
Appeal Decision

Site visit made on 12 February 2025

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2025

Appeal Ref: APP/E3335/W/24/3348757

**Land to the West of, White House Rhyne, White House Road,
Pawlett, Bridgwater, Somerset**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Whitehouse Farm Pawlett Hams CIC against the decision of Somerset Council.
 - The application Ref 41/23/00011, dated 25 October 2023, was refused by notice dated 25 January 2024.
 - The development proposed is for the change of use of land and conversion of a wooden boat for use by a Community Interest Company for a Community Interest Project and erection of a toilet block with ramped entrance.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published during the consideration of this appeal on 12 December 2024. The references in my decision to the paragraphs in the Framework relate to this new document.
3. For reasons of precision and clarity, I have taken the details of the appellant, and the description of development from the Council's Decision Notice.
4. I note that the application is retrospective. For the avoidance of doubt, I have determined this appeal on the plans as submitted.

Main Issues

5. The main issues in this appeal are:
 - Whether the proposed development lies in a sustainable location;
 - The effect of the proposed development upon nearby drainage features;
 - Whether the proposed development would result in an increase in flood risk;
 - Whether the proposed development would have an adverse effect upon protected habitats and species; and
 - The effect of the proposed development upon the character and appearance of the area.

Reasons

Location

6. Policy CO1 of the Sedgemoor Local Plan (SLP) identifies that new development in the countryside must demonstrate that there is a specific need for the proposal, or that a countryside location is essential or represents the most sustainable location. Policy S2 identifies that in the countryside, development is only supported where it accords with relevant policies in the local plan which provide for sustainable and appropriate scales of development, including where such a location is essential.
7. Policy S4 identifies that development is supported where it would contribute to meeting the objectives set out within the policy which are aimed at ensuring that all elements of sustainability are considered. This includes minimising the need to travel and encouraging any journeys by alternative modes of travel.
8. The appeal site is located within the open countryside and given the lack of any surrounding development, along with the distance to nearby settlements, lies within an isolated location. The policies within the development plan are clear in their aims of seeking to resist development in such locations and limiting any development to that which needs a countryside location. Whilst the intended users of the proposed development would undoubtedly benefit from being in such an isolated and quiet location, there is no substantive evidence before me to demonstrate that it is a use which requires to be located within the countryside. Furthermore, given the remote and isolated location of the appeal site, I do not find it to be within a sustainable location in terms of its accessibility.
9. In this respect, I note the submissions from the appellant with regards to the intended users of the facility, along with its limited hours of operation. I also note the support given within policy S4 to the raising of skills and achievements of young people and adults through accessibility to education and training. However, when reading the policies within the development plan as a whole, despite some compliance with elements of Policy S4, I find the proposed development to be contrary to its overall aims of seeking to resist unjustified and unsustainable development within the countryside. As such, the proposed development would be contrary to Policies S2, S4 and CO1 of the SLP and the Framework.

Drainage

10. There appears to be disagreement between the parties in relation to the proximity of the toilet block to the existing watercourse, with the Council of the view that it falls within the area that the Internal Drainage Board (IDB) requires to be kept clear. In contrast, the appellant considers it to fall outside.
11. In their response to the application, the IDB raised no objection to the proposed development, on the proviso that it did not affect any land within 6m of the top of an existing watercourse.
12. From the evidence before me, and from what I observed during my site visit, immediately to the rear of the toilet block lies an area of water, which is surrounded by willow trees. The toilet block is located within 6m of this area of water. It is unclear from the details before me as to whether this is an existing watercourse and, therefore, subject to the IDBs standing advice. In this respect

I note the applicant's drawing (EB002 (B)), which shows the location of nearby rhynes, of which this water body is not identified. The toilet block is located in excess of 6m from the features shown on that drawing.

13. However, without any detailed evidence to conclude that the nearby feature is not a waterbody, along with the location of the appeal site within Flood Zone 3, taking a precautionary approach, I find that the proposed development, in particular the toilet block and access ramp, would contravene the IDB guidance and is therefore contrary to Policy D1 of SLP and the Framework.

