
Appeal Decision

Site visit made on 3 July 2017

by V Lucas-Gosnold LLB MCD MRTPI

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

Decision date: 28 July 2017

Appeal Ref: APP/Y3425/W/17/3173118

Radford Bank, Lichfield Road, Stafford, Staffs, ST17 4PQ

- 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 Ewan Morrison (Knights South Staffs BMW) against the decision of Stafford Borough Council.
 - The application Ref 16/25399/COU, dated 7 December 2016, was refused by notice dated 24 February 2017.
 - The development is change of use of a small part of an adjacent field for staff parking.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The development which is the subject of this appeal has already been carried out. Retrospective permission is therefore sought.

Main Issues

3. The main issues are:
 - The effect of the development on the character and appearance of the area; and
 - The effect of the development on flood risk.

Reasons

Character and appearance

4. The appeal site is an area of land that has been laid out to form a car park. It is adjacent to an existing car park to the east which forms part of a car dealership complex. There is also an access track which runs to the rear of the site that provides access to the fields beyond and is used by the Wildlife Trust via an easement. Lichfield Road runs to the north of the site and the appeal site is separated from the highway by a hedgerow. A public footpath also crosses the site via an entrance gate. For the purposes of the development plan, the appeal site is outside of the settlement boundary for Stafford and part of the River Penk river valley which is identified as Green Infrastructure.
5. Lichfield Road is a busy thoroughfare with high volumes of traffic travelling along it. There is development along the road to the east and west of the site, including other car dealerships and a supermarket. The area therefore has an

urban feel. However the River Penk bisects the area in a north to south direction and the flat land either side of the river that forms part of the river valley remains largely green, open and undeveloped. This can be particularly appreciated from public viewpoints on the highway as one crosses the bridge over the river where open views of the river valley can be appreciated. This area of land is therefore an attractive feature and serves as a form of visual separation between the urban areas and also establishes a more natural, rural feel that gives the river valley a distinct visual appearance. The character of the area is therefore defined by an urban area with an open and undeveloped river valley running through it.

6. Whilst the appeal site is adjacent to existing development, the car dealership complex is within a defined area. The site would see a narrow, roughly rectangular extension into an area of land that forms a distinct visual part of the river valley. Whilst views of the car park may be screened in some instances by the hedgerow running along the site that is not the case when looking from the road further to the east where direct views of the site are visible. The car park that has been created is a harmful intrusion into the countryside and significantly detracts from the open, rural feel of the river valley.
7. The metal fencing used by the farmer in connection with caring for his cows is typical of the features that one would expect to see in the countryside and this does not therefore visually detract from the appearance of the surrounding fields that form part of the river valley. Whilst it may be that the land has previously been used to temporarily store materials on it relating to highway and electricity works that use has now ceased and I therefore attach limited weight to this consideration.
8. Accordingly, I conclude on this main issue that the development is harmful to the character and appearance of the countryside. The development therefore conflicts with policies SP6 (ii), SP7 (ii), (iii) and (iv), N4 (g) and E2 of The Plan for Stafford Borough (Adopted June 2014) which together seek to ensure the conservation and improvement of the rural environment and that green infrastructure networks will be protected.

Flood risk

9. The appellant in their final comments disputes that the site is within Flood Risk Zone 3. However no specific technical evidence has been submitted to confirm this. Additionally, a Flood Risk Assessment submitted by the appellant with the application states that the appeal site is within Flood Risk Zones 2 and 3 and the Council assessed the application on that basis. The Environment Agency has also confirmed that the boundary of the site is within Flood Risk Zone 3 according to their Flood Map which is based on detailed hydraulic modelling of the River Penk. The appeal site is approximately 26m from the river and is therefore in close proximity. On the evidence before me, I am satisfied that the boundary of the appeal site is within Flood Risk Zone 3.
10. Footnote 20 of paragraph 103 of the National Planning Policy Framework (Framework) states that a site specific flood risk assessment is required for all new development in Flood Risk Zones 2 and 3. Whilst a Flood Risk Assessment (FRA) was submitted with the original application, the Environment Agency (EA) objected to the development on the grounds that this document is not satisfactory.

11. The EA's consultation response identifies a number of shortcomings with the FRA. Specifically, the FRA is unnamed and undated. It does not assess the potential flood depth, extent and flood hazard on the site. There is also no plan showing the finished ground levels prior to the development taking place or as they currently are following the construction of the car park to show whether there has been any ground raised within flood zone 3 and what, if any, flood risk implications there may be as a consequence.
12. It is stated that the cars will only be parked there between 07:00 to 18:00 on Mondays to Saturdays and that no vehicle would be left unattended and could be easily moved in the event of a flood. However, the FRA does not consider the detailed requirement for flood emergency planning including flood warning and evacuation of people, and vehicles, for a range of flood events up to and including an extreme event. The plan should show that people and vehicles can safely leave the area if there is a flood and with enough time to vacate once a flood warning has been received.
13. Whilst these deficiencies in the FRA could be rectified through the inclusion of additional information, they have not been in the FRA submitted with this appeal. I note the appellant has indicated willingness for a third party to undertake an independent assessment of the flood risk of the site. However that would be for the appellant to commission a suitably qualified professional to undertake an FRA that complied with the relevant guidance as set out in the Framework and Planning Practice Guidance.
14. In these circumstances, whilst the appellant may state that the land has not been known to have flooded in 30 years and that the land slopes away, the FRA as submitted does not clearly demonstrate that the development is appropriately flood resilient and resistant, including safe access and escape routes where required, and that any residual risk can be safely managed, including by emergency planning; and that it gives priority to the use of sustainable drainage systems. The development therefore conflicts with paragraph 103 of the Framework which states that development should only be considered appropriate in areas at risk of flooding where it is informed by a site-specific flood risk assessment.
15. Accordingly, I conclude on this main issue that the development will be likely to be harmful in terms of flood risk. The development therefore conflicts with policies N2 and SP7 (iii) and (iv) of LP which seek to ensure that development takes particular account of the need to ensure protection from, and not worsen the potential for, flooding; does not conflict with environmental protection objectives; and that provision is made to address any harmful implications. The development also conflicts with paragraph 103 of the Framework as set out above.

Other Matters

16. I note the appellant's reference to wishing to use the car park on the appeal site so as to avoid staff parking on local roads and that the car park is only intended as a temporary solution until the business is relocated. However, that does not outweigh the harm to the character and appearance of the area or flood risk that I have identified.
17. The appellant has also stated that if the car park is not in place then the farmer will have to unload his cattle at the roadside. If that were to be the case then

presumably that would reflect the usual practise prior to the development that has taken place. There is no evidence before me to indicate that this caused specific highway safety concerns. I therefore attach little weight to this consideration.

Conclusion

18. For the reasons given above, I conclude that the appeal should be dismissed.

V Lucas-Gosnold

INSPECTOR