

Appeal Decision

Site visit made on 12 April 2022

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2022

Appeal Ref: APP/R5510/W/22/3292951

7 Meadow Close, Ruislip HA4 8AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mcm Film Services Ltd against the decision of London Borough of Hillingdon.
 - The application Ref 75385/APP/2021/2547, dated 22 June 2021, was refused by notice dated 27 September 2021.
 - The development proposed is redevelopment of site to create a pair of semi detached dwellings following the demolition of the existing detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not it has been demonstrated that there are no other sequentially preferable sites at lower risk of flooding than the appeal site.

Reasons

3. The appeal site lies within Flood Zone 2 (FZ2). A previous application for planning permission to redevelop the site for a replacement dwelling¹, which was granted planning permission by the Council, was accompanied by a site-specific flood risk assessment (FRA) and a sequential test.
4. Despite the current appeal proposal being for the construction of a pair of semi-detached dwellings rather than a single dwelling, the building footprint would be the same as that previously approved. Thus, the additional dwelling unit would be accommodated within the external building envelope of the dwelling previously approved with only internal alterations to facilitate the creation of two, rather than one, dwelling. This, the appellant contends, absolves the need for a further sequential test for the appeal proposal despite it resulting in the intensification of occupation of the site over and above that of the existing and recently approved levels.
5. However, a sequential test was not originally carried out for the development proposed. Instead, the initial sequential test was updated and maintains that as the Council are seeking to bring forward sites in areas at higher risk of flooding than the appeal site, then higher risk areas are required to meet housing targets and ensure the maintenance of a 5-year housing land supply.

¹ LPA Ref No: 75385/APP/2020/3879

6. However, having housing allocations on sites at a greater risk of flooding than the appeal site does not necessarily demonstrate that there are no other sites at lower risk of flooding than the appeal site, particularly when the proposal relates to just one net additional dwelling. Indeed, given the potential flexibility of sites in their capacity to accommodate a single dwelling, I concur with the Council's conclusion that it has not been adequately or robustly demonstrated that there are no available sites at lower risk of flooding.
7. Whilst the presence of a 5-year housing land supply is not determinative in flood risk terms, that the Council are able to demonstrate such a supply means that there is no over-riding imperative to provide additional homes in the face of the defective sequential test. Thus, whilst a single dwelling would have only a very limited impact on the ability of the Council to maintain its 5-year housing land supply, the availability of larger sites, some within flood zones 2 and 3, is more critical to that supply. Nor does the presence of an extant permission for a single dwelling, of essentially the same design and appearance and in the same location within the site, over-ride the need for a sequential test or render the previously accepted sequential test transferable to the current situation.
8. Local Plan Part 1 (LP1) policy EM6 sets out the Council's approach to the management of flood risk, seeking to direct new development away from FZ2 and FZ3. It goes on to state that sites will only be allocated within FZ or FZ3 where there are overriding issues that outweigh flood risk and that flood risk can be suitably mitigated. Local Plan Part 2 (LP2) policy DMEI9 sets out in more detail the need to demonstrate a satisfactory sequential test.
9. The appellant's approach to the sequential Test in this instance is that as (often) large sites have been allocated in FZ2 and FZ3 the Council is not able to provide enough housing in areas at low risk of flooding. That there are housing sites allocated in areas at higher risk of flooding does not demonstrate that there are no suitable sites available in areas at a lower risk of flooding, particularly given the quantum of development in the current instance.
10. For these reasons, it has not been adequately or robustly demonstrated that there are no suitable sites available in areas of lower flood risk than the appeal site. As such, the proposal is at odds with the approach set out by LP1 policy EM6 and LP2 policy DMEI9 and also therefore fails to satisfy the provisions of London Plan policy SI12.

Other Matters

11. I have noted the presence of the recently approved, extant permission for a single dwelling to replace the existing building at the appeal site. I have also had regard to the absence of objection or concern from the Council in other matters, including the effect of the proposal upon the living conditions of occupiers of neighbouring properties and future occupiers of the proposed dwellings, upon character and appearance, trees and landscaping and highway and pedestrian safety, car parking and layout.
12. However, the absence of harm in respect of the latter matters is a neutral factor neither weighing in support of nor against the proposal, and therefore not outweighing the harm identified in respect of the failure to adequately demonstrate an appropriate approach to flood risk management.

Conclusion

13. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

G Robbie

INSPECTOR