



Appeal Decision

Site visit made on 7 January 2020

by Nick Davies BSc(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2020

Appeal Ref: APP/K1128/W/19/3235270

Old Stone Barn with land at SX778426, Frogmore

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr C Grigg against South Hams District Council.
 - The application Ref 0869/19/FUL, is dated 14 March 2019.
 - The development proposed is associated operational development to allow for conversion of stone barn to flexible use (cafe) as consented under prior approval 0189/19/PAU, including change of use of land to provide extended curtilage for associated access, parking, turning and landscaping.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Background and Main Issues

2. Change of use of the building, and any land within its curtilage, to a flexible use, which includes use as a café, is permitted by Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). The council determined, through application reference 0189/19/PAU, that prior approval of the change of use was not required as to transport and highways impacts of the development; noise impacts of the development; contamination risks on the site; and flooding risks on the site.
3. The appeal proposals involve operational development to the building, including an extension and an increase in its height; change of use of land outside its curtilage to an outdoor seating area; a new access road; and a car park. The development therefore goes well beyond the Schedule 2, Part 3, Class R description of permitted development, so planning permission is required.
4. The council failed to determine the planning application within the prescribed period, but has subsequently confirmed that planning permission would have been refused, and has identified its reasons. The main issues in this appeal are, therefore:
 - a) The effect of the development on the landscape character and appearance of the South Devon Area of Outstanding Natural Beauty; and,
 - b) Whether the development would be at risk of flooding, and whether it would increase flood risk elsewhere.

Reasons

Landscape character and appearance

5. The appeal building lies in the countryside, approximately 100 metres beyond the eastern edge of Frogmore. The site comprises part of an open valley landscape of gently undulating agricultural land, divided by hedgerows, with woodland on the upper valley slopes. The barn occupies a sheltered position, surrounded by hedges and a small copse of trees. Apart from a small courtyard, contained within a stone boundary wall, the building is surrounded by agricultural land. Due to these factors, and its traditional construction and historic agricultural use, it is a relatively inconspicuous and characteristic feature within the landscape.
6. The site lies within the South Devon Area of Outstanding Natural Beauty (the AONB). The built form of Frogmore is quite close to the west, but visually the appeal site relates much more closely to the wider landscape to the north, east and south. It is part of a swathe of pastoral land between the settlements of Frogmore and Chillington, that contributes positively to the landscape appearance of the AONB. Paragraph 172 of the National Planning Policy Framework (the Framework) advises that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.
7. The works to the barn include the addition of a lean-to extension, and the raising of the eaves and ridge of the main roof. In the context of the modest scale, and utilitarian appearance of the current structure, these are significant alterations. However, the extension would be contained within the courtyard, and therefore its impact on the wider landscape would be limited. The raised roof would be separated from the original stone walls by a thin strip of glazing, which would allow the original form of the barn to be discerned. The operational development to the building itself would not, therefore, harm its contribution to the landscape character of the area.
8. The proposed access road off the A379 would have a considerable impact on the landscape when viewed from the road, as it would involve a wide opening in the existing roadside stone wall, and significant engineering works across a currently undeveloped field. However, planning permission already exists for an access in a similar location.¹ It has also been established, via the prior notification process under Schedule 2, Part 6 of the GPDO, that a road extending from this access, and a new agricultural building to the east, would be permitted development². I have no evidence to suggest that the approved access, road and agricultural building would not be implemented if I were to dismiss the appeal, therefore they are material to my consideration.
9. The permitted access road would be perpendicular to the A379, and would cut straight down the slope and through the small copse of trees, before turning sharply left to serve the agricultural building. The access road now proposed would run across the contours, at a shallower gradient, to allow access to the permitted agricultural building at the same point. It would not impinge on the existing trees, and significant landscaping is proposed along both sides of the

¹ LPA ref: 2445/17/FUL

² LPA refs: 4104/18/AGR and 4105/18/AGR

road, which could be secured through a planning condition. Whilst this would not entirely mitigate its impact on the landscape, it would result in a more sympathetic means of access to the agricultural building than the permitted route.

