



Appeal Decision

Site visit made on 7 January 2025

by **R Hitchcock BSc DipCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21st January 2025

Appeal Ref: APP/K0425/C/23/3335975

The Lodge, Marsh, Aylesbury, HP17 8SP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Gary Arnold against an enforcement notice issued by Buckinghamshire Council.
- The notice was issued on 24 November 2023.
- The breach of planning control as alleged in the notice is Without planning permission, the erection of an outbuilding.
- The requirements of the notice are to: 1. Demolish the outbuilding as shown in the approximate position marked hatched on the attached plan. 2. Remove all materials and debris resulting from complying with step 1 of this Notice from the Land.
- The period for compliance with the requirements is: four months.
- The appeal is proceeding on the grounds set out in section 174(2)(a), (f) and (g) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is allowed, the enforcement notice is quashed, and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the erection of an outbuilding at The Lodge, Marsh, Aylesbury, as shown on the plan attached to the notice and subject to the following condition:
 - 1) Within 3 months of the date of this decision a detailed surface water drainage scheme for the development, based on sustainable drainage principles, shall be submitted to and approved in writing by the local planning authority.

The agreed scheme shall be carried out in accordance with the approved details and timeframe. The sustainable drainage system shall be managed and maintained thereafter in accordance with details approved under the scheme.

Ground (a) and the Deemed Application for Planning Permission

Main issues

- The main issues are the effect of the building on the character and appearance of the locality and flood risk.

Reasons

Character and appearance

2. The site is located in open rolling countryside of dispersed farmsteads, commercial sites and residential plots set amongst irregular fields predominantly in arable use. Surrounding fields are generally bordered by hedges and trees, with a higher

degree of local tree cover within the loose cluster of individually designed properties about the lane.

3. The residential properties in the locality vary in age and style. Materials include brickwork, render and timber cladding below small tiled or thatched roof coverings. Local domestic outbuildings are more varied in their scale, form, design and finishes.
4. The outbuilding has a low height, limited depth, but broad width. The building is finished in horizontal timber cladding with a modern flat roof.
5. Despite the width of the outbuilding, its low height, which roughly coincides with the rendered part of the lower elevations of the dwelling, appears subordinate in scale to the two-storey dwelling. In the main views – visible across the expansive garden area from the lane, the scale of the outbuilding and substantial absence of openings in the main elevation ensures a utilitarian appearance emphasising the building's subservient nature. The main dwelling remains the primary focus in those views.
6. Being located close to the dwelling at the rear of a gravelled hardstanding area used for vehicle parking and turning, the building utilises an area where greater activity would be normally expected. In the context of the large open plot, and backed by established trees in the main views from the road or public right of way, the low building has little material effect on the open character of the site.
7. I note third party concerns with respect to the effects of the building's lighting on the rural location. However, there is little evidence before me to demonstrate that undue harm arises in the locality.
8. For those reasons, I find the building is designed to be visually recessive and subordinate to the main dwelling, whilst the low height and close siting suitably maintain the open character of the site. The development therefore aligns with the requirements of Policies DM35 and DM36 of the Wycombe District Council Plan [2019], Policy KIM2 of the Great and Little Kimble Cum Marsh Neighbourhood Plan [2021] and advice in the Householder Planning and Design Guidance Supplementary Planning Document as they require extensions and outbuildings to be subservient in scale, mass and bulk and respect the character and appearance of the existing property and surrounding area.

Flood Risk

9. The site lies within an area classified as Flood Zone 3 and of medium risk of surface (pluvial) water flooding under the Environment Agency's (the EA) flood risk mapping. Paragraph 176 of the National Planning Policy Framework (the Framework) sets out that, as 'Minor development'¹, sequential and exceptions tests are not appropriate to the domestic outbuilding in areas at high risk of flooding. However, it requires a site-specific flood risk assessment.
10. The Planning Practice Guidance (PPG) advises that Minor developments are unlikely to raise significant flood risk issues unless:
 - they would have an adverse effect on a watercourse, floodplain or its flood defences;

