



Appeal Decision

Site visit made on 7 March 2025

by N Perrins MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 April 2025

Appeal Ref: APP/U1105/W/24/3353308

Beachcroft, Burrow Road, Seaton, Devon EX12 2NF

- 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 Mathew Swabey against the decision of East Devon District Council.
 - The application Ref is 24/0892/FUL.
 - The development is change of use from ancillary accommodation to holiday let.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published in December 2024. The updated Framework does not raise any new matters that are determinative to the outcome of this appeal.
3. As observed from my site inspection and confirmed in the information before me, the development has been completed and is, therefore, retrospective.

Main Issue

4. The main issue is whether the development is in a suitable location and would be safe for its lifetime in respect of flood risk.

Reasons

5. The appeal site comprises a converted former garage building located adjacent to a dwelling known as Beachcroft. The site is located on a private road that leads to the seafront. The appeal site is in Flood Zone 3, which is the highest risk of flooding.
6. Ref: 22/2229/FUL was granted planning permission to convert the garage at the property to an annex for habitable use. Condition 3 of planning permission Ref: 22/2229/FUL restricted use to purposes ancillary to the residential use of the host dwelling. I understand that the converted garage was subsequently used for holiday let accommodation thus resulting in the planning application subject of this appeal.
7. Whilst the reasons for imposing the condition did not stipulate that it was because of flood risk, this does not negate the need for flood risk to be assessed in accordance with national and development plan policy given the site's location within Flood Zone 3. A holiday let use is categorised in Annex 3 of the Framework as being a 'more vulnerable' use. Whilst a dwelling and a holiday let use are in the

same flooding vulnerability category, the development would create a separate unit independent from the main dwelling. This separation results in an increase in vulnerability as the various occupants of the holiday let would be more independent from Beachcroft in terms of comings and goings and potentially less likely to be aware of the local flood risk context.

8. Paragraph 170 of the Framework states that where development is necessary in areas at risk of flooding, it should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 176 of the Framework confirms that whilst a change of use application should not be subject to the sequential test nor exception test, it should still meet the requirements for a site-specific flood risk assessment. A flood risk assessment has been provided in support of the application, which was updated following the red line application site area being amended to be around the annex building only. The FRA indicates that the development within the amended red line area would be safe from flooding at the present time due to the raised floor levels and existing sea defences that are in place.
9. However, the FRA and supplementary information does not address wave overtopping or the risk of existing flood defences failing, which is an omission that should have been addressed to fully consider the relative flood risk at the present time. Moreover, the FRA also identifies that when the effects of sea level rise over the expected 100-year lifetime of the development are assessed, there will be flood depths up to 1.5m for the 0.5% flood event in the future. Whilst internal floor levels have been raised, they have not been raised to the level needed to mitigate against the predicted future depths for the 0.5% event. They are also unable to be raised any further due to the ceiling height of the building. This confirms that the building without mitigation will not be safe from tidal flood risk over its lifetime.
10. In terms of other on-site flood protection measures, I am aware that there is a concrete wall along one side of site boundary. However, it has not been demonstrated in the FRA or supplementary information that this wall along with the other boundary treatment around the site including front gate will be effective in stopping water from entering the site. I also note the suggestion that there are post-construction adaptations that can be introduced to further protect the development from flooding. Give the predicted future tidal flood levels, it is not appropriate for these to be left to conditions and should form part of the development in my view at this stage.
11. The FRA's response to mitigating the increase in flood depths over the lifetime of the development is ostensibly to rely upon evacuation and flood warning measures. However, both the Environment Agency and the Council has highlighted concerns with the proposed evacuation route given that it would go through areas at risk of flooding including from wave overtopping that have not been addressed. Furthermore, there are no details in the FRA to confirm where the refuge point would be in the event of an evacuation, and whether it would be safe from flood risk. As such, I find that the information before me does not adequately demonstrate that a safe evacuation route can be provided during a future flood event.
12. I acknowledge that the appellant identifies that refuge could take place in Beachcroft. However, this is reliant on both the flood evacuation information being permanently displayed in the development, and the ongoing management of the holiday let by the owners of Beachcroft. Given how long these measures would

need to be in place, I am not satisfied that that these would be effective and controllable over the lifetime of the development including how they would endure through future changes in future ownership.

13. I note that further sea defences are scheduled to be brought forward. However, no details are before me that demonstrate they would address the site-specific flood risk issues in this case and confirm the development as safe from tidal flood risk throughout its lifetime. I, therefore, give any additional protection from future sea defences only limited weight in this decision.
14. I have considered the appellant's suggestion to restrict use to between April and October to prevent use during periods where tides are at their highest. However, no evidence is provided to demonstrate that there would be no risk of flooding during the April to October period. It is also not suggested as mitigation in the FRA. For these reasons, I am not satisfied that such a condition is justified as it does not adequately address the identified harm from tidal flood risk in this case.
15. To conclude, I am not satisfied that the FRA and additional information including proposed mitigation measures adequately addresses the potential tidal flood risks associated with the development and that it would be safe for its lifetime. Accordingly, the development is contrary to Strategy 6 and Policy EN21 of the East Devon Local Plan 2013-2031, which require development to not adversely affect risk of flooding and for a flood risk assessment to demonstrate the development will be safe. The development is also contrary to the relevant national policy and guidance aimed at minimising flood risk and ensuring development is safe in flood risk terms over its lifetime.

Other matters

16. Objections to the application were raised in respect of parking provision, parking leading to blocking of the road and access, security, noise and disruption, overlooking, proximity to residential properties, lack of amenities for the holiday let use and the retrospective nature of the development. However, I do not need to consider these further in this decision as I have found the development to be unacceptable for other reasons.
17. I acknowledge that the development has not resulted in any changes to the external appearance of the outbuilding. I also acknowledge that the circumstances around why the annex building was needed have changed and the appellant is now seeking an alternative holiday let use to add to the availability of quality tourist accommodation in the area. However, these are neutral matters in this appeal that do provide any weight for or against the development and whether the use is acceptable in terms of flood risk.

Conclusion

18. For the reasons given, the development is not consistent with the policies of the development plan as a whole and there are no material considerations that would lead me to a different conclusion. I therefore conclude that the appeal should be dismissed.

N Perrins

INSPECTOR