



Appeal Decision

Site visit made on 31 August 2021

by C Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 September 2021

Appeal Ref: APP/W3330/D/21/3269428

Aller Moor Barn, Stathe Road, Stathe, Bridgwater TA7 0JN

- 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 Jones against the decision of Somerset West and Taunton Council.
 - The application Ref 51/20/0006, dated 17 July 2020, was refused by notice dated 30 November 2020.
 - The development proposed is conversion of garage/outbuilding to two annexes.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are:
 - whether the proposed annexe would comply with policies which seek to manage the risk of flooding.
 - whether the proposed annexe would be ancillary to the host dwelling.

Reasons

Flooding

3. The Framework¹ says that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Where development is necessary in such areas, it should be made safe for its lifetime without increasing flood risk elsewhere. In order to achieve this, the Framework requires proposals for certain types of development to pass both the 'sequential test' and the 'exceptions test'.
4. Paragraph 168 of the Framework advises that planning applications for some minor development and changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments as set out in footnote 55. The footnote makes it clear that a site-specific flood risk assessment should be provided for all development which is located in Flood Zones 2 and 3.

¹ National Planning Policy Framework, Ministry of Housing Communities and Local Government, 20 July 2021.

5. Allermoor Barn is situated within Flood Zone 3. Therefore, even if I were to accept that the proposal would constitute minor development and should not be subject to the sequential or exceptions tests, there would still be a need to provide an appropriate site-specific flood risk assessment.
6. The flood risk assessment provided by the appellant says that there are flood defences in place and that there is no recent history of the site being flooded. Amongst other things, it indicates that the proposed annexe would be higher than surrounding dwellings and that the floor level would be raised by an additional 200mm. Further information is provided about an automatic pumping system that is already installed on the site. It is stated that a flood risk assessment was previously carried out on the site in 2011 and there is an extract of correspondence with the Environment Agency from 2018 which recommends using flood resilient construction practices. The appellant's appeal statement goes on to describe how occupiers of the annexe would achieve safe refuge in the event of a flood and says that the appellant would sign up to the Environment Agency early warning system.
7. Although this goes some way to explaining how the proposed development would address flood risk, many of the assertions made within the flood risk assessment are not backed with a great deal of technical evidence. I am aware that the Planning Practice Guidance² advises that the level of detail that needs to be provided in a site-specific flood risk assessment should be proportionate to the scale of development. However, while the proposal concerns a relatively small building, it is nonetheless situated in Flood Zone 3 (a zone which is classified as having a high risk of flooding) and would provide self-contained accommodation for a number of potentially elderly residents. In recognition of this, and the particularly strong emphasis placed on flooding in government policy, the proposal requires an appropriate level of scrutiny.
8. A comparison of the information provided by the appellant and the advice contained within the Planning Practice Guidance in relation to site-specific flood risk assessments (including the checklist) leads me to conclude that there are a number of unanswered questions. For instance, the evidence does not clearly discount the possibility of the development increasing flood risk elsewhere in the vicinity. In the absence of such information, I am unable to verify with sufficient certainty that the annexe would comply with the criteria set out in Paragraph 167 of the Framework, which govern whether or not development should be permitted within the flood zone. For similar reasons, I am also unable to determine that the development would comply with Policy CP8 of the Core Strategy³ which also seeks to manage flood risk.
9. I therefore conclude on this issue that the proposal does not demonstrate compliance with policies which seek to manage the risk of flooding.

Whether ancillary

10. Policy D6 of the SADMP⁴ says that the conversion of an appropriate building within the curtilage of a dwelling for ancillary accommodation will be permitted. The policy goes on to specify five criteria (A-E) which apply to the erection of new buildings within the curtilage of a dwelling for ancillary use. However, as

² Planning Practice Guidance, Ministry of Housing Communities and Local Government.

³ Taunton Deane Borough Council Adopted Core Strategy 2011-2028.

⁴ Taunton Deane Adopted Site Allocations and Development Management Plan 2016.

the proposal is to convert an existing outbuilding rather than construct a new one, these criteria are not directly applicable in this case.

11. Nonetheless, it is still necessary to ensure that the proposal would constitute 'ancillary accommodation' as permitted by Policy D6 and would not amount to a new dwelling in the countryside (which would need to be assessed against a different set of policies including Policy DM2 of the Core Strategy). With this in mind, I note that Allermoor Barn occupies a very spacious plot of land which benefits from a particularly long road frontage. Due to the size and shape of the plot and the linear arrangement of buildings on the site, the host dwelling would be well separated from the proposed annexe. Considering that the annexe would have its own gated access onto the road and would contain facilities necessary for day-to-day living, I have little doubt that it would be physically capable of being occupied as a self-contained dwelling entirely independent of Allermoor Barn.
12. However, the development before me in this appeal is a residential annexe and not an independent dwelling. Although the building would be quite sizeable for an annexe, it would be notably smaller than the host dwelling and would share private garden space with it. Furthermore, there is little to substantiate the Council's claim that the annexe would occupy a different curtilage than the host dwelling. While the annexe would contain facilities for day-to-day living, it does not necessarily follow that a separate planning unit would be created.
13. Overall, it seems to me that the development would be capable of being used for the intended ancillary use. If planning permission was granted and the building was not used as proposed, or there was a material change of use in the future to create a separate dwelling, then a separate grant of planning permission would be required and there would be a risk of enforcement action if such permission were not granted.
14. This leads me to conclude on this issue that the proposed annexe would be ancillary to the host dwelling. For the reasons given above, the development would comply with Policy D6 of the SADMP. As I have found that the proposed development would result in a residential annexe (rather than a new dwelling in the countryside) Policy DM2 of the Core Strategy is of somewhat less relevance in this particular case.

Other Matters

15. I am mindful that the proposed annexe would provide accommodation for family members and, in this regard, would contribute to the social objectives of sustainable development as outlined in the Framework. However, the annexe is for permanent development that would outlast any personal needs of this nature. It is therefore important to ensure that new accommodation on the site takes account of flood risk. Hence, while I sympathise with the appellant in wishing to provide accommodation for elderly members of his family, this is not sufficient to outweigh my concerns in respect of flooding.
16. The Council's reasons for refusal say that the development could adversely impact upon the Somerset Levels and Moors Ramsar Site by adding to the concentration of phosphates in the area. In response, the appellant has proposed mitigation measures. However, as I am dismissing the appeal for other reasons, I have not considered this matter any further.

Conclusion

17. Although I have found the proposal to be acceptable with regard to ancillary use, it has not been sufficiently demonstrated that the development would comply with policies which seek to manage flood risk.
18. The appeal is therefore dismissed.

C Cresswell

INSPECTOR