

Reference: 15/00730/FUL

Applicant: Springbourne Homes Ltd

Location: Land Adjacent To 5 Kingfisher Way Sheepy Parva

Proposal: Proposed changing rooms and summer house to serve approved dwelling and associated tennis court (re-submission)

RECOMMENDATION:- Refuse planning permission.

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as the Chief Planning and Development Officers considers it necessary to be considered by Members.

Application Proposal

The application seeks full planning permission for the erection of a changing room facility and summer house, to serve the previously approved tennis courts and dwelling. The proposed development comprises of a timber framed building, which would be situated on stilts 600mm above ground floor level. The building measures 14.4 metres in width and 5.7 metres in depth and would be single storey.

Development has commenced on the site. Foundations have been laid in preparation for the building. It is therefore considered that part of the development is retrospective. The site is located to the west of No. 5 Kingfisher Way and south of the proposed dwelling approved under planning permissions 14/00536/FUL and 14/01105/FUL. Kingfisher Way comprises of five residential dwellings. The dwellings are large detached two storey properties. To the south of the site is Sheepy Mill, which has been converted into a block of flats. Directly adjacent to the site is an approved tennis court. The River Sence runs through the centre of the site and there are mature trees along the boundaries.

The site is located outside the settlement boundary of Sheepy Magna and is located within Flood Zone 3b.

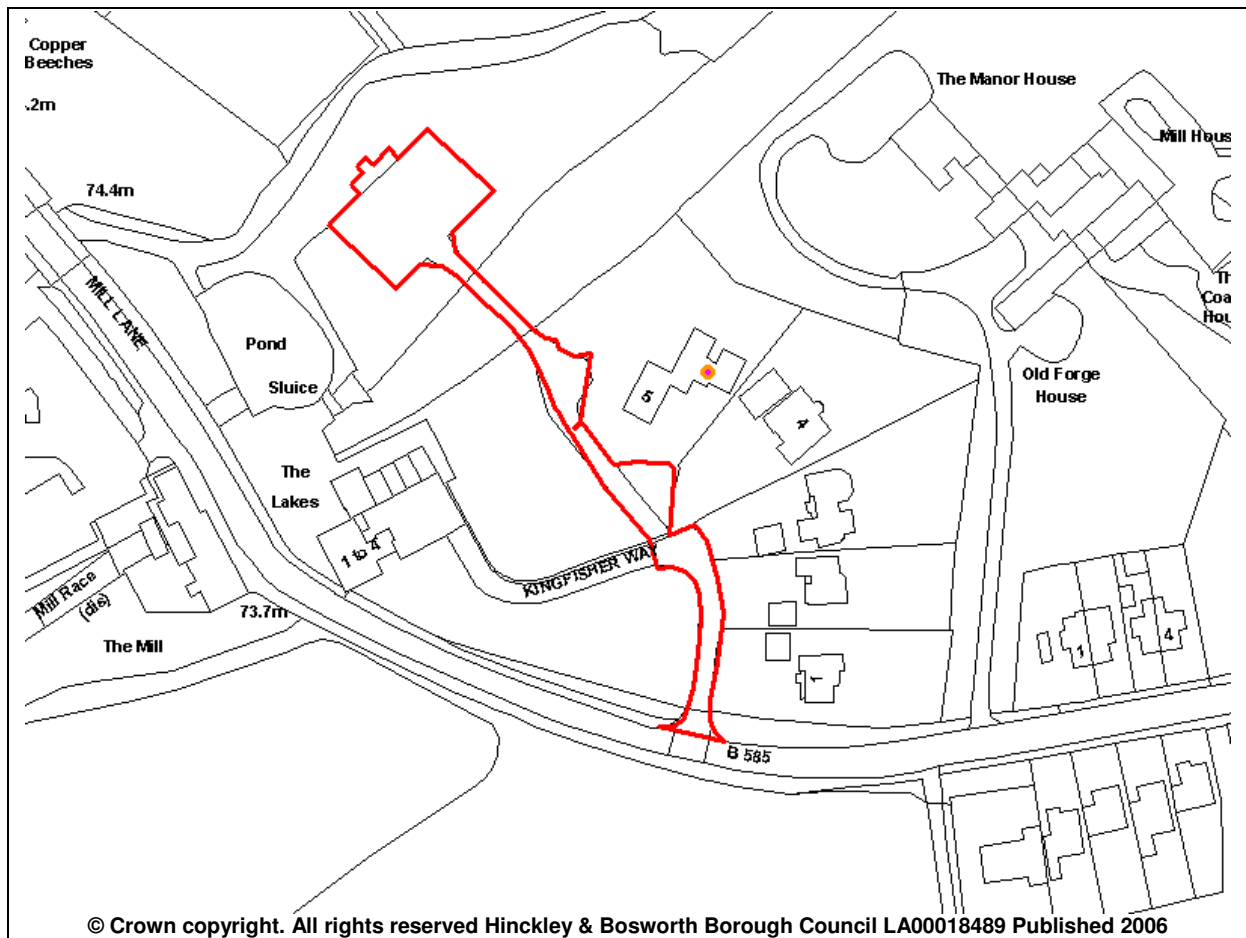
Technical Documents submitted with application

