



Appeal Decision

Site visit made on 1 October 2019

by P J Staddon BSc, Dip, MBA (Distinction), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2019

Appeal Ref: APP/N1215/W/19/3224855

Riverside House and land adjacent, West Street, Blandford Forum, Dorset DT11 7AW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Lolligo Ltd. against North Dorset District Council (now Dorset Council).
 - The application Ref 2/2018/1279/OUT is dated 12 September 2018.
 - The development proposed is the 'demolition of the existing building and construction of a three/four storey building comprising ground floor commercial space (Use Classes A1/A2/A3) and sixteen apartments above.'
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Decision

1. The appeal is dismissed and outline planning permission for the demolition of the existing building and construction of a three/four storey building comprising ground floor commercial space (Use Classes A1/A2/A3) and sixteen apartments above is refused.

Preliminary Matters and Identification of Main Issues

2. The appeal form indicated (Box F) that the appeal was being made against a refusal of planning permission. However, the appellant has clarified in correspondence that the appeal is made against the failure of the Council to determine a planning application for the development proposal. I have assessed and determined the appeal on this basis.
3. The application was made in outline and sought approval of matters of 'access' and 'scale' at this stage, with other matters being 'reserved'. Based on the submissions before me, and the Council's putative reasons for refusal as set out in its statement of case, the main issues in this appeal are:
 - Whether the proposal is acceptable in terms of flood risk.
 - The effect of the proposal on the character and appearance of the Blandford Forum Conservation Area, including any effects upon the settings of Listed buildings.
 - Whether the access proposals are acceptable in terms of highway safety.

Reasons

Flood risk

4. The appeal site comprises a roughly rectangular plot of land located on the east side of West Street, just to the south of the historic town centre and to the north of the River Stour. The site contains 'Riverside House', a small single storey building which houses a tourist information office and some public conveniences, but the greater part of the site is vacant and was surrounded by temporary fencing when I visited.
5. The site is located in an area of recognised flood risk. The Environment Agency's flood map for planning identifies the site as falling within flood zone 3a, which is land having an assessed high probability of flooding. However, the site and its immediate vicinity, including properties on the south side of Market Place, does benefit from a physical flood defence which arcs around the south of this part of the town centre.
6. The appellant has submitted a Flood Risk Assessment (FRA) which recognises the Flood Zone 3a status of the site and recommends a finished floor level for the ground floor commercial space of 33.615 metres above ordnance datum (AOD). This would be above the 1 in 100 year flood level, which is assessed as being 33.4 metres AOD. It says that the apartments, being at first floor, would be well above even the 1 in 1,000 year predicted flood level (of 34 metres AOD).
7. The Planning Practice Guidance (PPG) classifies proposed types of development according to their flood risk vulnerability. The appeal proposal involves some commercial space at ground floor which would be classified as 'less vulnerable', but the greater part of its floorspace would be for residential apartments, which fall under the 'more vulnerable' classification. In such mixed use scenarios, the PPG advises that the highest vulnerability category should be used i.e. 'more vulnerable' in this case. The PPG includes a compatibility table which indicates that in Flood Zone 3a locations, an 'exception test' is needed for more vulnerable development.
8. The National Planning Policy Framework (the Framework) seeks to avoid inappropriate development in areas at risk of flooding by directing development away from areas at highest risk¹. It requires plans to apply a risk based approach to the location of new development and, so as to avoid flood risk to people and property, this should involve applying the 'sequential test' and then, if necessary, the exception test².
9. The appellant has submitted a 'sequential test'. The appellant's approach is to disaggregate the development into its commercial and residential elements. With regard to the commercial element, the application seeks permission for a range of A class uses within an indicative 200 square metre floorspace area. The appellant's research and analysis of Blandford town centre contends that there are no alternative sites capable of accommodating a 200 square metre retail development. This conclusion is not accepted by the Council which has suggested a number of potential alternatives, although these are not in Blandford.

¹ Paragraph 155 - National Planning Policy Framework (February 2019)

² Paragraphs 156 – 161 - National Planning Policy Framework (February 2019)

10. The appellant's sequential test regarding the residential element of 16 apartments sets out that any alternative site should be reasonably available and be outside flood risk areas, but within defined settlement boundaries. It says that no alternative sites have been found. However, it provides no details on the site search or its geographical extent. The appellant's sequential test also highlights the Council's current lack of a 5 year housing land supply and that the appeal site is necessary to help fill the shortfall.
11. In my assessment, based on the submissions before me, the commercial element of the scheme could pass the sequential test, although I noted that there are available commercial premises in the town centre that could accommodate the uses if disaggregated (rather than in one 200 square metre block). However, I consider that the evidence before me concerning the residential element does not demonstrate that the sequential test has been passed. This is because there is very little detail provided and it is unclear what testing area has been employed.
12. Whilst I recognise that the commercial component could justify a more focused sequential test search area (i.e. the town centre), the application of the sequential test for housing purposes must be more broadly based. This is because national policy is premised on the imperative of directing new development, particularly more vulnerable types such as housing, away from areas at highest risk of flooding.
13. Whilst the Council's housing land supply issue is noted, it has not been demonstrated that any shortfall cannot be addressed on sites in lower flood risk areas. Furthermore, the Framework's Footnote 6 specifically excludes areas at risk of flooding from the paragraph 11 presumption in favour of sustainable development (the so called 'tilted balance'), in circumstances where a housing land supply shortfall renders the Council's relevant policies out of date.
14. In the light of my assessment that the sequential test has not been passed in this case, it is not necessary to consider the exception test under paragraph 160 of the Framework. I have noted the various technical submissions made by the parties, including those concerning mitigation through finished floor levels and matters relating to a culvert that crosses the site.
15. I conclude on this main issue that the development would be 'more vulnerable' under the PPG classification, and that it would constitute inappropriate development in a Flood Zone 3a area. Whilst I consider that the sequential test for the commercial space element could be passed, the sequential test has not been passed for the residential element, which comprises the greater part of the development. As such, the development would conflict with North Dorset Local Plan Part 1 (NDLP) (January 2016) policy 3 (climate change) and policy 16 (Blandford), the Framework's policies concerning flood risk and the guidance contained in the PPG. All of these policies and guidance seek to manage flood risk and avoid inappropriate development in areas at high risk of flooding.

