



Appeal Decision

Site visit made on 22 June 2021

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2021

Appeal Ref: APP/R1845/W/21/3269009

**Land at Former Stourport on Severn Sports Club
Harold Davies Drive DY13 0AA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Michael Loveridge against the decision of Wyre Forest District Council.
 - The application Ref 20/0624/S73, dated 6 August 2020, was refused by notice dated 13 October 2020.
 - The application sought planning permission for change of use of land from leisure centre & associated parking to a touring caravan site for up to 51 touring pitches with associated reception building and infrastructure without complying with a condition attached to planning permission Ref 19/0054/FULL, dated 27 April 2020.
 - The condition in dispute is No 17 which states that: The land intended for the permitted use as a holiday caravan park shall only be used for the stationing of touring caravans during the period between 1st March and 31st October only, and no person shall stay at the holiday caravan park for a period in excess of 3 weeks continuously at any one time, nor return to the holiday caravan park until a period of at least 2 weeks has lapsed.
 - The reason given for the condition is: In order to ensure proper control of the use of the holiday caravan park, to prevent the establishment of permanent residency and to reduce the risk of flooding elsewhere, in accordance with Policies CP02 and CP11 of the Adopted Core Strategy and Policies SAL.CC7 and SAL.UP7 of the Adopted Site Allocations and Policies Local Plan and the National Planning Policy Framework.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The original reasons given for the condition when planning permission was granted by the Council is an important starting point for considering disputes under the appeal. Notwithstanding, the Council's reasons for refusal under the application subject to this appeal are also important and my assessment must be based on present circumstances and so is not confined to the original reasons given for imposing the condition. The appeal has been dealt with accordingly.

Application for Costs

3. An application for costs was made by Mr Michael Loveridge against Wyre Forest District Council. This application is the subject of a separate decision.

Main Issues

4. The main issues are the effect of removing the condition on;
 - (a) flood risk of future occupiers; and
 - (b) living conditions of future occupiers.

Reasons

Flood Risk

5. The site is located directly to the south west of the River Severn, in reasonably close proximity to its banks and mostly within Flood Zones 2 and 3, which are zones with a medium to high probability of flooding¹. The proposal relates to holiday or short-let caravan development, which is classed as being more vulnerable to the effects of flooding².
6. 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 (development where people sleep on site and generally reside for extended periods) it is appropriate to ensure that safe access and escape routes are provided as part of the proposal.
7. Planning Practice Guidance³ states that such routes should allow future occupiers to safely access and exit their property in design flood conditions. That is, during design flood conditions and not just before them. The ability to evacuate prior to design flood conditions does not necessarily remove this requirement.
8. Limited depths of flooding along the route during design flood conditions may be acceptable, but only where such depths are not dangerous. The design flood conditions in this case could see parts of the site flood to depths of around 1.5 metres, and notwithstanding velocity these are significant depths that would cause a serious hazard for occupiers attempting to evacuate. There is no evidence in front of me demonstrating that safe access routes are located above design flood levels and that they avoid flow paths for the entirety of their extent.
9. Table 1 of the Flood Plan, which appears to be the most up to date document on flooding at the site submitted by the appellant, is clear that some flooding of Harold Davies Drive may be expected with depths between 0.71 and 1.46 metres in design flood conditions. However, dry access and egress to the site would subsequently be provided via Bridge Street.
10. It is not clear how, if Harold Davies Drive is flooded, even if only in part, future occupiers would reach Bridge Street safely, as it appears as an interconnecting highway. Even if the highways remained free from flooding to an acceptable degree, it is still unclear if all of the caravans themselves, or land immediately around their pitches would be free from flooding and therefore whether future occupiers could safely access and exit the site and their caravans in design flood conditions.

