
Appeal Decision

Site visit made on 22 March 2022

by Martin Chandler BSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2022

Appeal Ref: APP/P1940/W/21/3277032

Crestyl Watercress Farm, Moor Lane, Sarratt, Herts WD3 6BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
 - The appeal is made by Mr Jonathan Tyler on behalf of Crestyl Watercress Farm against the decision of Three Rivers District Council.
 - The application Ref 20/1762/PDF, dated 7 September 2020, was refused by notice dated 17 December 2020.
 - The development proposed is Change of use of Cress Bunching Shed to Flexible Uses - Namely C1 Holiday Lets.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would represent permitted development by virtue of Schedule 2, Part 3, Class R of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the 2015 GPDO), having particular regard to flood risk.

Reasons

3. Schedule 2, Part 3 Class R of the 2015 GPDO confirms that development consisting of a change of use of a building and any land within its curtilage from a use as an agricultural building to a flexible use falling within Class B8 (storage or distribution), Class C1 (hotels) or Class E (commercial, business or service) is permitted development.
4. Paragraph R.3(b)(iv) confirms that where the cumulative floor space of buildings which changed use under Class R within an established agricultural unit exceeds 150 square metres, determination regarding the flooding risks on the site will be necessary. Based on the evidence before me, due to the existence of a previously converted building, this requirement is applicable to the proposal.
5. The appeal site is located within Flood Zone 3, with the South West Hertfordshire Strategic Flood Risk Assessment (SFRA) identifying the site as Flood Zone 3b, otherwise known as the functional flood plain. The proposal would change the use of the building from a 'less vulnerable' use to a 'more vulnerable use'. Consequently, based on the SFRA, the proposed change of use would give rise to unacceptable levels of flood risk.

6. Despite this, the appeal has been supplemented by a Flood Risk Assessment dated June 2021 (FRA). The FRA presents a detailed case as to why, in the appellant's view, the site should not be considered as within Flood Zone 3b, and relies upon site-specific topographic information, as well as a hydraulic model produced for the site in 2009. In addition, it provides anecdotal evidence regarding the history of the site in terms of flooding.
7. The hydraulic modelling and topographic information suggest that the location of the building to be converted has a lower risk of flooding than that suggested by the SFRA. The appellant also points to the fact that having farmed the site for some 140 years, the appellant's family have never experienced flooding in this location. Based on the evidence before me, the SFRA does not rely on detailed modelling and consequently, it perhaps presents a slightly conservative approach. Accordingly, it is the appellant's view that their evidence presents a more robust position in relation to flood risk. The appellant also highlights guidance within the PPG that states that as a solid building, it would not normally be identified as functional floodplain.
8. Despite this additional evidence, through the appeal, the Environment Agency (EA) have maintained their objection to the proposal. Specifically, it is the age of the hydraulic modelling that prevents them arriving at a different conclusion.
9. The model was prepared in 2009 so it is now several years old. Although the EA have not suggested in what ways it is no longer an accurate reflection of the current flood risk on the site, in my judgement, this does represent a considerable period of time. More contemporary modelling may arrive at a similar conclusion. However, a model that is some 13 years old provides ample scope for inputs and outputs to vary. Consequently, there can be no guarantee that the conclusion would be the same. All modelling of this type, by its very nature, immediately starts to date. However, the judgement that I am required to make solely relates to flood risk. The proposed use would be a more vulnerable use and therefore, I consider that up-to-date evidence is imperative to ensure that flood risk is truly understood. On the basis of the evidence before me, I am not satisfied that an entirely reliable picture in relation to flood risk has been presented.
10. My attention has been brought to previous applications but on the basis of the evidence before me, these required materially different considerations on behalf of the Council. I therefore do not find them to be comparable. I also note that the Framework encourages local circumstances to be taken into account in the decision-making process, and that a flood evacuation plan has been prepared.
11. However, the requirement of the 2015 GPDO as it relates to this appeal is no more specific than flooding risk. The appellant's evidence is persuasive in this regard, but because of the intervening length of time since the hydraulic modelling was undertaken, and the more vulnerable nature of the use proposed, I am not satisfied that the flooding risks have been entirely disproved.
12. Consequently, having regard to the flooding risks of the site, I conclude that the proposal would not represent permitted development by virtue of Schedule 2, Part 3, Class R of the 2015 GPDO.

Conclusion

13. For the reasons identified above, the appeal should be dismissed.

Martin Chandler

INSPECTOR