
Appeal Decision

Site visit made on 16 May 2018

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 25 May 2018

Appeal Ref: APP/H0928/W/18/3195565

Land at Church Road, Greystoke, Penrith CA11 0TW

- 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 R Kellett against the decision of Eden District Council.
 - The application Ref 17/0243, dated 28 March 2017, was refused by notice dated 19 December 2017.
 - The development proposed is 2 no stable buildings and feed storage building.
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Decision

1. The appeal is allowed and planning permission is granted for 2 no stable buildings and feed storage building at Land at Church Road, Greystoke, Penrith CA11 0TW in accordance with the terms of the application, Ref 17/0243, dated 28 March 2017, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location and Site Plan Rev 04, Proposed Elevations Rev 04 and Proposed Plans Plan Rev 04.
 - 3) No development in association with the feed storage building shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping.
 - 4) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
 - 5) The 2 no stable buildings and feed storage building hereby approved shall be used solely for non-commercial purposes.

Application for costs

2. An application for costs was made by the appellant against Eden District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The stable buildings have been erected and thus this part of the development is retrospective. The feed storage building is proposed and I have considered the appeal on this basis.
4. The Council changed the description of development and this was agreed by the appellant. I have used the Council's description, however, I have removed the words '*part retrospective application for retention*' as these are not acts of development.
5. The classification of the Flood Zone (FZ) changed during the Council's assessment of the application. An updated Flood Risk Assessment¹ (FRA) has been submitted with the appeal. This refers to the site being located with FZ 3, not FZ 2 as stated in the October 2017 FRA. The Council's reason for refusal details that the site is in FZ 3. As a result, all parties involved in the appeal proceedings would have been aware that the site was in FZ 3. Therefore, no one would be disadvantaged by me taking this updated document into account.
6. Policy DEV2 of the Eden Local Plan Proposed Submission Version 2014-2032 (LP) is referred to in the first reason for refusal. I note that the examination of this plan is in its final stages. Therefore, having regard to paragraph 215 of the National Planning Policy Framework (the Framework); I will give this draft policy considerable weight in my assessment.

Main Issues

7. The main issues are:
 - i) the effect of the development upon the character and appearance of the area; and,
 - ii) whether the proposal would comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

Character and appearance

8. The site is located in the pleasant rural village of Greystoke, between the village centre and the Church, opposite open fields and the outdoor pool. The site features the existing stables, with hardstanding laid from the access road, and fields to the rear. To the side of the site is a sub-station building.
9. The feed storage building would be located close to the access point, being around 8m wide, 14m long with an apex height of around 4.6m. It would be constructed with timber clad walls and a grey fibre cement roof.
10. Whilst stables and associated buildings are not a common feature in the village setting, the area has an intrinsic rural character, being surrounded and indeed interspersed by open fields and agricultural or equestrian uses. Thus, it would not be unusual or indeed incongruous to see buildings for equestrian purposes in the area. The stables are of a modest size, set back from the road side and have a functional appearance. They have no harmful effect upon the character and appearance of the area.

¹ Prepared by Andy Poole BEng (Hons) CEng MICE for Tweddell & Slater Ltd. Dated January 2018.

11. The feed storage building would be larger, but it would be sited close to the stables and follow the building line along Church Road, and would not appear unduly prominent. It would be of a moderate height and suitable material choice, in keeping with the stables; and subject to a suitable landscaping scheme, would be an acceptable addition to the street. Equally, when viewed from longer range viewpoints, such as Icold Road, it would be seen as a functional equestrian storage building that is neither harmful nor overly prominent.
12. Whilst I am aware of the nearby listed buildings, the development is not located within the setting of these structures. Additionally, less traditional built forms are situated close to the proposal, for example, the swimming pool building and the substation, and the proposal would not appear incongruous in this street scene. Furthermore, given the siting of the buildings, on approach from Church Road, views of St Andrews Church and the War Memorial Bridge would not be compromised.
13. Consequently, the proposal would have an acceptable effect upon the character and appearance of the area. I find compliance with Policy CS2 of the Eden District Council Core Strategy Development Plan Document (March 2010) (CS), which seeks to ensure that development respects the character of the village.

Flooding

14. The site is located approximately 40 metres to the west of the River North Petteril, and lies in FZ 3. The Environment Agency (EA) advise that the new building is categorised as 'less vulnerable' based on the flood risk vulnerability classification set out in Planning Practice Guidance² (PPG). The FRA sets out there will be no increase in surface water for the development, as the site is to drain to ground as existing.
15. The Council are concerned that the development would likely result in an increased risk of flooding within the locality due to an increase in the built form of the area and through the inclusion of an increased area of hardstanding. They also assert that site specific consideration should be taken into account such as historic flood events in the locality, and neighbouring residents have provided anecdotal evidence and photographs of flooding in the area.
16. The Sequential Test has been applied, indicating there is no other suitable land of less flood risk available within the ownership of the appellant, owing to access issues or the potential negative visual effect. This is undisputed by the Council and I have no reasons to disagree. Thus the Sequential Test is passed.
17. Table 3 of the Flood Risk and Coastal Change PPG sets out that 'less vulnerable' development in FZ 3a is appropriate, but 'less vulnerable' development in FZ 3b should not be permitted. As the classification of land in the FZ recently changed from 2 to 3, I have no unequivocal evidence indicating whether the site lies in FZ 3a or 3b. However, the appellant asserts that the site is in FZ 3a, and has provided data from the EA flood mapping systems that indicates that the site would be subject to less than 3.3% annual probability of fluvial flooding. They also provide evidence of 'recorded flood outlines' from 30 July 2002 that shows the flood event did not affect the site. The Council does not dispute these findings. Therefore, I agree that the site is likely to be within in

² Paragraph: 066 Reference ID: 7-066-20140306 Revision date: 06 03 2014

FZ 3a, and not part of the FZ 3b functional flood plain. This being the case, the development would be appropriate and the Exception Test is not required.

18. Moreover, I note that the EA have no objections to the development, set out in their comments dated 25 September 2017, which take account of the updated FZ 3.
19. I have had significant regard to the neighbouring letters and comments. However, whilst anecdotal evidence and photographs are useful and provide local knowledge, no substantive evidence has been presented to demonstrate that this development would directly result in an increased risk of flooding in the locality.
20. Indeed, having regard my findings above, and taking account of the lack of objection from the EA, I am satisfied that the proposal would not lead to an increased risk of flooding in the area.
21. Therefore, the proposal would comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding. I find compliance with Policy CS4 of the CS that seeks to not increase the risk of flooding elsewhere. I also find compliance with draft Policy DEV2 of the LP that seeks to ensure development must be in a location which meets the sequential approach to development in flood risk areas.

Other Matters

22. Mud on the road, the water supply, the burning of materials, horse debris fouling the stream, the smell of horses and use of the land for equestrian activities are not matters that would justify withholding planning permission.
23. I have assessed the proposal upon its own merits, and future proposals or planning applications at the site are unrelated to the appeal before me.
24. Despite assertions from neighbouring residents, no harm from the Council or their highway's department has been raised in relation to highway safety matters and I have no reasons to disagree.

Conditions

25. The approved plans are listed for clarity. The use of the site for commercial purposes may lead to additional traffic movements and a more intensive use of the site. For these reasons, I find it necessary to impose a condition that requires non-commercial use.
26. Condition 3 is required to be a pre-commencement condition as it is necessary to have these details agreed before development commences.

Conclusion

27. For the reasons set out above, the appeal succeeds.

Katie McDonald

INSPECTOR