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

11. The Environment Agency's report⁴ and consultation responses from North Worcestershire Water Management confirm that 29 out of 33 recorded flood events that occurred in the area were during autumn and winter.
12. The appellant acknowledges that an upstream catchment of Bewdley will inevitably influence water levels further downstream and the events in February 2020 resulted in flooding within Stourport on Severn. Consequently, the risks of flooding at the site are tangible and appear exacerbated during autumn and winter.
13. Furthermore, there are concerns from the Environment Agency regarding the potentially accelerated speed of flooding events during these periods, due to higher rainfall, saturated catchments, and the speed of surface water runoff. This was apparent during the flooding events of February 2020, where modelling of the reasonable worst case scenario was inaccurate.
14. The appellant contends that these scenarios are unlikely, but it has not been demonstrated that the likelihood of such a scenario happening in the future is acceptably low. It is therefore important to take such a scenario into account as a new form of reasonable worst case scenario and plan for it accordingly in order to protect the site's future occupiers from unacceptable flood risk.
15. Notwithstanding safe access or escape routes, and even accepting the principle of evacuation before design flood conditions, the Flood Plan would appear to rely on the best case scenario for lead times where the river would start from a low flow baseline and then gradually increase. This does not account for the reasonable worst case scenario during autumn and winter, as described above. Consequently, occupiers would not benefit from an adequate degree of flood risk protection from evacuation alone.
16. The appellant asserts some factors that could potentially mitigate shorter lead times during these periods. One of the presumptions is that caravans could be easily taken off site. The appellant also suggests occupancy rates in the autumn and winter would be lower and therefore evacuation would be timelier. However, if the owners of the touring caravans aren't actually at the site during these periods, it remains to be seen whether there will be sufficient numbers of responsible people to move them from their pitches, if not already offsite for winter storage.
17. Whatever the case may be, even if the owner of the site is able to remove the touring caravans in a timely manner, which is debateable depending on the site owner's availability, acuteness of lead times and the number of touring caravans to be moved, it is not clear where they would be taken to. For example, taking a large number of touring caravans to nearby highways would appear unfeasible due to congestion and highway safety concerns.
18. Regarding temporary refuge, it is not clear how long it would take for a flooding event to end. Consequently, it may be the case that future occupiers become stranded in a place of refuge for periods of time that are not appropriate. Notwithstanding, there is no evidence to suggest that the existence of temporary refuge removes the requirement to deliver safe access and escape routes during design flood conditions, or otherwise mitigates compromised evacuation procedures.

⁴ Future Flood Risk Management at Beales Corner / Wribbenhall, Bewdley, Worcestershire 2014

19. Condition No. 19 relates to the original planning permission for development outside of autumn and winter (as secured by Condition No. 17) where the likelihood and characteristics of flooding appear to be materially different. Consequently, the Flood Plan submitted pursuant to discharging Condition No. 19 was considered in this context. Therefore, it is unclear how the Council's discharging of that condition can be leveraged against the proposal in this case, which relates to occupation during autumn and winter.
20. Even if the site is not to be regarded as functional floodplain, it would still fall within the relevant flood zones as previously described and there is no evidence in front of me that the assessment of flood risk would be any less restrictive, or that the conclusions therein would be more favourable to the appellant's proposal.
21. Overall, removing Condition No. 17 would result in unacceptable levels of flood risk for future occupiers during the autumn and winter months and would conflict with Policies CP01 and CP02 of the Wyre Forest District Council Core Strategy 2010, and Policy SAL.CC7 of the Wyre Forest District Council Site Allocations and Policies Local Plan 2013. Among other things, these policies seek to ensure development is not permitted in areas where flood risk is inappropriate.

Living Conditions

22. There is no evidence in front of me demonstrating that the precise seasonality restrictions relating to the stationing of touring caravans within Condition No. 17 is necessary to control permanent residency in and of itself. Condition No. 15 already requires that touring caravan pitches shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence.
23. In addition, Condition No. 16 provides a mechanism for recording visitation in order to enforce against those who appear to be using the site as a permanent residence. Consequently, the necessity of Condition No. 17 in the context of controlling permanent residence pursuant to preserving living conditions is not established.
24. Overall, even if it was found that permanent residency would in fact be harmful to the living conditions of occupiers, Condition No. 17 is not necessary to control such effects because of other prevailing conditions already attached to the planning permission.
25. Consequently, removing Condition No. 17 would be in accordance with Policy SAL.UP7 of the Wyre Forest District Council Site Allocations and Policies Local Plan 2013 and Paragraph 127 of the Framework. Among other things, these seek to create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Other Matters

26. The appeal decision and application cited by the appellant and the Council within their respective evidence are noted, but given the site specific nature of flood risk, they are unlikely to be relevant to this case and I have given them limited weight accordingly.

Conclusion

27. For the reasons given, even though Condition No. 17 could be removed in relation to controlling the effects on living conditions resultant from permanent residency, there would still be harmful effects on the flood risk of future occupiers and the appeal is therefore dismissed.

Liam Page

INSPECTOR