



Appeal Decision

Site visit made on 24 September 2024

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 26 September 2024

Appeal Ref: APP/U1105/W/24/3342388

The Greyhound Inn, Fenny Bridges, Devon EX14 3BJ

- 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 Tina Percival of Greyhound Country Inn against the decision of East Devon District Council.
 - The application Ref is 23/1794/FUL.
 - The development proposed is retrospective application for a static caravan for staff accommodation and re-siting of dog kennel.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have taken the address of the site from the Council's Decision Notice, which is more concise than that used in the application form. I am satisfied that no party would be prejudiced as a result.

Main Issue

3. The main issue is whether the location is appropriate for the appeal development, having regard to the impacts and risks of flooding.

Reasons

4. The appeal site relates to a public house. Amongst other things, the application seeks to retain a static caravan for the use of staff at the Inn. As a mobile home for permanent residential use, it constitutes development categorised in Annex 3 of the National Planning Policy Framework (the Framework) as being highly vulnerable to flooding.
5. The appeal site has not historically flooded and is identified in the Environment Agency (EA) 'Risk of Flooding from Rivers and Sea' map as having a low risk of flooding. However, this reflects flood defence infrastructure. The Planning Practice Guidance¹ states that these defences should be ignored, because of their uncertain future. They are thus excluded from the alternative EA 'Flood Map for Planning Purposes'. This categorises the appeal site as being within Flood Zone 2, as confirmed by the appellant's Flood Risk Assessment (FRA). Therefore, I am satisfied the site is within Flood Zone 2 and so at medium risk from flooding.
6. Policy EN21 of the East Devon Local Plan (EDLP), adopted January 2016, makes clear that in such circumstances, a sequential approach will be taken to

¹ Paragraph 024 reference ID: 7-024-20220825

new development. On this basis, being in Flood Zone 2, the appeal development should only be permitted if there is no reasonably available site in Flood Zone 1. The Framework makes a similar requirement.

7. There is no dispute that other parts of the land associated with the Inn are within Flood Zone 1. Relocating the caravan to within this zone would result in additional costs to the business, including from the installation of new sewage pipes. Even so, no substantive or technical reasons have been provided to show that re-location to an area of lower risk would not be possible. Consequently, the sequential test is not met, and the exception test at Framework Paragraph 169 is not engaged.
8. The FRA includes measures such as appropriate floor levels and the use of a sustainable drainage strategy for the site. Soakaways were installed a few years ago and runoff from the caravan is used to serve existing polytunnels. Nevertheless, even if site-specific measures are sufficient to make the appeal development safe throughout its lifetime, the Planning Practice Guidance² makes clear that the sequential test of the Framework must still be satisfied.
9. Planning permission was granted in 2008³ (the 2008 permission) for a caravan said to be less than 20 feet from the appeal development. However, this was removed some time ago, and the parties dispute whether its location was within Flood Zone 1 or 2. As I have no conclusive evidence on this point, I cannot be satisfied that this permission represents a fallback that would justify the flood risk effects of the appeal development.
10. For the reasons given, I conclude that the location is not appropriate for the appeal development, having regard to the impacts and risks of flooding. It would therefore conflict with EDLP Policy EN21 and the Framework.

Other Considerations

11. In granting the 2008 permission, the Council required the location of the caravan to be as close to the Inn as possible, to reduce its visual impact. However, the position of the appeal caravan is visible in public views obtainable from the adjacent road. As such, relocation to a lower risk flood area would be unlikely to make its visual impact greater, and it would still be within easy walking distance from the Inn for employees. This does not therefore provide sufficient reason to overcome my concerns in respect of flooding.
12. The appellant has built up a successful business providing significant employment and a hub for the local community. The Council does not dispute that a caravan at the Inn is necessary for the operation of the business, and I see no reason to disagree. However, the issue in this case revolves around the location of a caravan within the land available, rather than the principle of such development. Consequently, if relocated, the caravan would still provide the necessary accommodation for the Inn, whilst also reducing flood risk.
13. The Council's second reason for refusal refers to the location of the site within the catchment area of the East Devon Pebblebed Heaths Special Area of Conservation (SAC) and Special Protection Area (SPA). These are protected pursuant to the Conservation of Habitats Regulations 2017. Had I found no harm in respect of the main issue, as competent authority I would have carried

² Paragraph: 023 Reference ID: 7-023-20220825

³ LPA reference 96/P0940

out an Appropriate Assessment in respect of the effects of the appeal development on the SAC and SPA. However, as the balance of considerations is against the appeal development, this matter need not be considered any further in this case.

Planning Balance and Conclusion

14. For the reasons given, I have found conflict with the Development Plan as a whole. The material considerations in this case do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR