



Appeal Decision

Site visit made on 7 June 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 November 2022

Appeal Ref: APP/V3310/W/22/3290961

Land Opposite Wydale & Whitehouse Farm, Whitehouse Lane, Loxton, Axbridge, Somerset BS26 2UU

- 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 John Hopkins against the decision of Sedgemoor District Council.
 - The application Ref 24/21/00024, dated 24 June 2021, was refused by notice dated 20 October 2021.
 - The development proposed is the erection of a log cabin for holiday use.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr John Hopkins against Sedgemoor District Council. This application is the subject of a separate decision.

Preliminary Matters

3. I have taken the description of development from the Council's decision notice, which is also repeated on the appellant's appeal form, as this more concisely describes the proposed development.

Main Issues

4. The main issues are whether the proposed development would be a) at an unacceptable risk of flooding and b) in a suitable location with specific regard to the principle thereof.

Reasons

Flood Risk

5. The appeal site lies in an area of open countryside close to the village of Loxton. It comprises a triangular parcel of agricultural land bound by White House Lane and Mark Yeo river on two sides and agricultural land to the south. It is within an area designated as Flood Zone 3a, which includes land with a high probability of flooding. The proposal, as a short term holiday let, is a 'more vulnerable' classification of land use.
6. Paragraph 159 of the National Planning Policy Framework 2021 (the Framework) sets out that inappropriate development in area at risk of flooding should be avoided by directing it away from areas at highest risk (whether

existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.

7. Paragraph 162 of the Framework states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.
8. Paragraph 167 requires that when determining applications, local planning authorities should ensure flood risk is not increased elsewhere, applications should be supported by a site-specific flood risk-assessment. Development should only be allowed in areas at risk of flooding, in the light of this assessment (and the sequential and exception tests, as applicable) where it can be demonstrated that within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; appropriately flood resistant and resilient; incorporates sustainable drainage systems; any residual risk can be safely managed; and safe access and escape routes provided.
9. Policy D1 of the Sedgemoor District Council Local Plan (2019) (LP) requires that the sequential and exception test be undertaken and identified the area of Sedgemoor District as the area of search for sequentially superior locations. As such, it is consistent with the approach to flood risk within the Framework.
10. The appellant has submitted a site-specific Flood Risk Assessment (FRA), however this does not include a sequential test. Both parties have made reference to a sequential test, and whilst I have requested a copy of this, one has not been provided. As such, there is insufficient evidence to demonstrate that the sequential test has been passed.
11. The appellant has advised that they have no land within their ownership at a lower risk of flooding and they assert that nearby land at a lower risk would have a negative landscape impact. I have not been provided with any evidence that the land at a lower risk would likely be harmful to the landscape. Additionally, I have no evidence to detail that there is an undersupply of tourism accommodation in the area. As such, I am unable to conclude that there are no other reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
12. The appellant has provided information in an attempt to demonstrate compliance with the exceptions test. Whilst the area does benefit from flood defences the FRA states that in a 1 in 1000 tidal event the site, with the adjustment for climate change, is at a potential risk of flooding 1.06 metres on existing site levels. In response to this and to comments made by the Environment Agency a refuge area in the loft was added to the plans. This would be accessed via a loft access ladder.
13. The Environment Agency are not content with a loft access ladder and require a permanent staircase. Whilst the appellant has suggested a condition could be attached requiring amended plans be submitted detailing a staircase, should a flood event occur access to the site would be limited, and the site would not be

able to be reached by emergency services, thus posing a significant risk to future occupants.

14. My attention has been drawn to correspondence between the appellant and the Council regarding potential alternative locations within the main farmstead. Ongoing discussion would need to be undertaken with the Council and I can only make my decision based on the scheme before me. As such, I afford this correspondence little weight.
15. The proposed development would not accord with LP Policy D1 which seeks, amongst other things, to ensure that developments are located in sequentially superior locations. It would also run contrary to paragraphs 159, 162 and 167 of the Framework and guidance within the PPG, as it fails to adequately demonstrate that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding, and the sequential test has been satisfied.

Location

16. LP Policy S2 explains that in the countryside proposals for new development will be supported only where it accords with relevant policies in the LP which provide for sustainable and appropriate scales of development therein, including where such a location is essential. This is in order to reflect the challenges faced in terms of environmental constraints, accessibility to key services and sustainable transport opportunities. Recognising the environmental and landscape constraints of such a location, Policy CO1 seeks to balance the benefits development can give to rural communities and the rural economy with these environmental and landscape constraints.
17. LP Policy D17 states that in the countryside new tourism accommodation should be provided within or close to a settlement but may be justified in other locations where the facilities are required in conjunction with a particular countryside attraction and there are no suitable existing buildings or developed sites nearby.
18. The appellant's case is supported by various pieces of information including a list of nearby entertainment and facilities and comments made by a holiday rental company. The appeal submission expands on this and details that the proposal would provide sustainable accommodation in a quiet, tranquil, rural location with an emphasis on walking and cycling. There is no substantive evidence that the proposed development would be in connection with any particular countryside attraction other than the general enjoyment of the surrounding area. Additionally, there is nothing before me to indicate that this could not be provided on other land in the area. It therefore fails against policy D17.
19. Policy D17 goes on to state that the Council expects proposals for new accommodation in the countryside to be supported by a robust business case demonstrating that they are viable. The appellant argues that facilities such as that proposed will continue to be in demand, but I have seen no substantive evidence to corroborate this. Whilst comments have been made regarding the potential rental rates, little information has been provided regarding ongoing maintenance costs, employment of people to undertake work or detailed construction costs. The information provided does not therefore form a sufficiently robust business case. The proposal would therefore result in a form

of tourism development which has not been adequately justified and as such would lead to an unacceptable proliferation of development in the countryside.

20. In conclusion, the proposal would be contrary to Policies S2, CO1 and D17 of the LP and would not be in a suitable location. As such, it would harmfully undermine the spatial strategy for tourist accommodation in the countryside as well as the approach that the planning system should be genuinely plan led.

Conclusion

21. For the above reasons, there are no relevant material considerations, including the approach of the Framework, that would indicate a decision otherwise in accordance with the development plan. The appeal should therefore be dismissed.

Tamsin Law

INSPECTOR