Flood Risk Assessment
Sequential and Exception Test

Relevant Planning History:-

15/00136/FUL	Proposed changing rooms to serve tennis court (revised proposal)	Refused	11.05.15
14/01139/FUL	Erection of changing rooms to serve tennis court	Withdrawn	08.01.15
14/01105/FUL	Substitution of house type approved by planning permission 14/00536/FUL to allow for a handed plot	Granted	05.02.15

14/00536/FUL	Erection of a live/work unit (revised proposal)	Granted	15.09.14
14/00135/FUL	Erection of a live/work unit	Withdrawn	09.04.14
06/01282/FUL	Erection of one dwelling	Refused	08.03.07
01/00656/FUL	Construction of tennis court and retention of fishing lodge	Granted	13.09.01



Consultations:-

No objections have been received from:-

- Leicestershire County Council (Ecology)
- Environmental Health (Pollution)
- Environmental Health (Drainage)

An objection has been received from the Environment Agency on flood risk grounds and that the development does not conform to the requirements set out in the National Planning Policy Framework.

Sheepy Parish Council has objected to the proposal stating that the development is inappropriate development within Flood Zone 3b.

Six letters of neighbour objection have been received, raising the following concerns:-

- a) the land in question is part of the active/functional flood plain and is regularly covered with water when the river is flooded. As a result, any development in this area will affect the flooding capacity through both water storage and water flow and the permeable capacity of the ground
- b) a previous planning approval states that the tennis courts "shall be used for the benefit of the occupiers of Kingfisher Way only" all residents are within 2 minutes walk and therefore there is no need for the changing rooms
- c) with the construction of the tennis courts and the foundations the land levels have been raised which subsequently reduces the ability of the flood plain.

Policy:-

National Policy Guidance

National Planning Policy Framework (NPPF) 2012
National Planning Policy Guidance - Flood Risk and Coastal Change

Hinckley & Bosworth Local Plan 2001

Policy BE1: Design and siting of development
Policy NE5: Development in the Countryside
Policy NE13: The effects of development on natural watercourses
Policy NE15: Protection of river corridors

Appraisal:-

The main considerations in determination of this application are:-

- Principle of Development
- Flooding Issues
- Design and siting of building and impact on the character of the countryside

Principle of Development

The site is located outside the settlement boundary of Sheepy Magna, as defined on the proposals map of the adopted Local Plan and therefore within an area designated as countryside.

Policy NE5 of the Local Plan directs development to the most sustainable locations by categorising acceptable forms of development within the countryside. Criterion C of this Policy is supportive (in principle) for development for sport or recreation purposes.

The National Planning Policy Framework provides a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved and where relevant policies are out of date, planning permission should be granted unless an adverse impact of doing so would significantly and demonstrably outweigh the benefits.

As this development is for a changing facility to be used in connection with a private tennis court, it would be compliant with criterion C of Policy NE5 and therefore would be considered acceptable in principle.

Flood Risk

This application site is located within Flood Zone 3b, as identified on the Environment Agency Flood Risk maps. This zone has a high probability of flooding.

Policy NE13 of the Local Plan states that planning permission will not be granted for development proposals which would inhibit or damage the drainage functions of the natural watercourse system, unless adequate on or off site protection works are undertaken. This includes development in areas which form part of the flood plain and areas at risk from flooding.

Policy NE15 of the Local Plan states that planning permission will not be granted for development in or adjoining a river or other watercourse corridor which would either have an adverse effect on its land drainage function or result in the loss of the recreational amenity and nature conservation value of the river or watercourse corridor.

Paragraph 103 of the NPPF states that when determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment, following the Sequential Test, and if required the Exception Test it be demonstrated that:

- Within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location; and
- Development is appropriately flood resilient, including safe access and escape routes where required, and that any residual risk can be safely managed, including emergency planning; and gives priority to the use of sustainable drainage systems.

The Environment Agency has objected to the application and has raised a number of concerns in relation to the site specific flood risk assessment. The Environment Agency have concluded that the submitted Flood Risk Assessment fails to demonstrate that the proposed development would not have an adverse impact on the flood plain and would not inhibit or damage the drainage functions of the natural watercourse system and it fails to demonstrate that flood risk would not be increased elsewhere. Accordingly on these grounds the development is considered contrary to Policies NE13 and NE15 of the adopted Hinckley and Bosworth Local Plan and Paragraph 103 of the NPPF.

