



Appeal Decision

Site visit made on 12 January 2021

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th January 2021

Appeal Ref: APP/C1625/W/20/3260218

Old Passage Inn, Passage Road, Arlingham GL2 7JR

- 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 Richard D'Arcy-Evans against the decision of Stroud District Council.
 - The application Ref S.20/1444/COU, dated 16 July 2020, was refused by notice dated 21 September 2020.
 - The development proposed is change of use from mixed use (residential/restaurant/bed & breakfast) to dwelling house (Use Class C3).
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Richard D'Arcy-Evans against Stroud District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposal is in an appropriate location in relation to flooding.

Reasons

4. The site is located on the banks of the River Severn at Arlingham within Flood Zone 3, which is a zone with a high probability of flooding¹ and is calculated notwithstanding anecdotal accounts of local flooding events. The proposal is for residential development, which is classed as being more vulnerable to the effects of flooding². Paragraph 163 of the National Planning Policy Framework (the Framework) requires that safe access and escape routes are included where appropriate. Given the combination of risk (flood zone) and baseline vulnerability (residential development where people sleep in the building) it is appropriate to ensure that safe access and escape routes are provided as part of the proposal. Planning Practice Guidance³ states that such routes should allow occupants to safely access and exit their property in design flood conditions. That is, during design flood conditions. The ability to evacuate prior to design flood conditions does not necessarily remove this requirement or influence whether it is appropriate or not. Limited depths of flooding along the route may be acceptable, but only where such depths are not dangerous.

¹ Planning Practice Guidance, Paragraph: 065 Reference ID: 7-065-20140306

² Planning Practice Guidance, Paragraph: 066 Reference ID: 7-066-20140306

³ Planning Practice Guidance, Paragraph: 039 Reference ID: 7-039-20140306

5. The proposal would rely on evacuation by boat, within depths of around 3m over a distance of 1.3km to safety. Notwithstanding whether this facilitates the voluntary and free movement of people during design flood conditions, it has not been demonstrated that such a procedure is viable for those with mobility impairments, including those who are elderly or disabled, and compliant with principles surrounding access for all. Consequently, the proposal does not cover the full spectrum of potential needs for evacuation.
6. As a result, the only safeguards relate to early warning systems and prior evacuation, the effects of which cannot be guaranteed during times of sleep and are therefore not comprehensive. Notwithstanding some of the potential resilience measures, such as sleeping accommodation at first floor level, these would not overcome the fundamental requirement to achieve safe access during a design flood event.
7. Even though a condition was suggested by the Environment Agency in lieu of an objection, given the evidence at hand, it is not clear how a Flood Warning and Evacuation Plan would meet the requirements under Paragraph 163 of the Framework. In that, evacuation by foot appears unsafe given flood depths, and evacuation by boat appears unviable for those with mobility impairments and principles surrounding access for all. Consequently, it would be unreasonable to grant planning permission on the basis of a condition where it has not been demonstrated that compliance is achievable in principle.
8. It is not clear how it can be concluded that there will be a reduction in flood risk on the basis of intensity alone, when the commercial character of the existing use is not comparable with a wholly residential use insofar as patrons of the former are transient and can make an informed choice about occupation whereas residents of the latter are permanent and cannot.
9. In any event, there is no evidence in front of me demonstrating that the presence of an existing more vulnerable use absolves a proposal for a new more vulnerable use from according with Paragraph 163 of the Framework in its own right and on its own merits. Furthermore, the appellant has acknowledged that the existing commercial use is not viable and consequently any potential betterment would carry limited weight.
10. In a similar context, it is true that changes of use do not require sequential or exception testing, but Paragraph 164 of the Framework is clear that such development still need to meet the requirements for site-specific flood risk assessments, which in essence need to include evidence demonstrating compliance with Paragraph 163 of the Framework.
11. Overall, the proposal would not be in an appropriate location in relation to flooding, and even if there is no dispute about conflict with Policy ES4 of the Stroud District Local Plan 2015, other material considerations under Paragraph 163 of the Framework dictate that permission should be refused. Among other things, the paragraph requires that safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

Other Matters

12. The site is within Arlingham Conservation Area and adjacent to a Grade II Listed Building in the form of a milestone. The change of use directly relates to a property that is a non-designated heritage asset.

13. Among other things, these designated and non-designated heritage assets derive some significance from their riverside location and former role serving as an old crossing point over the River Severn. Given the proposal is a change of use of limited scale and does not include building operations, the character and appearance of these designated and non-designated heritage assets would be preserved in accordance with statutory requirements.
14. There is no evidence that the property, through the long term pervasive effects of vacancy and dilapidation, has deteriorated to the extent where it detracts from the prevailing heritage significance of the area. Accordingly, the proposal would not result in enhancement effects which generate beneficial weight in the planning balance. The proposal would result in preservation effects which generate neutral weight in the planning balance and does not therefore alter the assessment of the main issue or conclusions therein.
15. The site is within the zone of influence for the Severn Estuary Special Area of Conservation (SAC). It is not clear how the intensity of the existing use can be advanced as a material consideration when the commercial viability of the use has been put into question by the appellant. Consequently, the benefits of reducing recreational pressure on the SAC have not been fully substantiated. In terms of other potential impacts, as I am dismissing for other reasons, I have not considered the implications of the proposal further in this regard.

Conclusion

16. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR