



Appeal Decision

Site visit made on 12 October 2021

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th October 2021

Appeal Ref: APP/X1355/W/21/3279784

Field adjoining Lowery Lane, Humbleburn Lane, Edmondsley DH7 6EN

- 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 T. L. Holmes & Son against the decision of Durham County Council.
 - The application Ref DM/18/01558/WAS, dated 18 April 2018, was refused by notice dated 19 July 2021.
 - The development proposed is Repair damage caused to field by mining subsidence, import sub and top soils to raise the levels to prevent flooding and allow field to naturally drain to the surrounding ditches. Stabilise the adjoining highway which is settling towards the field and has to keep repaired because of settlement.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The address of the site within the banner heading largely derives from the address within the Council's decision notice and generally corresponds with the address within the appeal form submitted by the appellant.

Main Issue

3. The main issue is whether or not the proposal would lead to off-site flooding.

Reasons

4. The appeal site is a large arable field with a known coal mining legacy. The field has a noticeable slope from west to east. The appellant explains that ground settlement from previous coal mining results in flooding on the land. There is nothing before me to contradict this assertion.
5. By altering the land contours at its low point by the use of around 40,000 tonnes of imported materials, they explain would help to alleviate flooding. The land would return to normal farming practice once the landform has been altered.
6. Water discharging onto the appellant's land is further increased as they purport that surface water from the adjacent highway floods out of the existing ditch along the road, and onto the field as they state that this ditch is blocked. He explains that the excess water is currently controlled by the existing field drainage system on his land that has successfully prevented their ground from flooding from this source of water.

7. The appellant states they are controlling the discharge of highway surface water through their land, and there is nothing before me from the Council to dispute this. However, this is taken together with their intention to remove standing water from their site by altering land contours. The new imported material would act as natural water absorbency, however there is nothing before me to contradict the Council's findings that 70% of the storage volume would be displaced. Furthermore, this new material would be laid above poor draining land.
8. The holding dam that the appellant identifies on a plan is located off-site on land within their control. It may currently manage the levels of water discharged from the site and discharge into a water course without any known flooding arising downstream. However, this is without the new land levelling in place, or any precise modelling details having been provided to substantiate their claim that it would not lead to an off-site flood risk.
9. Even though the Environment Agency may not require a formal flood risk assessment, without precise calculations including details of the dam or how water would be controlled before being discharged into a watercourse, it has not been satisfactorily demonstrated by the appellant that the proposal would not increase flood risk elsewhere.
10. On this basis, without the necessary information before me, I therefore conclude that the proposal would not acceptably manage the risk of flooding, contrary to the County Durham Plan 2020 Policy 35 in its aims to manage flood risk on and off site, as well as the broad environmental aims including flood risk within the County Durham Waste Local Plan 2005. Neither would the proposal meet the aims of the National Planning Policy Framework in its objectives to manage flood risk.

Other Matters

11. The appellant refers to another site where land contouring has occurred with no off-site flooding. However, the precise details of such are not before me to comment. Furthermore, works were carried out under permitted development rights and is not the same situation as the proposal before me.
12. The appellant is frustrated with the Council's service, however this should be referred to the Council for comment in the first instance.

Balance and Conclusion

13. I appreciate that the contouring of the land and the resultant ability to grow more cereal would be a benefit to the appellant. However, this personal gain would not be sufficient for me to reach a favourable conclusion on the matter.
14. As I have found the proposal to be unacceptable from a flood risk perspective, the proposal would thus lead to conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Alison Scott

INSPECTOR