The National Planning Policy Guidance (NPPG) to the National Planning Policy Framework classifies development types according to their vulnerability to flood risk and provides guidance as to what types of developments are appropriate in each Flood Zone.

Within Table 2 under the water compatible development, it only accepts development which is for "amenity open space, nature conservation and biodiversity, outdoor sports and recreation and essential facilities such as changing rooms". This proposal is for a changing room and a summer house is therefore not considered an essential facility. Therefore as the development is not classed as water compatible, it would therefore be considered as 'Less Vulnerable' in accordance with Table 2 within paragraph 67 of the NPPG. With the development therefore been classed as 'Less Vulnerable' and in accordance with Table 3 within the NPPG it states that this kind of development is not appropriate within Flood Zone 3b.

As the proposal is considered as 'Less Vulnerable' development the submission of an exception test is not considered applicable as the development in principle is not in accordance with paragraph 67 of the NPPG.

Table 3: 'Flood Risk vulnerability and flood zone compatibility' within the NPPG identifies suitable types of development, in accordance with their Flood Risk Vulnerability Classification for each flood zone. As stated above, the development in question would be classified as a less vulnerable use. Such uses are not considered acceptable with Flood Zone 3b (functional floodplain), such as this.

On this basis, as the development has been classified as constituting 'Less Vulnerable' development and would be sited within Flood Zone 3b, in accordance with Paragraphs 103, supported by paragraph 67 of the NPPG, the development proposed would not be considered acceptable.

Design and Siting and Impact on the Character of the Countryside

Policy BE1 of the Local Plan seeks to ensure a high standard of design. More specifically, criterion (a) is supportive of development which complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.

The design criteria of Policy NE5 of the Local Plan are in conformity with the NPPF generally. These state that development in the countryside should not have an adverse impact on the character or appearance of the landscape, should be in keeping with the scale and character of existing buildings and general surroundings and be effectively screened by landscaping.

The proposed outbuilding would be of a large scale and mass and would be sited within an area classified as countryside.

Notwithstanding this however, the building would be sited on parcel of land which has been subject to a degree of development, including the erection of tennis courts, which has changed its historic, rural character. The building would be sited adjacent to the boundary of the site and would benefit from a degree of screening provided by the boundary hedge. As such it would not be visually prominent from any public vantage point. By virtue of its timber construction, the building would not appear unduly prominent when viewed from the surrounding countryside, furthermore, given that the building would be used in association with the tennis courts, it would not appear as incongruous.

The proposal would benefit from some additional landscaping to further aid its assimilation within its setting, however, on balance, based upon the above, the proposal is not considered to have a materially harmful impact on the character of the surrounding countryside of landscape.

The development is therefore considered to be in accordance with Policy BE1 and NE5 of the adopted Hinckley and Bosworth Local Plan 2001.

Planning Enforcement Concerns

Paragraph 207 of the NPPF states that when considering taking enforcement action local planning authorities should act proportionately in responding to suspected breaches of planning control. In this instance the foundations of the proposed building have been installed therefore it would be expedient for the local planning authority to take enforcement action to remove the foundations by the serving of an enforcement notice should planning permission be refused.

Conclusion

The application is for a proposed changing rooms and summer house to serve the approved dwelling and associated tennis court. The proposal is situated outside the settlement boundary of Sheepy Magna and is located within an area of a high probability to flooding. By virtue of the development, it is considered that the proposal is classed as 'Less Vulnerable' and is considered not to be an acceptable development within this sensitive location. Therefore the proposal is contrary to Policies NE13 and NE15 of the adopted Hinckley and Bosworth Local Plan, and the overarching principles of the NPPF and the NPPG and therefore planning permission is recommended to be refused.

RECOMMENDATION:- Refuse planning permission.

In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

Reasons:-

- 1 In the opinion of the local planning authority the Site Specific Flood Risk Assessment has failed to demonstrate that the proposed development would not have an adverse impact on the flood plain and would not inhabit or damage the drainage functions of the natural watercourse system and that flood risk would not be increased elsewhere. The development is classified as 'Less Vulnerable' and being sited within Flood Zone 3b, in accordance with paragraph 103 of the NPPF, supported by paragraph 67 of the NPPG. Therefore the development is considered contrary to Policies NE13 and NE15 of the adopted Hinckley and Bosworth Local Plan and Paragraph 103 of the NPPF.

Notes to Applicant:-

- 1 The plans used in the determination of the application:- Proposed Scheme (Drawing Number: 12/70 18A, Scale 1:200 & 1:100), Site Plan (Drawing Number: 12/70 16 A, Scale: 1:500) received by the Local Planning Authority on the 30 June 2015.

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