¹ Planning Practice Guidance Paragraph: 051 Reference ID: 7-051-20220825

- they would impede access to flood defence and management facilities; or
 - where the cumulative impact of such developments would have a significant effect on local flood storage capacity or flood flows.
11. The PPG states that *'Even minor developments can affect flood risk within or beyond the property, particularly in areas susceptible to flooding.'* It advises that *'A pragmatic approach should be taken to the scope and level of detail of the assessment – a shorter, simpler assessment is likely to be sufficient in most such cases. As a minimum, the assessment needs to show that the development will be safe for its users for the intended lifetime of the development, without increasing flood risk elsewhere, and be sufficiently flood resistant and resilient to the level and nature of the flood risk'*. Those requirements are reflected in Policy DM39 of the Wycombe District Council Plan [2019].
 12. There is some dispute between the main parties as to whether or not the site lies within the functional floodplain of the nearby watercourse. The Council refer to a Strategic Flood Risk Assessment (SFRA) from 2008 showing the locality as within Zone 3b. However, despite a more recent SFRA which should identify areas within Zone 3b, there is little evidence before me to indicate that the land in question was locally identified to be where water has to flow, or which stores water, in times of flooding, taking into account local circumstances and with the agreement of the EA, as now required². Accordingly, there is little to counter the appellant's assertion that EA data confirms that the site is not located within a functional floodplain.
 13. The appellant's flood risk assessment (FRA) shows the entire site lies within Flood Zone 3 such that other locations on the mainly level site would not be beneficial in flood risk terms. The location of the building is estimated by the appellant to lie between 13.5-15m from a main river to the west. This causes no direct effect on the watercourse or access to it as a result.
 14. The appellant contends that the building is only used for storage. However, at the time of my site visit, the southern half of the building was laid out with seating, integrated barbecue facilities and a pool table. Notwithstanding, in accordance with the Framework's flood risk vulnerability classification³, storage and leisure uses fall within the 'less vulnerable' classification. The guidance advises that such uses are not necessarily incompatible in Flood Zone 3 locations.
 15. The FRA falls short of demonstrating the likely flood levels on the site. However, it highlights that the simple timber construction, with a solid tiled floor levelled flush with the surrounding land and large sliding doors, would allow ingress and egress of flood water. This is not disputed by the Council. The design, construction and ancillary nature would allow it to be easily brought back into use without significant refurbishment. It would also limit any displacement of flood water on or off site. In the open rural location with limited gradient the effect of the building on flood flows, whether taken singularly or cumulatively with other local buildings, would not, in my view, be likely to give rise to a significant effect.
 16. As a building without main living accommodation and sited close to the dwelling where refuge is available, any risk to users is significantly limited. This would be

² PPG Paragraph: 078 Reference ID: 7-078-20220825 & EA Guidance: How to prepare a strategic flood risk assessment.

³ NPPF Appendix 3

the case even if flood risk increased over the lifetime of the development. Accordingly, while the FRA does not provide a comprehensive assessment, it is commensurate with the scale and nature of the development alleged in the Notice. It shows that the development will be safe for its users and be sufficiently flood resilient.

17. Subject to the Framework's requirement for a sustainable drainage scheme, which could incorporate flood storage capacity, I find the design and siting of the less vulnerable development compatible with local flood risks and will not materially increase flood risk elsewhere. As such, it aligns with Policy DM39 of the WDLP and Part 14 of the Framework.

Other Matters

18. I acknowledge third party concerns that the building was constructed without planning permission. However, the Town and Country Planning Act 1990 provides for planning permission to be granted for development already carried out. Furthermore, I have had regard to the principal that no advantage should be afforded by that circumstance.

Conditions

19. In the absence of justification otherwise, and to comply with the requirements in Policy DM39 of the WDLP and the Framework, a sustainable drainage scheme is necessary to limit or reduce the risk of flooding on the site or elsewhere.

Conclusion

20. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice. The enforcement notice will be quashed.
21. In these circumstances the appeals on grounds (f) and (g) do not fall to be considered.

R Hitchcock

INSPECTOR