



Appeal Decision

Site visit made on 18 November 2019

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2019

Appeal Ref: APP/A1530/W/19/3235388

Rose Cottage, 126 Coast Road, West Mersea CO5 8PA

- 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 Open against the decision of Colchester Borough Council.
 - The application Ref 181928, dated 30 July 2018, was refused by notice dated 18 February 2019.
 - The development proposed is described as a proposed annexe building ancillary to Rose Cottage for the sale of fresh fish on the ground floor and artist studios at first floor level accessed by external stairs including enhanced access gateways, renovated boundary treatment and new hedge planting.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would comply with national planning policy which seeks to direct development away from areas at the highest risk of flooding.

Reasons

3. The development proposed is classed as 'less vulnerable' development that should not be permitted within Flood Zone 3b. The appellant contends that the site of the proposed building lies within Flood Zone 3a, with the lowest point of the building above the 3.86m above ordnance datum (AOD) 1 in 20 year flood level identified at the time the application was prepared. Floor levels within the building would be raised to 4.2m AOD, and therefore the appellant argues that the building would not be vulnerable to flooding.
4. The Environment Agency have advised that the development proposed is informed by out-of-date flood levels. The most recent Colne and Blackwater 2018 coastal modelling places the site of the proposed building within Flood Zone 3b, as the revised 1 in 20 year flood level is now 3.92m AOD. This means that part of the proposed building would fall within the functional flood plain.
5. Paragraph 155 of the National Planning Policy Framework (the Framework) states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Based on the most recent information, the development proposed would be inappropriate development in this location. While floor

levels within the building would be above the 1 in 20 year flood level, the proposed development would impede the flow of water in Flood Zone 3b.

6. I therefore conclude that the development proposed fails to comply with national planning policy which seeks to direct development away from areas at the highest risk of flooding. It would be contrary to Policies ENV1 of the Local Development Framework Core Strategy December 2008 and DP20 of the Local Development Framework Development Policies October 2010 which, among other criteria, seek to prevent development from increasing flood risk. These policies accord with the flood risk policies of the Framework.

Other Matters

7. The appellant has noted that there have been no objections to the proposed development from the Town Council or County Council as highways authority. The absence of identified harm on these points is a neutral consideration in the determination of this appeal.

Conclusion

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

M Chalk

INSPECTOR