
Appeal Decision

Site visit made on 19 December 2017

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

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

Decision date: 12 January 2018

Appeal Ref: APP/H1840/W/17/3179923

Land known as Botany Bay, Woodlands Farm, West Side, North Littleton, Evesham WR11 8QP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Gary Albutt against the decision of Wychavon District Council.
 - The application Ref AB/16/02384/AB, dated 4 October 2016, was refused by notice dated 19 January 2017.
 - The development proposed is steel framed agricultural building.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The site address in the above header is taken in part from the description of the site address on the original planning application form with the rest from the appeal form, as the full address is not included on the former.

Main Issue

3. The main issue is whether or not the proposed development would be appropriate in respect of the risks from flooding.

Reasons

4. Class A of Schedule 2, Part 6 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) sets out that development is classed as permitted development if it consists of the carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of: (a) works for the erection, extension or alteration of a building; or (b) any excavation or engineering operations, which are reasonably necessary for the purposes of agriculture within that unit. Paragraph A.1 sets out the circumstances where development is not permitted. Paragraph A.2 sets out the conditions which apply to Class A development including the need to submit an application to the local planning authority for determination as to whether the prior approval of the authority will be required as to the siting, design and external appearance of the building.
5. The Council has not raised any issues with respect to the criteria in paragraph A.1 and I have no reason to consider otherwise and likewise in respect of the

design and external appearance of the building. It therefore remains for me to consider the siting of the proposed building.

6. The proposed development would be located close to the gates serving two fields on the northern side of the farm unit, accessed via a track running from the main farm access drive a fairly short distance to the south. The appellant claims that the building, to provide food storage to serve winter grazing, would be financially essential for the farm unit.
7. The site is located within Flood Zone 3 where there is a high risk of surface water flooding. Paragraph 100 of the National Planning Policy Framework (the Framework) states, amongst other things in relation to avoiding inappropriate development in areas at risk of flooding, the initial requirement to apply a Sequential Test. Paragraph 101 sets out that the aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. The Strategic Flood Risk Assessment will provide the basis for applying this test. A sequential approach should be used in areas known to be at risk from any form of flooding. Policy SWDP28 of the South Worcestershire Development Plan (the SWDP) is consistent with this.
8. Flood Zone 3 in the vicinity of the farm extends alongside the watercourses running adjacent to the southern and western boundaries of those fields referred to previously. Most of those fields and the farm unit generally are outside of Flood Zone 3. The proposal would be close to the end of the track serving the fields concerned and so would be easily accessed. However, insufficient substantive evidence has been submitted to demonstrate that a building for storing food for animals in those fields could not be reasonably and sufficiently conveniently sited elsewhere out of Flood Zone 3 in the fields concerned or on the farm unit generally. In the latter case, it has not been clearly demonstrated why such storage needs to be immediately adjacent to where the animals are grazing, particularly given the fairly short distance from the main farm buildings to the south.
9. The appellant claims that a building could not be located on higher land at the north-west corner of the unit as this would involve crossing the field and the laying of a hard standing track which would defeat the object of being easily accessible to service the animals. However, such a location would still be close to the grazing animals and I have received no evidence to indicate that a track could not be formed or to demonstrate that the field could not be crossed by suitable farm vehicles without a formal track.
10. It is also claimed that since the Environment Agency (the EA) completed extensive works in the area, there has been no flooding that has caused any danger or damage to property in the village to the appellant's knowledge. I also note that the appellant has worked with the EA to clear silt and debris from the brook and that he has given permission for the EA to lay a drainage gully on his land. However, I have received insufficient substantive evidence relating to the extent and nature of those works or to indicate that there would no longer remain a high risk of flooding in the future, even if normally the river is contained well within its banks. I have also determined this appeal on its merits despite the appellant's claim that a structure on adjacent land owned by a neighbour is more likely to be a flood risk.

11. Notwithstanding the above issues relating to the Sequential Test, I have had regard to the submitted Flood Risk Assessment (FRA). It refers to the proposed development being classified as less vulnerable (land and buildings used for agriculture or forestry) and appropriate for development. However, this in itself does not address the Framework's requirements to avoid inappropriate development in areas at risk of flooding. It also refers to the normal level of the adjacent brook being between 1 and 1.5 metres below ground level. However, this does not provide any substantive evidence as to likely possible flood levels. It also highlights that water run-off from the proposed building would be collected in catchment tanks and stored for livestock drinking water. Although that would lessen the amount of rainfall reaching the ground at that location, there is no substantive evidence provided to demonstrate that this would materially reduce any flooding risk.
12. Policy SWDP 28 of the SWDP also requires a minimum 8 metre access strip to be provided adjacent to the top of both banks of any watercourse for maintenance purposes other than in exceptional circumstances. I have not received sufficient substantive evidence relating to any exceptional circumstances in this case. The appellant states that the siting of the proposed building could be adjusted to accommodate this requirement. However, I have no such proposal before me to enable me to consider the merits of this and have determined the appeal on the basis of the submitted plans.
13. For the above reasons, the proposed development would not be appropriate in respect of the risks from flooding. As such, it would be contrary to paragraphs 100 and 101 of the Framework and policy SWDP28 of the SWDP.

Conclusion

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

Andrew Dawe

INSPECTOR