Character and appearance of the Blandford Forum Conservation Area

16. The appeal site lies within the Blandford Forum Conservation Area (BFCA) which covers the historic town centre and an area stretching southwards along West Street (including the appeal site) and crossing the river Stour. There are also Conservation Area designations to the west of the appeal site which cover the riverside meadows and extend to Bryanston.

17. To the north of the appeal site, most of the eastern side of West Street comprises Listed buildings which are predominantly 2 and 3 storeys, some with accommodation in their roofs served by dormer windows. The Crown Hotel on the west side of West Street is a notable and prominent Listed building, which has a principal elevation facing southwards towards the appeal site, over customer and public garden areas and there are some Listed structures in this area, including a milestone. The historic bridges to the south of the appeal site are also Listed.
18. I have not been made aware of any formal Conservation Area appraisal of the BFCA but, in my assessment, the appeal site is situated in an area that sits notably beyond the established built up area of the historic town centre. It forms part of a relatively open swathe of land that separates the built development of the town centre, comprising the historic buildings along West Street and Market Place, and more modern buildings such as the supermarket (to the north-east of the appeal site), from the River Stour to the south. Indeed, other than the small single storey Riverside House on the appeal site, this open zone is largely devoid of buildings.
19. Whilst submitted in outline, 'scale' is not a reserved matter. The submitted drawings indicate a building with a footprint that would fill most of the site. The indicative elevations show a building which, when viewed from West Street, would be 3 storeys at its northern end (closest to the town centre) and then rise up a further floor to 4 storeys, with the upper floor accommodation housed within a steeply pitched roof structure, with dormer windows serving the apartments.
20. I have noted the appellant's submissions about scale and its contentions that the BFCA would be arguably enhanced by redevelopment of this 'gateway' site. However, in my assessment the scale of the proposed building would be excessive and imposing and it would not respect or complement that of existing buildings on West Street. It would rise notably above nearby building heights, including the immediately adjacent Magnolia Court, and would appear over dominant, bulky and incongruent. Moreover, I assess that it would be visually disruptive from a range of public viewpoints, including the approach to the town centre from the south, from the front of the Listed Crown Hotel and when seen from The Ham to the east, and the meadows to the west. These harmful effects are exacerbated by the site's currently open nature, which contributes to the character of the BFCA and the setting of the historic town centre.
21. The proposal would also cause some harm to the settings of Listed buildings in the vicinity, by virtue of its large scale imposing itself within the surroundings within which these heritage assets are experienced. This would include harmful effects on the settings of the Crown Hotel, the Masonic Hall and Phylvic Lodge to the north of the site, and the historic bridges to the south of the site.
22. On this main issue, I conclude that the proposal would not preserve or enhance the character and appearance of the BFCA and it would cause harm to it. I further conclude that there would be some harm to the settings of Listed buildings. I assess that these harms to the BFCA, which is a heritage asset in its own right, and the Listed heritage assets within it, would be 'less than substantial' in terms of the Framework's paragraph 196, but they are not insignificant. As a result, the proposal conflicts with NDLP policies 5 (The Historic Environment), 16 (Blandford) and 24 (Design) which seek to ensure

that new developments, amongst other matters, conserve and enhance the historic environment. The proposal also conflicts with section 16 of the Framework which similarly seeks to conserve and enhance heritage assets.

Highway safety

23. The Council's putative highways reason for refusal alleges that insufficient information has been provided with regard to access safety. It claims that there are inconsistencies in the plans concerning whether or not the existing junction radius is to be adjusted. However, this is a car free development and no vehicular access is proposed into the site itself. Any works to the existing junction, which serves an extensive parking area and lorry servicing for the supermarket, appear to be minor in nature and the finer detail is quite capable of being addressed by a suitable Planning condition, in circumstances where this appeal were to succeed.
24. On this main issue, I am satisfied that the evidence does not demonstrate that the development would cause any highway safety issues and, accordingly, I find no conflict with the relevant policy 13 of the NDLP.

Other Matters

25. I have noted the willingness of the appellant to enter a Planning obligation to provide an element of affordable housing in line with the Council's policy requirement. I have also noted the findings of the appellant's study concerning the site ecology.

Planning Balance and Conclusion

26. Whilst I am satisfied that there are no highway safety reasons to withhold permission, I have assessed that the proposal would involve inappropriate development within an area of flood risk which would be contrary to national and local plan policies. I have also assessed that the development would not preserve or enhance the BECA and would be harmful to its character and appearance and to the settings of Listed buildings within it.
27. Whilst recognising that there would be some public benefits arising from the development, including a contribution to local housing supply and some economic and social benefits, these would, taken collectively, be quite limited and would not outweigh the flood risk and heritage objections, which provide clear and compelling reasons to refuse this development. For these reasons, and taking all other matters into account, the appeal is dismissed.

P. Staddon

INSPECTOR