



Appeal Decision

Hearing held on 5 March 2025

Site visit made on 5 March 2025

by T Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 March 2025

Appeal Ref: APP/H0520/W/24/3342308

Taylor's Dredging Ltd, Bromholme Lane, Brampton, Huntingdonshire PE28 4NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Charles Birch against the decision of Huntingdonshire District Council.
 - The application Ref is 23/02351/FUL.
 - The development proposed is raise land levels to 11.5m AOD.
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Decision

1. The appeal is allowed and planning permission is granted for raise land levels to 11.5m AOD at Taylor's Dredging Ltd, Bromholme Lane, Brampton, Huntingdonshire PE28 4NE in accordance with the terms of the application, Ref 23/02351/FUL, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing Site Location Plan as Existing Drawing No.01.
 - 3) Prior to the commencement of development, a detailed site boundary plan based on the site location plan and position of the boundary shown on LS5795/2A shall be submitted to and approved in writing by the Local Planning Authority.

Preliminary Matters

2. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. The Council has submitted a statement of case in relation to the appeal which sets out a putative reason for refusal. This constitutes the matter of disagreement with the appellant which informs the main issue in this case.
3. The wider site within the appellants control as well as the appeal site has been granted certificates of lawful existing use for use of land as a storage site within Class B8 in association with a river dredging business. The relevant Council references are 18/02599/CLED, 19/01070/CLED and 20/01088/CLED (allowed on appeal – Ref APP/H0520/X/20/3264918). It is therefore common ground between the parties that the site benefits from lawful B8 storage use.
4. A certificate of lawfulness of proposed development for a 1m high wall around the land relating to the appeal site was granted in February 2025 which is referenced 24/02306/CLPD.

5. At the time of my site visit the appeal site was being used for the storage of aggregate and other material. The wall had been partially constructed to one side of the access adjacent to Bromholme Lane.
6. The appeal proposal does not relate to the whole of the site within the applicants control at Bromholme Lane and a section of the land is omitted from the proposal at the southern end of the site.

Main Issue

7. The main issue is whether the proposed raising of the land level at the appeal site would result in an increased flood risk elsewhere.

Reasons

8. The appeal site sits adjacent to Bromholme Lane, with the access to the Environment Agency Bampton office opposite the appeal site. There are some residential properties within the vicinity along with a caravan park. The River Great Ouse/Bampton Brook run a short distance from the appeal site whilst Alconbury Brook is not far away. The area, particularly away from Huntingdon Road has a broadly open and rural character and appearance.
9. The site is within Flood Zone 3 and partly falls within the functional flood plain. It is at high risk from flooding. The appeal proposal seeks to raise land levels across the site to 11.5M AOD. This would see the level of the site raised above the 1:1000 year flood level of 11.20M AOD including a 300mm allowance for freeboard¹. It is stated that this is required as holding aggregate above the flood level guarantees a better quality produce with a higher specification which commands a higher price.
10. There are residential properties located across from the site as well as the entrance to the Environment Agency (EA) offices. The offices would be used for example for convening a major incident response where an onsite presence would be required. Further, equipment relating to EA activities is stored at the site although the EA advised at the Hearing that equipment such as demountable flood defences are stored at a separate site in Ely.
11. Modelling² has been presented which attempts to ascertain the impacts of increasing the level of the appeal site on flood risk within the area. That modelling identified that no increases in flood depths would occur within the site or surrounding area of the site. It furthermore indicated that flood depths during all flood events were shown to marginally decrease beyond the site boundaries meaning that raising the ground level would result in a positive impact on flood risk within Bromholme Lane and Huntingdon Road.
12. However, there are limitations to that approach to modelling potential impacts with regard to what is only a modestly sized site within the large model area. These limitations include the use of a 20m cell size, which may not accurately pick up ground levels on a smaller scale.
13. Further, the report uses as a base a 2015 report, which the Environment Agency stated at the Hearing contained LiDAR data from 2009 to ascertain ground levels.

¹ Flood Risk Assessment P11, Land at Bromholme Lane, Bampton, Huntingdon, PE28 4NE, by RPS July 2021.

