



Appeal Decision

Site visit made on 20 September 2022

by K Ford MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th October 2022

Appeal Ref: APP/W2845/W/22/3295078
161 Euston Road, Northampton NN4 8DX

- 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 Mr Jacek Luniewski against the decision of West Northamptonshire Council.
 - The application Ref WNN/2021/0518, dated 16 July 2021, was refused by notice dated 17 January 2022.
 - The development proposed is change of use from house in multiple occupation (use class C4) for 4 occupants to house in multiple occupation (use class C4) for 5 occupants.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have used the description of development as it appears on the Council's decision letter and the appeal form as it comprehensively describes the development proposed.

Main Issue

3. The main issue is whether the development would be safe from flooding.

Reasons

4. The appeal site is a 2 storey end of terrace property in a residential road. The dwelling is currently occupied as a House in Multiple Occupation (HMO) with 4 occupants. All the bedrooms are at first floor level. The site lies in Flood Zone 2 and is subject to protection by the River Nene flood defences.
5. The National Planning Policy Framework (NPPF) says that where Flood Risk Assessments (FRA) are required they should demonstrate, amongst other things, that development is appropriately flood resistant and resilient and that any residual risk can be safely managed.
6. The submitted FRA does not demonstrate that the proposed ground floor bedroom would be safe from flooding due to the finished floor levels. I note the appellants comments regarding the proposed flood resistant doors and alarm but overall the flood resilience measures and evacuation/ refuge arrangements in the FRA are limited and the evacuation and refuge arrangements are inappropriate given the reliance on a windowless staircase and landing and no communal first floor accommodation available. The management of flood risk is

- consequently poor and as such residents of the ground floor bedroom would not be adequately mitigated from flood risk.
7. The probability of the River Nene flood defences failing may be low but the Environment Agency identifies that they are not negligible or de minimis and the consequences could be significant. I agree. The scheme would create an unacceptable increase in flood risk and risk to life and therefore conflicts with the NPPF in this regard.
 8. Whilst the appellant has made reference to a planning permission granted for a HMO nearby, the property is not subject to the same level of flood risk due to differences in floor levels. It is not therefore directly comparable with the case before me.
 9. The appellant has questioned the weight that should be attached to the comments of the Environment Agency. Although the Environment Agency initially identified that the site was in flood zone 3 rather than flood zone 2, this was corrected and they reaffirmed their objection in January 2022. The Environment Agency is a statutory consultee on development in flood risk areas and I have given appropriate weight to their comments in the determination of the appeal as a result.
 10. The development would not be safe from flooding and as such would conflict with the part of Policy BN7 of the West Northamptonshire Joint Core Strategy which requires that all new development must demonstrate that there is no increased risk of flooding to existing properties and proposed development is (or can be) safe and shall seek to improve existing flood risk management. It would also conflict with Principle 3 of the Housing in Multiple Occupation Supplementary Planning Document which identifies that development proposals should not result in an increase in flood risk and that ground floor sleeping accommodation will not be appropriate in flood zone 2 or 3 unless the finished floor level of the property is set sufficiently to mitigate the risk of flooding. It also identifies that such developments are required to demonstrate through a FRA that the development is safe from the risk of flooding from all sources and includes safe refuge.

Conclusion

11. For the reasons identified, I conclude that the appeal should be dismissed.

K Ford

INSPECTOR