



Appeal Decision

Site visit made on 23 October 2024

by A. J. Boughton MA (IPSD) Dip.Arch. Dip.(Conservation) RIBA MRTPI
an Inspector appointed by the Secretary of State

Decision date: 28 November 2024

Appeal Ref: APP/J0405/W/24/3343552
Ladymead Farm Denham Quainton HP22 4AN

- 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 Anthony Barrett against the decision of Buckinghamshire Council.
 - The application Ref is 20/03710/APP.
 - The development proposed is General purpose agricultural building
-

Decision

1. The appeal is allowed and planning permission is granted for General Purpose Agricultural Building at Ladymead Farm Denham Quainton HP22 4AN in accordance with the application Ref 20/03710/APP and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: ND/3.286/location - Location Plan; ND/3.286/site – Site Plan ; C2462 – G [180] – Elevations ; C2462 – G [181] – Floorplan
 - 3) The materials to be used for the external surfaces of the development hereby permitted shall be as specified on approved drawing number C2462 – G [180]
 - 4) Prior to the first use of the building hereby permitted, the biodiversity enhancement features shown on the submitted biodiversity enhancement plan (plan reference ND/3286/Bat Box Plan) shall have been installed on the building in accordance with the positioning shown on the biodiversity enhancement plan. Following their installation, the biodiversity enhancement features shall thereafter be retained in their positions on the building in perpetuity.
 - 5) The drainage strategy appearing on Drawing 20-332-001 Rev.B shall be completed in full prior to the first use of the development hereby approved.
 - 6) Prior to the first use of the development hereby permitted, the earth bund as shown in Figure 4.5 and set out in Section 4.4 'Betterment Works' of the

submitted Flood Risk Assessment Revision 03 (Calibro, November 2023) received by the Local Planning Authority on 22 April 2024 shall have been constructed and shall thereafter be retained for the lifetime of the development.

- 7) Prior to the first use of the development a scheme of planting and hard surfaces for the curtilage of the building hereby approved shall have been completed in accordance with details previously submitted to, and approved in writing by the Local Planning Authority.

Application for costs

2. An application for costs was made by Mr Anthony Barrett against Buckinghamshire Council and this is the subject of a separate Decision.

Preliminary Matter

3. This appeal arises from the failure of the Council to determine the application. The Council's statement helpfully indicates that, had they determined the application, there would have been only one reason for refusal which would arise from the effect of flooding upon an existing access which would be used by the development.

Main Issue

4. Whether the proposal would comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

5. The proposed general purpose agricultural building would be an incremental addition on the eastern edge of an existing business park, an already-extensive area of built form that is itself set within a large agricultural holding within the control of the appellant. The proposed development would be accessed by the existing, long¹, substantially-constructed private roadway which serves a farmhouse, a number of residential dwellings, equestrian facilities for domestic use and several business premises.
6. A watercourse drains a catchment area west of the existing building, passing through a culvert that passes south of the proposed agricultural building before returning to an open channel. Flood risk arises at times when the capacity of the culvert is exceeded such that flood water overflows the roadway and other open land before rejoining the open channel or discharging onto other open land south-east of the development². Modelling shows that these flows pass over a short section of the access road at a shallow depth. They do not approach the location of the proposed building but run across lower land to the south and present no risk to users of the buildings beyond disrupting access from time to time.
7. The proposal responds to reasons given in the refusal of a previous similar scheme³ in a different location, east of the current application site where the proposed building was in Flood Zone 2. The site-specific flood risk assessment (FRA) submitted with the application now appealed (in its final version) indicates

¹ Around 0.4 miles in length

² This is a contextual and much-simplified overview.

³ 19/04296/APP refused 24 April 2020

that the proposed use (agricultural) falls within the 'less vulnerable' classification⁴ and that the built development proposed would be located in Flood Zone 1. The Council indicate their intention would have been to refuse this proposal because users of the proposed building would pass through a section of the main access road which is prone to periodic flooding, as previously explained, and that in consequence a sequential test should have been applied.

