



Appeal Decision

Site visit made on 15 July 2020

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 October 2020

Appeal Ref: APP/V3310/W/20/3245046

OS Field No.2559 to the east of Axbridge Moor Drove, Axbridge

- 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 Robin Heal against the decision of Sedgemoor District Council.
 - The application Ref 02/19/00012, dated 11 September 2019, was refused by notice dated 12 November 2019.
 - The development proposed is change of use of existing stable block building to a 1 bedroom dwelling house, including soft landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. An application for costs was made by Mr Robin Heal against Sedgemoor District Council and the Environment Agency. This application is the subject of separate Decisions.

Main Issues

3. The main issues are i) the effect of the development on the character and appearance of the area; and ii) whether the proposed development would be acceptable in respect of the risk of flooding, having regard to the advice of the National Planning Policy Framework (the Framework) and Planning Practice Guidance (PPG).

Reasons

Character and appearance

4. The appeal site is located to the south of Axbridge, consisting of a stable building and adjoining land accessed from Axbridge Moor Drove. The surrounding land is generally open, flat and rural, characterised by pastoral farmland between drainage channels and drove roads. This affords long range views across the landscape including from the publicly accessible Cheddar Reservoir to the east. Sporadic and dispersed buildings are evident within the landscape that are predominantly within agricultural or equestrian use.
5. The proposal seeks to convert the existing stable building for use as a one bedroom dwelling, with associated garden and parking on surrounding land.

6. My attention has been drawn by both parties to a previous Inspector's decision APP/V3310/W/18/3211937 at the site for a broadly similar proposal, where the Inspector dismissed the appeal having identified harm to character and appearance through the introduction of a residential use, garden and associated activity. The plans submitted with the current appeal indicate that hedgerow planting would be provided to enclose the proposed garden areas and a mix of heavy standard, native trees would be provided within land to the east.
7. As detailed by the previous Inspector, I consider that the proposal would result in a sense of domestication and urbanisation from the residential use, associated domestic paraphernalia and use of surrounding land. This would be in contrast to the present arrangement which maintains an agricultural character.
8. Whilst I acknowledge the proposed landscaping, I am not satisfied that any such harm resulting from the appeal development would be adequately mitigated by the proposed scheme. Although there are hedgerows and pockets of trees within the surrounding landscape, I consider that the landscape is distinctive in its character and predominantly open in its form. I do not consider that the introduction of additional trees to screen the development would constitute an enhancement to the surrounding landscape. In any event, I am not persuaded that any suggested screening benefit from the proposed hedgerow and tree planting would be effective, particularly in the short to medium term to overcome the harm identified.
9. I acknowledge the presence of an equestrian use has resulted in associated paraphernalia and movements to and from the site, although I am not persuaded that the presence or existing impact of such, is readily comparable to the nature and intensity of a residential use. As such I do not consider that this justifies allowing a form of intrusive development through domestication of the site. Nor am I satisfied that any harm associated with a residential use would be adequately mitigated by way of conditions controlling permitted development rights.
10. I agree with the findings of the previous Inspector that the site is not closely associated with the settlement of Axbridge and am not persuaded by the appellants contention that it is close to a town. Although I acknowledge that the stable falls within a group of buildings, even if the appeal development would result in an isolated home in the countryside as referred to by paragraph 79 of the Framework, for the aforementioned reasons I have found harm with regard to character and appearance that would not be sufficiently mitigated by proposed landscaping. As such I consider that the appeal proposal would not meet the additional requirement of paragraph 79 c) of the Framework that requires such development enhances its immediate setting.
11. Having considered all the above, I conclude that the appeal proposal would cause significant harm to the character and appearance of the area. As such the proposal would be at odds with the provision of Policies D2 and D19 of the Sedgemoor Local Plan 2019 (SLP) that amongst other things seek development that responds positively to and reflects local characteristics and protects local landscape character. Conflict would also occur with the National Planning Policy Framework including Chapters 5 and 12 and guidance contained within the

adopted Sedgemoor Planning Guidance Note on the Conversion of Agricultural/Rural Buildings (2014).

