
Appeal Decision

Site visit made on 20 February 2017

by Veronica Bond LLB (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 6th March 2017

Appeal Ref: APP/V3310/W/16/3160334

**Meadow Farm, Biddisham Lane, Biddisham, nr Axbridge, Somerset
BS26 2RJ**

- 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 Richard Cox against the decision of Sedgemoor District Council.
 - The application Ref 03/16/00013, dated 5 July 2016, was refused by notice dated 13 September 2016.
 - The development proposed is described as 'to erect 5 no camping pods with ancillary toilet block and landscaped areas to the frontage of the pods together with open gazebo'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. It was apparent from my site visit that 5 camping pods, along with a toilet block and gazebo had been erected on site. The development on site did not though entirely accord with the plans before me. For the avoidance of doubt, I determine the appeal based on the application plans and not the development as seen.

Main Issue

3. The main issue is whether the proposal represents an acceptable form of development having regard to its flood zone location, relevant development plan policy and the provisions of the National Planning Policy Framework.

Reasons

History/background

4. The appeal site lies within Flood Zone 3, being the area at highest risk of flooding. I note though that historically the site has not flooded, including during the significant flooding events on the Somerset Levels in 2014, and that historically there is no evidence of flooding within 1 kilometre of the site.
5. The application follows an appeal in respect of a similar proposal on site and one against an enforcement notice issued in respect of that development¹. The

¹ APP/V3310/C/15/3133372; APP/V3310/W/15/3134860

former was dismissed and the enforcement notice upheld, save as regards the time for compliance and particular details of one of the requirements. The present proposal would raise finished floor levels above the highest level of an area falling within Flood Zone 1, which is close to the appeal site.

Policy

6. Policy D1 of the Council's Core Strategy May 2013 (adopted September 2011) (the CS) states that all development proposals within Flood Zones 2 and 3 must pass the Sequential Test unless there is a specific exception contained within the National Planning Policy Framework (the Framework), or the site is allocated for development in the CS. Neither of these circumstances applies in this case. As such, the Sequential Test is required to be applied such as to demonstrate that there are no suitable alternative sites available within lower risk flood zones.
7. The Framework similarly seeks to direct inappropriate development away from areas at the highest risk of flooding. Footnote 22 to paragraph 104 of the Framework confirms that the Sequential Test should be applied to changes of use to a caravan, camping, or chalet site. If the Sequential Test is passed, the Framework indicates that the Exception Test can then be considered. Thus it is necessary to consider first whether the present proposal passes the Sequential Test.

Sequential Test

8. Policy D1 of the CS confirms as regards the Sequential Test, that it is the responsibility of applicants to demonstrate that there are no reasonably available alternative sites at lower risk of flooding within a defined search area. The search area will be the Sedgemoor District area unless one of the circumstances detailed in Policy D1 are applicable. The only such circumstance of potential applicability here is whether it can be demonstrated that the development has a specific locational requirement based on functional requirements, or to meet a specific local need.
9. The appellant has not provided any detailed assessment as to other reasonably available alternative sites, save to briefly discount some sites suggested by the Council, without any detailed evidence in support of their unsuitability. Whilst I have sympathy with the appellant's stated financial position, there is nothing in local or national policy such as to indicate that the unavailability of resources obviates the need to properly undertake the Sequential Test.
10. The appellant contends in any event that the search area should be restricted to land within the ownership of the appellant, all of which is apparently within Flood Zone 3. This is on the basis that it is more convenient for managing, servicing and maintenance purposes for the camping pods site to be adjacent to the main farm operation. A reduction in car trips made for these purposes, along with security benefits and availability in times of emergency are cited also. No doubt there would be modest benefits as outlined. These do not though amount to a requirement in the terms of Policy D1, particularly given that many other holiday accommodation facilities operate without owners being on site.
11. There would clearly be some additional costs entailed in the use of an alternative site, as compared to the camping pods being located on land

already owned by the appellant. The appellant cites in this regard also that the existing farming business is not financially robust, along with the local and national policy support for farm diversification and encouragement of tourism uses.

12. No detailed evidence is presented though such as to indicate that the use of an alternative site would not be viable, and indeed there does not appear to have been any detailed consideration given to this option. Further, whilst it appears that the farm business would benefit from an alternative income stream, there is no evidence that the only possible option in this regard is that as proposed and which is in conflict with fundamental national and local policy.
13. By way of comparison, the appellant cites a similar development permitted adjacent to the Fox and Goose Public House in Brent Knoll which lies within Flood Zone 3. It appears that on site convenience was recognised as a factor in that case. I do not have full details of that case in order to form a detailed comparison with the appeal proposal. However, it appears that in the Fox and Goose case, weight was given to the likely benefits of patronage of the public house by holiday makers.
14. Although such patronage was not secured by condition or planning obligation, this does not alter the fact that it was considered a likely outcome of that development. There might be some benefits to the appeal proposal in terms of patronage of local public houses but the likelihood of this is not comparable to the situation where a holiday site is located immediately adjacent to a public house. Whilst the public house development was apparently for a higher number of bed spaces and thus of greater risk, nonetheless it would not on the evidence before me, appear to be a directly comparable form of development.

Risk/benefits

15. The appellant makes a detailed case as to the limited level of risk that would be entailed in the proposal and measures which could be taken to further reduce such risk. These are matters though of relevance to the Exception Test. As the Sequential Test is not passed on the evidence before me, the proposal does not progress to be considered against the Exception Test. Conditioning the development for summer occupation only also would not overcome the fundamental policy objection outlined.
16. High occupancy rates are cited such as to indicate a demand for the development, along with particular features which draw visitors to the site. Sustainability credentials are also referred to. There is nothing to suggest though that the level of demand would be significantly altered were the camping pods to be located in a lower flood risk area. There is apparently limited holiday accommodation in the area but I have no specific details supporting this.
17. Although there was no objection raised by the Environment Agency, this was on the basis of the Sequential Test having been passed. Pre-application advice apparently indicated that planning permission would not be required if a caravan club certificate were applicable but I have no evidence to suggest that is the development before me.
18. Thus the proposal would not represent an acceptable form of development having regard to its flood zone location, relevant development plan policy and

the provisions of the National Planning Policy Framework. It would fail to comply with Policy D1 of the CS as outlined and with the Sequential Test detailed in the Framework and in the Government's Planning Practice Guidance.

Conclusion

19. Leaving aside its flood zone location, there is some in principle support for the development. The proposal would also bring forward some modest benefits as outlined and received support from the Parish Council. There would be no concerns as visual impact, residential amenity or access but these are only neutral matters. Even together, these aspects do not outweigh the development plan conflict and harm found. In view of this, the proposal does not represent the sustainable development in respect of which the Framework creates a presumption in favour. For the above reasons, the appeal should fail.

Veronica Bond

INSPECTOR