

Appeal Decision

Site visit made on 28 August 2024

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 September 2024

Appeal Ref: APP/C1625/W/24/3338651

11 Howmead, Berkeley, Gloucestershire GL13 9AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr B Price against the decision of Stroud District Council.
 - The application Ref is S.23/1379/FUL.
 - The development is the erection of an agricultural welfare and storage building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit the appeal building had already been constructed, the application is therefore retrospective in nature. In these circumstances, I have determined the appeal based on the submitted drawings.

Main Issues

3. The main issues are:
 - whether the development is in a suitable location, with particular regard to the Council's spatial strategy;
 - the effect of the development on the character and appearance of the area;
 - the effect of the development on biodiversity; and
 - whether the development is in a suitable location having regard to flood risk.

Reasons

Location

4. The appeal site comprises a rectangular parcel of agricultural land to the rear of 11 Howmead (No 11). The land slopes gently down from the rear boundary of the dwelling towards the watercourse which runs along the site boundary. The building, which is timber clad with a shingle roof, has a

hexagonal footprint and sits on a timber plinth. The appeal submissions indicate that the building is a welfare shed and is to be used for the storage of machinery, first aid box and agricultural equipment. In addition, it will provide welfare facilities for an employee working at the site to shelter, rest, eat meals and change into protective clothing where necessary.

5. The site lies in an area of open countryside outside the identified settlement development limits. Policy CP15 of the Stroud District Local Plan adopted November 2015 (SDLP) sets out that in order to protect the separate identity of settlements and the quality of the countryside (including its built and natural heritage), proposals outside identified settlement development limits will not be permitted except where specific principles are complied with, including that the development is essential to the maintenance or enhancement of a sustainable farming or forestry enterprise within the District.
6. The parcel of land on which the building is sited is modest in size. The planning application form confirms the current use of the site is agricultural, however the Planning Statement indicates that it has not been used for agricultural purposes, including the growing of crops or the keeping of livestock for some time. While I appreciate that outside help may be required in terms of the maintenance of the land, from the evidence before me and my observations at my site visit, this is likely to be limited to the seasonal mowing of grass and pruning of the small number of trees.
7. The appellant suggests that, while a worker at the site would use the toilet and washing facilities in the main dwelling, the welfare shed is required in accordance with the relevant workplace health, safety, and welfare regulations, for a worker to change, rest, eat meals or shelter in inclement weather. However, given the very small scale and likely casual nature of the work relating to the maintenance of the land, unrelated to any commercial enterprise at the site, it has not been shown this is the only way in which such facilities could be provided, even if the land were used for agricultural purposes.
8. As such, based on the information before me, there is no substantive evidence to demonstrate that there is a need for the building at the appeal site or that the development is essential to the maintenance or enhancement of a sustainable farming or forestry enterprise.
9. I note the appellant's contention that the SDLP is not up to date. Paragraph 225 of the National Planning Policy Framework (the Framework) states that due weight should be given to existing policies according to their degree of consistency with the Framework. Policy CP15 of the SDLP reflects the broad aims of the Framework and is therefore afforded full weight.
10. While the wider site may have been considered previously for residential development, it is not formally allocated for such. Moreover, it would not follow that the welfare and storage building is acceptable in this location for the same reasons.
11. For the foregoing reasons, the development is contrary to Policy CP15 of the SDLP in so far as it seeks to restrict development in the countryside to

specific types, and is therefore not in a suitable location, with particular regard to the Council's spatial strategy.

Character and appearance

12. Despite the small scale and low height of the welfare building, given its domestic appearance and divorced position from the surrounding built form, it nonetheless appears as an anomalous feature, at odds with the open undeveloped nature of the areas beyond the existing rear gardens. The building is partially screened in some views, including from the public right of way a short distance from the side boundary of the site, by existing mature trees around it which helps soften the visual effects of the development. Nonetheless, I cannot be certain that the trees would remain in their current form. Furthermore, they should not be used as a screen to mitigate otherwise unacceptable development. Even if it were the case that the land was previously described as scrub land, this would not justify the development which I have found to cause lasting demonstrable harm.
13. The building is therefore at odds with the prevailing rural setting of the site and harms the character and appearance of the surrounding area. In that regard the development fails to accord with Policy CP14 of the SDLP which supports high quality development that protects, conserves, and enhances the built and natural environment, and among other things, is of an appropriate design and appearance, which is respectful of the surroundings.

Ecology

14. The appeal site is close to features of ecological significance, including mature trees and a watercourse, it is also within the red Great Crested Newt Impact Risk Zone. Given this context, it cannot be assumed that protected species would neither be present on the site or in the vicinity.
15. Circular 06/2005 – Biodiversity and Geological Conservation makes it clear that the presence of a protected species is a material consideration when a development is being considered. It states that it is essential that the presence or otherwise of a protected species, and the extent they may be affected by proposed development, is established before the grant of permission, so as to ensure that all relevant material considerations have been addressed in making the decision.
16. While opportunities to enhance biodiversity could be secured through a planning condition, without the information provided by a Preliminary Ecological Appraisal (PEA), I am unable to determine the full effects of the development on protected species either on or near the site and habitats that may support them.
17. I therefore conclude that the appellant has failed to demonstrate that the siting of the building does not harm biodiversity. Accordingly, the development conflicts with Policy ES6 of the SDLP, which among other things, requires all new development to conserve and enhance the natural environment, including all sites of biodiversity or geodiversity value (whether or not they have statutory protection) and all legally protected or priority habitats and species.

Flood risk

18. The building is sited on part of the site located within Flood Zone 3, an area at high risk of flooding. The Framework and Planning Policy Guidance (PPG) aim to steer development to areas with the lowest probability of flooding through a sequential test. Although buildings used for agriculture and forestry are classed as a 'less vulnerable use,' both national and local policy still require development which is at a high risk of flooding to be subject to a sequential test. The appellant has not carried out a sequential test and there is no clear evidence to suggest that the proposal could not be positioned elsewhere on the site, on land beyond Flood Zone 3.
19. I have had regard to the appellant's Flood Risk Assessment in relation to the likelihood of flooding and mitigation, including the finished floor level of the building. Nonetheless, this would not overcome the need to address the sequential test in relation to the location of the development.
20. The appellant indicates that surface water will be disposed of using sustainable drainage that would discharge into the existing water course, details of which could be secured by a planning condition. In the absence of any clear evidence to demonstrate that this would not be technically acceptable as a means of attenuating surface water from the development, there is nothing before me to indicate that effective surface water drainage of the site could not be achieved so as to minimise the risk of flooding.
21. For the above reasons, it has not been demonstrated that the development is in a suitable location in terms of flood risk. In that regard the proposal is therefore contrary to policy ES4 of the SDLP which requires full consideration to be given to the sequential test when considering proposals for development.

Conclusion

22. The proposal conflicts with the development plan when read as a whole. Material considerations have not been shown to carry sufficient weight to indicate that a decision should be taken otherwise than in accordance with it. Therefore, the appeal is dismissed.

E Worley

INSPECTOR