8. However, whilst the terms 'development'⁵ and 'site'⁶ may be functionally indivisible in most considerations of flood risk, in this matter such an approach is inappropriate having regard to the specific circumstances pertaining. The long access road already serves a large number of businesses but also dwellings which are 'more vulnerable'. The point of flood is clearly separate from the proposed building⁷. No works are proposed to the access road itself (noting that the appellant suggests the Environment Agency may have incorrectly assumed the access was 'new') and it is relevant that the application 'red line' would not have included the affected roadway if the access were not private land. In those circumstances there would, on the reasoning of the putative refusal, been no requirement for a sequential test. I therefore consider that whilst the FRA necessarily addresses flood-risk on a site-wide basis what is before me to consider must be limited to the effects of the built development proposed.
9. Policy I4 of the Vale of Aylesbury Local Plan 2021 (VALP) refers to the sequential test (at b) "*All development proposals must clearly demonstrate that the flood risk sequential test, as set out in the latest version of the SFRA, has been passed and be designed using a sequential approach*". This policy is part of the development plan and must attract full weight, having significance to the prevention of harm from flood risk, however in this case it is not possible to show any actual planning harm arises from the use of this existing access. The building itself would be in flood zone 1 and in a 'less vulnerable' use category⁸. As the appellant explains, the proposed building would significantly reduce the existing movement of agricultural material and vehicles on and off the site whereas an alternative location would not achieve this. This weighs strongly in favour of the proposal. In that regard, a sequential test would serve no useful purpose since placing the development elsewhere (even with an access on Flood Zone 1) would not reduce traffic along the access roadway where the flood risk occurs.
10. I also note that in the long period since the submission of the proposal a previous officer of the Council came to a conclusion as to the requirement for a sequential test and the effect of using the existing access which contrasts significantly with that now suggested in the officer's putative decision. In a Buckinghamshire Council email of 15 December 2023 it was stated: "*using this existing access for the purposes of reaching one additional building does not increase risk of harm to those using it...(and in concluding)..the Council is satisfied that, in terms of flood risk and the impact of the building, there is no need for a sequential test and the flood risk concern has been adequately addressed by the submission of the hydraulic modelling.*" .

⁴ NPPF Annex 3

⁵ Which would naturally have the meaning ascribed to it by Section 55 of the TCPA 1990

⁶ In the sense of the planning application site

⁷ With the business park intervening

⁸ According to annex 3 of the NPPF

11. Overall the FRA confirms there is no evidence that the proposed building (or use of the existing access) would increase down-stream flood risk. A further consideration is that the proposal would deliver some minor mitigation of existing flood risk. The measures to increase the capacity of the attenuation pond, some small diversionary bunds and related minor measures all weigh in favour of the proposal as they would improve flood resilience.
12. I therefore conclude that the proposed development would not conflict with the objectives and provisions of Policy I4 of the VALP or the development plan as a whole and would accord with the objectives of the Framework in seeking to improve the resilience of communities to climate change and flood risk. Consequently, for the reasons given and having regard to all matters raised the appeal succeeds subject to the usual plans and timing conditions.
13. The Council have suggested some conditions which, noting also the appellant's comments, I have considered and adjusted according to the tests set out in the Framework. The suggested biodiversity condition relates to the requirement for biodiversity enhancement for which a condition is proposed. A condition is necessary to ensure the land surrounding the building is completed to a suitable standard. Details of materials are necessary having regard to the visual impact of the proposal. As the permitted use is agricultural in Flood Zone 1 and not permanently occupied there is no necessity for the use condition suggested or a flood emergency plan. The detail information suggested as a requirement is already provided in the FRA and in the hydraulic modelling plan (reference 20-332-HYD01) which I have referred to..

Andrew Boughton

INSPECTOR