Flood Risk

12. There is no dispute between the parties that the appeal site is located within Flood Zone 3B, the functional floodplain. It therefore has a high probability of flooding. The PPG identifies that a building used for a dwelling house is classed as a more vulnerable use (Table 2). Table 3 'Flood risk vulnerability and flood zone 'compatibility'' sets out that more vulnerable development should not be permitted in Flood Zone 3b. Paragraph 155 of the Framework states that inappropriate development in areas of risk of flooding should be avoided by directing development away from areas at highest risk and where development is necessary it should be made safe for its lifetime without increasing flood risk elsewhere.
13. I acknowledge the provisions of paragraph 164 of the Framework which states that minor development and changes of use applications should not be subject to the Sequential or Exception Tests, unless falling within certain types of development. Given the nature of the appeal scheme, I find that neither the sequential or exception test is required in this case.
14. However, Policy D1 of the SLP states that 'where the sequential test is considered to be passed the vulnerability of the development must still be compatible with the Flood Zone, including application of the Exception Test (as required). A Flood Risk Assessment must also demonstrate that the development will be safe... including access/egress issues'. To my mind, this is consistent with the provisions of paragraph 155 of the Framework and the PPG in terms of compatibility of development, that indicate that more vulnerable development should not be permitted within Flood Zone 3b. Therefore, although I note the content of paragraph 164 and that even if the sequential and exception tests are not required, I am not persuaded that this absolves the requirement to ensure that more vulnerable development, such as the appeal proposal, should not be permitted within Flood Zone 3b.
15. Furthermore, I am not persuaded that the FRA satisfactorily demonstrates that future occupiers would be safe from flood risk, particularly with regard satisfactory access and egress in the event of a flood event. Although flood warning measures would be available and evacuation plans provided to future occupiers, I am not satisfied on the evidence before me that such an arrangement is appropriate where a more vulnerable use is proposed. As such having regard to the guidance within Table 3 of the PPG and paragraph 155 of the Framework, I consider that the development would be inappropriate and should not therefore be permitted.
16. I note the content of the Environment Agency (EA) local standing advice and that this **may** [my emphasis] apply to development within Flood Zone 3. However, a consultation response has been provided in line with national standing advice contained within the 'Review individual flood risk assessments: standing advice for local planning authorities' referred to in Paragraph: 043 Reference ID: 7-043-20150415 of the PPG. This states that the EA should be consulted for development involving a change of use where the flood risk vulnerability classification will be either 'more vulnerable' or 'highly vulnerable' within Flood Zone 3. For the reasons given above, I consider the advice

contained within this response to be consistent with that within the PPG and Framework.

17. Although I acknowledge the comments of the previous Inspector (APP/V3310/W/18/3211937), I consider that these comments were made with regard to the acceptability of the use of the first floor in the absence of a consultation response and reason for refusal relating to flood risk. Noting this, I have considered this appeal scheme on its individual merits that include a consultation response from the Environment Agency and consider that the previous Inspector's comments do not outweigh the harm identified above.
18. For the above reasons, I conclude that the proposal would be inappropriate development within the Flood Zone 3b. As such I find conflict with Policy D1 of the SLP, and the advice contained within the PPG and Chapter 14 of the Framework.

Other matters

19. I note the content of the letter of support received with the application suggesting that the proposal would improve the character of surrounding land and suggested brownfield nature of the site. However, it is incumbent upon me to consider the proposal in line with the relevant policies and for the reasons given above I have found harm with regard to the main issues including character and appearance. Whilst the content of the letter is noted I do not consider that any suggested visual improvement of the site outweighs the harm I have identified with regard to the main issues.
20. Whilst I note that the proposed planting may provide some ecological benefits, I am not persuaded that any such benefit outweighs the harm or alters my conclusions above with regard to the main issues.

Conclusion

21. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Robert Lankshear

INSPECTOR