² SUPPLEMENTARY HYDRAULIC MODELLING REPORT – by RPS October 2023.

There is the clear potential for changes to have occurred to ground levels in the substantial period of time that has passed since that survey was undertaken.

14. As a result, I cannot have confidence that the predicted outcomes from the modelling would manifest themselves within a real world scenario on the site. I note the appellants arguments advanced at the Hearing with regard to proportionality of approach to this matter, although it did appear that there would be middle ground whereby more up to date survey work could be undertaken that would not involve the time and expense of revisiting the whole of the 2015 model.
15. Raising the level of the appeal site above flood risk level would reduce capacity within the area to store water within the functional floodplain. I cannot be certain that the proposal would not increase flood risk elsewhere and therefore some harm could arise as a result of the proposal in this respect. No compensatory floodplain storage is proposed away from the site.
16. The proposal would subsequently conflict with Policy LP 5 of Huntingdonshire's Local Plan to 2036 (2019) which requires amongst other things that where a proposal is within Flood Zone 3 the development must not result in a loss of flood storage capacity. Where a proposal would occupy functional flood plain the Policy requires that the developer must ensure that it does not impact upon the ability of the floodplain to store or convey water and seek opportunities to provide floodplain betterment.

Other Matters

17. Whilst that is the case, my attention has been drawn to fall back positions relating to both the lawful use of the appeal site as well as a wall which could be constructed around the land which relates to the appeal site. The site is in extensive use to store aggregates and other materials and the wall has been partially constructed. There is nothing to indicate that the use of the site for storage of aggregate and other materials would not continue or that the construction of the remainder of the wall would not be completed. These matters are therefore a material consideration.
18. Whilst I accept that not all of the site would be filled with aggregate all of the time, there is nothing to indicate that substantial areas would not be utilised for storage for much of the time and indeed it would make limited business sense to underutilise the storage capacity at the site.
19. The use of the site for storage of aggregate would substantially reduce its ability to store water as part of the flood plain. Further, the completion of the wall would see the site protected from some of the more regular flooding events and would act to restrict the capacity of the site to store water as part of the flood plain. Therefore, the effects of the proposed development on flood risk elsewhere and the effect that would arise as a result of the fallback positions would be similar. This is a matter to which I afford substantial weight.
20. The matter of the applicability of the sequential test, which has not been carried out, was discussed at the Hearing. None of the parties present considered it to be applicable. However, even in the event that it was applicable, the failure to carry out the sequential test would not lead me to any other conclusion on the appeal as a whole.

21. The Council has identified no adverse impact of the proposal in terms of highways or the character and appearance of the area and I have no reason to disagree with this position. The possibility of using things such as raised silos or structures that contain materials at the site was raised at the Hearing. However, this would appear to be cost prohibitive. It was confirmed at the Hearing that a Flood Risk Activity Permit was not required with regard to the fallback position.

Conditions

22. The three conditions included are necessary to define the development.

Planning Balance and Conclusion

23. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.
24. The proposed development would conflict with the development plan and I cannot rule out that the proposal would result in an increased flood risk within the area as a result of the raising of the land.
25. However, very specific circumstances relating to fall back positions at this particular site have been drawn to my attention which would have similar effects to the appeal proposal in terms of flood risk to the surrounding area. I have afforded these matters substantial weight. Material considerations therefore indicate that a decision should be made other than in accordance with the development plan and the appeal should be allowed.

T Burnham

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

John Steel KC

Charles Birch

David Hancock

Christopher Patmore

Nick Laister

FOR THE LOCAL PLANNING AUTHORITY:

Lewis Tomlinson

INTERESTED PARTIES:

Megan Turnpenney (Environment Agency)

George Fuhrmann (Environment Agency)

Adam Ireland (Environment Agency)

DOCUMENTS SUBMITTED AT HEARING

Defended Model Flood Outlines Map

Flood Map for Planning (Rivers and Sea)

Huntingdonshire's Local Plan to 2036 – Policies LP2 and LP19

Illustrative Plan HELF04161-RPSPXXPXXPDR-D-1007

LPA Validation Letter