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# Appeal Decision

Site visit made on 10 March 2020

**by James Taylor BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 May 2020**

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**Appeal Ref: APP/V3310/W/19/3241642**

**New Road Farm, New Road, East Huntspill, Highbridge TA9 3PZ**

- 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 S Kidner against the decision of Sedgemoor District Council.
  - The application Ref 25/19/00013, dated 1 July 2019, was refused by notice dated 23 August 2019.
  - The development proposed is the conversion of barns to form two dwellings.
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## Decision

1. The appeal is dismissed.

## Main issue

2. The main issue is whether the proposal would present an unacceptable risk to future occupants of the development through potential sources of flooding.

## Reasons

3. The National Planning Policy Framework (the Framework) sets out at paragraph 163 that development should only be allowed in areas of flood risk where an appropriate site-specific flood risk assessment demonstrates that set criteria are satisfied. These include, ensuring that the development is appropriately flood resistant and resilient, and that residual risk can be safely managed. Policy D1 of the Sedgemoor Local Plan 2011-2032, adopted February 2019 (LP) is consistent with the aims of the Framework.
4. Furthermore, the Planning Practice Guidance (PPG) on flood risk in relation to changes of use that result in a higher vulnerability classification, sets out that future users of the development should not be placed in danger from flood hazards through the lifetime of the development. This may require mitigation measures. Additionally, the PPG guides on what is required from site-specific flood risk assessments, setting out that they need to be appropriate to the scale, nature and location of development.
5. The Environment Agency (EA) has raised objection to the proposal, including concern with the level of detail within the flood risk assessment and in particular the lack of safe refuge within the large barn. In locations such as this the EA advise that a first-floor refuge should be available. Whilst I find that there is no policy requirement to specifically provide a first-floor refuge in every case, I place significant weight on the statutory body's expert advice, including the need to have full regard to the undefended tidal flood levels.

6. The proposal would bring additional residents into an area of flood risk. Without adequate mitigation the development could, in the worst-case scenario, present a danger to human life. The appellant's various submissions, including their updated Specific Flood Risk Assessment, dated November 2019 and their Flood Warning and Evacuation Plan, dated November 2019, acknowledge that the site is at risk from flooding. Their evidence sets out the defended and undefended tidal flood levels. Whilst I acknowledge that the site is located within an area benefitting from existing flood defences and place some weight on this, the appellant's evidence does not pay sufficient regard to the tidal flood levels in the event of the existing defences failing. The likelihood of such an event can only increase in light of climate change and it is necessary for the development to be safe for its lifetime. The series of mitigation measures set out within the appellant's evidence are not clearly related to the undefended flood risks at the site. As such, whilst I acknowledge the proposals to use, for example, flood resistant doors, construction techniques and solid floors raised 300mm above the existing levels, the proposal cannot be considered to be appropriately flood resistant and resilient.
7. Additionally, the appellant's evidence presents an unclear strategy in relation to safe refuges. As such, this restricts the potential to reasonably manage residual risk through conditions. For example, whilst the plans show a first-floor refuge within the small barn, no means to secure this for the benefit of both dwellings is suggested. Furthermore, reference is made to a raised bedroom refuge, one metre above the existing levels. However, it is unclear which barn or bedroom is being referred to and how the refuge, or indeed raising the floors by 300mm, can be practically achieved within any conversion. Therefore, whilst I have given some weight to the proposed mitigation, including the proposed evacuation procedures and evacuation route, overall, based on the evidence before me, I do not consider that an adequate balance of the measures can be appropriately addressed by condition, and the residual risk is not being safely managed.
8. The appellant has referred to a number of examples of similar development being allowed in locations with the same risks. However, I have not been provided with full details such as to allow me to assess if the circumstances are the same. The appellant has also referred to historic flood events and storms that have not resulted in flooding at the site. However, I have no evidence that these events are the same as, or comparable to, the potential fluvial and tidal flooding risks relevant to this site. As such, I afford these matters limited weight.
9. Therefore, in conclusion on the main issue the proposal would present an unacceptable risk to future occupants of the development through potential sources of flooding contrary to Policy D1 of the LP, paragraph 163 of the Framework, and the PPG. The aims of these policies and the guidance is to ensure development will be safe over its lifetime by minimising and managing flood risks.

### **Other matters**

10. The appellant has stated that the Council cannot demonstrate an adequate housing land supply. The Council have highlighted that their LP was only recently adopted and found to be a sound base on which to determine proposals. In any event, I have found that flood risk provides a clear reason for

refusing the development proposed and as such the 'tilted balance' under paragraph 11d) of the Framework is disengaged. Nonetheless, the proposal would provide two additional dwellings and I find that this would have some benefit in terms of overall housing provision and mix, as well as supporting rural community facilities. However, given that the proposal is only for two dwellings I afford this limited weight.

11. From my site inspection I noted the general condition of the buildings and their relationship to the Grade II listed farmhouse. The benefit of finding an optimum viable use of the buildings through a sensitive conversion is an important material consideration, as is the benefit to the setting of the listed building. However, the weight of this is diminished as the buildings, to a greater or lesser degree, are being actively used in connection with the animal shelter. Furthermore, I have no evidence to suggest that the proposal would constitute enabling development to secure the upkeep of the listed farmhouse itself. Moreover, based on the evidence available, I am not convinced that the same benefits cannot be achieved without the harm I have previously identified.

## **Conclusion**

12. In conclusion, the proposals do not currently demonstrate appropriate flood resistance and resilience based on the site-specific flood risks, or clear and appropriate means to safely manage the residual risks. As such, the proposals would pose a significant risk to future occupiers. The proposal would provide some benefits including, the provision of additional housing, support to rural services and securing the significance of heritage assets. However, the evidence does not currently indicate that the benefits of the proposal would outweigh the harm.
13. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

*James Taylor*

INSPECTOR