



Appeal Decision

Site visit made on 30 September 2025

by **P Burley BA (Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 October 2025

Appeal Ref: APP/Q3060/W/25/3369986

Land rear of 38-40 Commercial Road, Nottingham NG6 8HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Majhinder Singh (Blue Spark Developments Limited) against Nottingham City Council.
 - The application Ref is 25/00371/PFUL3.
 - The development proposed is two new detached 3-bed dwellings and a double garage.
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Decision

1. The appeal is dismissed and planning permission for two new detached 3-bed dwellings and a double garage is refused.

Preliminary Matters

2. Whilst the Council did not determine the appeal application, in its Statement of Case it has noted that had it been able to do so it would have refused planning permission for the following reason:

“The submitted drainage plans and Flood Risk Assessment, and with the absence of sufficient information in relation to SUDS, the applicant has failed to demonstrate the proposal would not adversely increase the risk of flooding elsewhere. The proposal is therefore in conflict with paragraphs 170 and 181 of the NPPF (2025), Policy 1 of the ACS [Aligned Core Strategy] and Policy CC3 of the LAPP [Land and Planning Policies Document].”

Main Issue

3. The main issue is whether flood risk associated with the appeal scheme has been satisfactorily addressed.

Reasons

4. Conditional planning permission was previously granted for two detached dwellinghouses on the site in April 2020 but the scheme was not implemented and the permission has since expired. Since that time, policy and guidance in relation to flood risk has evolved and this appeal decision must be based on the policy that is in force at the time of this decision. Therefore, even though the appeal scheme may be based on the same drawings as the previously-approved scheme, a decision cannot be made without considering the appeal scheme against current policy.

5. The appellant responded to the lead local flood authority's (LLFA) objection of 25 July 2025 on 14 August 2025. However, the LLFA's response, dated 26 August 2025, indicates that a number of its queries were not answered or that it was not satisfied with the responses that it had received. The information provided to the LLFA by the appellant in August 2025 has not been provided to me and therefore I am unable to make my own judgment on the sufficiency or otherwise of the appellant's submissions to the LLFA.
6. Based on the LLFA's comments and with reference to the Environment Agency's standing advice¹ for 'more vulnerable' development (which includes dwellinghouses) in Flood Zones 2 and 3, there are matters which remain unresolved, such as in relation to whether the finished floor levels would be acceptable. There are also other unresolved issues, for example relating to the performance of the proposed surface water drainage system in the event of a flood. On that basis I find that the flood risk information is not adequate. Furthermore, information which is important to the assessment of the likely efficacy of mitigation measures, for example confirmation regarding any infiltration testing and the design and size of sustainable drainage systems (SuDS) features, has not been provided.
7. Therefore, the appeal scheme conflicts with Policy 1 of the Nottingham City Aligned Core Strategy (2014) which states that development should adopt a precautionary principle that avoids areas of current and future flood risk, and which individually or cumulatively does not increase the risk of flooding elsewhere and, where possible, reduces flood risk.
8. It has also not been demonstrated that appeal scheme complies with Policy CC3 of the Nottingham City Council Land and Planning Policies Document (2020) which states that all developments should include SuDS where appropriate to manage surface water effectively on site, and where technically feasible and viable to do so, to reduce surface water run-off and to ensure that flooding is not increased elsewhere.

Other Matters

9. Whilst the appeal submissions include comments relating to the Council's handling of the application and increased development costs resulting from the time that has elapsed since the application was submitted, such considerations are outside of the matters that I can take into account in determining this appeal which are constrained by the relevant legislation.

Conclusion

10. I conclude that the appeal scheme conflicts with the development plan when taken as a whole, that for the reasons given above the appeal should be dismissed, and that there are no other material considerations which suggest that an alternative conclusion should be reached.

P Burley

INSPECTOR

¹ <https://www.gov.uk/guidance/flood-risk-assessment-standing-advice#standing-advice-for-vulnerable-developments>