10. However, the proposed road would also extend westwards, to serve a parking and turning area to the south of the barn. The additional length of road would be approximately 65 metres in length and 6 metres wide, with an engineered turning head to serve commercial vehicles. The parking area would contain 20 car spaces and a turning area. In combination, the road and car-parking area would cover a substantial amount of currently undeveloped land around the barn. Viewed from Mill Lane, looking east, the barn is currently seen in isolation from any other built development, and surrounded by grass fields and hedgerows. The road and carpark would significantly alter this setting and would be a harmful intrusion into the open countryside, which extends beyond the site to the east.
11. The carpark would also be readily visible from the A379 to the north, where it would appear as an intrusive feature in the undulating pastoral landscape. From this viewpoint it would be seen beyond the barn, robbing it of its agricultural backdrop. I am mindful of the appellant's suggestion that, rather than tarmac, as shown on the submitted drawings, the carpark could be surfaced with reinforced grass. This would reduce the harm, but it would not overcome it. The change in the character of the area would still be evident through the delineation of the spaces, the boundary fencing and the parked cars themselves.
12. As well as the carpark and access road, the extended outdoor seating area would also intrude into the open land outside the courtyard of the barn. This area would inevitably have to accommodate chairs and tables, but would also be likely to attract other paraphernalia, such as umbrellas, shelters, signage, etc which would be incongruous in this high-quality landscape. The proposed landscaping would go some way towards mitigating the impact of this element of the development, but there is likely to be some residual harm, and this adds to my conclusion that the development, as a whole, would be damaging to the landscape character of the area.
13. Consequently, for the reasons given above, I find that the proposals would have a harmful effect on the landscape character and appearance of the AONB. The development would therefore be contrary to Policies DEV23 and DEV25 of the Plymouth & South West Devon Joint Local Plan 2014-2034 (adopted 2019) (the Local Plan). These policies seek to conserve and enhance landscape character and scenic and visual quality, by avoiding significant and adverse landscape or visual impacts, and giving the highest degree of protection to the AONB. The proposal would also conflict with the advice in paragraph 172 of the Framework.

Flood risk

14. A stream runs to the south of the appeal site, adjacent to Mill Lane. The submitted drawings show that a significant proportion of the proposed carpark would be located within Flood Zone 2/3. Government policy, as set out in paragraphs 157 and 158 of the Framework, requires a sequential, risk-based approach to the location of development so as to avoid, where possible, flood risk to people and property. The aim of the sequential test is to steer new

development to areas with the lowest risk of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Policy DEV35 of the Local Plan broadly reflects this approach.

15. The Flood Risk Assessment submitted with the planning application did not explain how the sequential approach had been applied to the proposed development. The appellants have subsequently stated, as part of their appeal submissions, that it would not be possible to utilise land in Flood Zone 1 to the north of the barn for car-parking, as that land is required to provide access to the café. It is also stated that there is no other available land outside of the appeal site to accommodate the parking area.
16. However, the land to the south of the barn is an open field. The boundaries to the appeal site are not currently fixed by any features on the ground. There is no evidence to explain why more land in Flood Zone 1 could not be made available to accommodate the car-parking on a differently shaped site of the same area. Even if there were constraints that prevented a change to the shape, there would still appear to be scope, within the currently defined site, for a more efficient arrangement of the access and parking to avoid, or at least reduce, the extent of development within Flood Zone 2/3. Again, there is no evidence to demonstrate that the sequential process of avoiding development in Flood Zone 2/3 has been properly considered.
17. The appellants emphasise that there would be no buildings within the part of the site that lies in Flood Zones 2/3 and that the carpark could have a permeable surface to prevent an increase in run-off. Furthermore, it is claimed that the development would pass the exception test required by the Framework and Policy DEV35 of the Local Plan. However, paragraph 160 of the Framework states that the exception test should be informed by a site-specific Flood Risk Assessment. The brief Flood Risk and Drainage Assessment submitted with the planning application does not fulfil this requirement. Whilst more information has been provided within the appeal documentation, it does not amount to a cogent, site specific, Flood Risk Assessment.
18. In any event, the exception test should only be applied after the sequential test has demonstrated that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. It has not been demonstrated that this is the case. The proposal would therefore result in development taking place within Flood Zone 2/3 in conflict with the sequential test. The proposal would therefore be contrary to Policy DEV35 of the Local Plan, and Government policy on planning and flood risk, as set out in paragraphs 155 – 161 of the Framework.

Other Matters

19. The development would secure a use for the building, which is falling into disrepair, and this weighs in favour of the development. Policy TTV26 of the Local Plan allows for development in the countryside where it secures the reuse of redundant or disused buildings for an appropriate use. However, read as a whole, the policy also seeks to protect the special characteristics and role of the countryside, and requires development proposals to help enhance the immediate setting of the site. I have found that the proposals would be harmful to the landscape and the setting of the building, which reduces the benefits of its reuse.

20. The proposal would result in economic and social benefits, through the provision of employment and a local facility for residents of Frogmore. These benefits weigh in favour of the development. However, they do not outweigh the harm that I have found to landscape and scenic beauty in the AONB, and the great weight that the Framework applies to this issue.

Conclusion

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

Nick Davies

INSPECTOR