not have a harmful effect on flood risk, and would adhere to the requirements of the Framework, the PPG, and Policy CS26 of the Elmbridge Core Strategy (2011).

Conditions

24. Four conditions have been proposed by the Council, including one proposed by the EA. I have imposed all four. The first two of these are standard conditions addressing the period for commencement and specifying the relevant drawings.

¹ PPG paragraph 049 refers.

The third requires that the external materials used in the development are those listed in the application form and is necessary to ensure the appearance of the development does not harm the visual amenity of the area.

25. The fourth is required to reduce the risk of flooding to the development and adjacent property, to prevent flooding elsewhere by ensuring the compensatory storage of flood water is provided, and to reduce the risk of flooding from blockages to the voids, in accordance with Framework paragraph 181.

Conclusion

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

A Knight

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in strict accordance with the following list of approved plans and documents: Existing and Proposed Void Height Section, Location Plan (1), Location Plan (2), Proposed Elevations, Proposed Floor Measurement Plan, Proposed Front Elevation, Proposed Left Side Elevation, Proposed Rear Elevation, Proposed Right Side Elevation and Proposed Site Plan received on 26/03/2024.
- 3) The development shall not be erected other than in the following materials:
Walls: Wooden Pine logs. Doors: Glazed door with anthracite grey frame.
Windows: Wooden double glazed. Or such other materials as have been approved in writing by the borough council.
- 4) The development shall be carried out in accordance with the submitted Flood Risk Assessment and the following mitigation measures it details;
 - Finished Floor levels shall be set no lower than 10.93 metres above ordnance datum (AOD).
 - The supporting pier structure must be appropriate to withstand any flood event and respective flood flows.
 - Compensatory storage shall be provided in the form of voids below the building.
 - The voids below the building should be kept clear of any debris collecting or being placed within this area using a screen in line with Environment Agency guidance.

These mitigation measures shall be fully implemented prior to occupation and retained and maintained thereafter throughout the lifetime of the development.

End of Schedule