



Appeal Decision

Site visit made on 1 February 2022

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2022

Appeal Ref: APP/W1145/W/21/3283406

Tantons Hotel, New Road, Bideford, Devon EX39 2HR

- 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 Adam Walker, Tanton Two Ltd against the decision of Torridge District Council.
 - The application Ref 1/0913/2020/FUL, dated 30 September 2020, was refused by notice dated 1 April 2021.
 - The development proposed is change of use of ground floor to three flats and alterations and refurbishment.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether future occupiers would be safe from flood risk.

Reasons

3. The grade II listed, former Tantons Hotel faces the tidal Torridge estuary across New Road. The EA flood maps show New Road to be in Flood Zone 3, the highest risk zone. They show the hotel itself to be in Flood Zone 1, the lowest risk zone, where a detailed Flood Risk Assessment (FRA) is not usually required. I understand that the Strategic Flood Risk Assessment also shows that the site would not be affected by the 1 in 200 year tidal event.
4. However, internal ground floor levels are only marginally above the level of New Road. The Environment Agency (EA) has confirmed that the 1 in 200 year flood depth on New Road would be 1.8m, not accounting for climate change. The EA also says that the floor level is only just above the highest annual tide, collectively putting the proposed accommodation at risk of flooding. Although similar advice may not have been given by the EA on other sites in the vicinity, I cannot simply ignore their advice in this case, even though the EA would not normally be consulted on development in Flood Zone 1.
5. The EA has stated that the flood maps are incorrect due to errors in the survey technique, but has not changed the maps, or explained why they have not been changed. Nor has the EA clarified what flood levels have been used to determine the flood zones at this location. However, while the appellant may feel aggrieved that they cannot rely upon the flood maps, the appellants own Flood Risk Assessment¹ for the appeal concludes, amongst other things, that

¹ Evans Rivers and Coastal Ltd (June 2021): Flood Risk Assessment, Ref 2567/RE/09-20/01 Revision A

the ground floor could be flooded to a depth of 2.01m. This clearly indicates that the area is at risk of flooding.

6. Future residents would have a safe egress to higher ground at the rear of the site, could sign up to the EA flood warning system and the appellant has suggested that further physical mitigation could be installed. The mitigation could take the form of automatic flood doors or shutters that need no manual operation. I understand that similar solutions have been accepted by the EA elsewhere in the country. Example pictures and specifications have been provided and the appellant has confirmed that the building itself is structurally capable of withstanding the water pressures.
7. However, even if I were to accept the mitigation against EA advice, I have insufficient evidence on which to base an assessment of its effects on the listed building. In the absence of that, I cannot judge whether the public benefits, including the delivery of housing or finding a long-term use for the listed building would outweigh any harm that there may be. Furthermore, the shutters would likely affect the external appearance of the building and interested parties have not had the opportunity to comment upon them. For these reasons, I cannot use a condition to secure the mitigation.
8. The Council cannot demonstrate 5 year supply of deliverable housing land. However, even though it is outside the mapped flood zones, the evidence shows it is an area at risk from flooding. Development here, therefore, results in a conflict with policies of the National Planning Policy Framework (the Framework) that protect areas or assets of particular importance and provide a clear reason for refusing the development. As such, the proposal does not benefit from the presumption in favour of sustainable development set out in Framework Paragraph 11.
9. Even without the mitigation, there would still be benefits arising from the proposal. These include the provision of housing in an accessible location, the use of underutilised previously developed land and a probable end to anti-social behaviour that I understand has occurred at the building. There would also be benefits arising from finding a long-term use for the deteriorating listed building, the conservation of which must be given great weight.
10. However, there would remain a risk to human life and the clear reason to refuse permission when the Framework is read as a whole. The proposal would also be contrary to those aims of Policy ST03 of the North Devon and Torridge Local Plan 2018 that seek to avoid development of land for vulnerable uses in areas at risk of flooding.
11. I, therefore, conclude that the appeal should be dismissed.

M Bale

INSPECTOR