Flooding

14. The Framework requires that a sequential test relating to flood risk should be applied to the identification of land for development, to ensure that there are no alternative sites available in areas with a lower probability of flooding that would be appropriate to the type of development proposed. Departures from this approach will only be justified in exceptional circumstances where it is necessary to meet the wider aims of sustainable development. Within this context the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
15. The appeal site is located within Flood Zone 3. When assessed against The Framework the agricultural use of the appeal site is identified as a 'less vulnerable' development, with the proposed development classified as being 'more vulnerable'.
16. The appellant's Flood Risk Sequential Test, along with the further information submitted during the consideration of the appeal application, concluded that there were no alternative sites that were identified as being suitable, available, deliverable and developable and that, in their opinion, the sequential test was passed. In terms of the area considered, this was limited to the entire holding and the surrounding area.
17. Considering the nature of the development and that part of its justification is that it would aim to serve an identified need within a considerable distance from the appeal site, I do not find the area of search used by the appellant to be sufficiently large to enable an adequate sequential test to have been undertaken. On this basis, I therefore find that the appellant's approach of only searching for sites within a very limited area, potentially excludes sequentially better locations where the proposed development could be delivered.
18. As I have found that the proposed development fails to pass the sequential test, there is no requirement to consider the exceptions test.
19. For the reasons outlined above, I conclude that the proposed development fails to meet the requirements of Policy D1 of the SLP and the Framework in respect of passing the sequential test. Consequently, I am unable to conclude that the proposal would be acceptable in flood risk terms.

Biodiversity

20. Policy D20 of the SLP requires proposals to contribute to maintaining and, where appropriate, enhancing biodiversity and geodiversity. The appeal site is located within a Bat Consultation Zone, where policy D23 of the SLP seeks to

secure appropriate mitigation measures to protect relevant species from the impacts of development. The appeal site also lies within the Bridgwater Bay SSSI, Seven Estuary Ramsar and Special Protection Area and within the buffer zone for the Bridgwater Bay National Nature Reserve.

21. The appeal application was accompanied by further ecological evidence, which concluded that the siting of the boat, along with the water storage facilities and grey water disposal mechanisms, were unlikely to have an impact on the designated habitats that the site is located within. It concluded that the limited volume of fresh water and subsequent grey water would not be sufficient to have a significant impact.
22. Whilst I note the appellant's submissions, there is however little in the way of survey evidence to support these conclusions, or to demonstrate that the proposed development would avoid impacts upon nearby designations. Furthermore, no substantive evidence is presented to demonstrate that effects upon bats from potential artificial lighting can be adequately mitigated. Therefore, without any evidence, it is not possible to conclude that, as a consequence of the proposed development, there would be no harm to identified designated habitats and species.
23. For the above reasons, and taking a precautionary approach, I find that the proposed development has the potential to cause harm to identified habitats and species and, in this respect, would be contrary to Policies D20 and D23 of the SLP and the Framework.

Character and appearance

24. The appeal site lies in an open and distinctly rural location and is characterised mainly by agricultural uses. Surrounding land is predominately flat and contains little in the way of landscaping. As a consequence, the appeal site is visible within the landscape. To the west lies the coastal footpath, which is positioned on a raised bank as it passes the appeal site. Due to this elevation, and the nature of the surrounding landscape there are medium and long-distance views across the appeal site to the open countryside beyond.
25. The wooden boat is slightly sunken into the ground and as such, whilst it is an unusual and unique feature within the rural landscape, its impact is therefore relatively limited. In contrast, the toilet block and associated platform and access, due to their size, design and appearance, are more readily visible in the landscape, in particular when viewed from the public footpath. As a result, they appear as alien, urban, incongruous features, out of keeping with the surrounding rural, open agricultural character of the area.
26. In relation to the toilet block, I note the submissions by the appellant that it could be repositioned as it is on wheels. However, from my site visit, I do not consider, given the ramp provided, that it is readily moveable. In any event, from the details before me, I do not consider there to be any alternative locations within the appeal site, where the impact of the toilet block would be reduced. I also note the appellant's suggestion that the block could be coloured accordingly. Whilst this would serve to reduce some of the harm I have identified, I do not consider it would be sufficient to remove it entirely.
27. For the above reasons, I therefore conclude that the proposed development, in particular the toilet block and access ramp, would harm the character and

appearance of the area, and in this respect would be contrary to Policy D2 of the SLP and the Framework.

Planning balance and conclusion

28. The proposed development would provide considerable benefits in the form of a service that would meet identified local needs and would provide support to a variety of groups, including to disabled people, through a mix of activities, workshops and support groups. This would provide substantial benefits in terms of improving health and well-being, promoting independence and aiming to reduce inequalities. Given the overall aims of the Framework towards the creation of inclusive communities and seeking to improve health and well-being through planning decisions, I consider that these benefits weigh greatly in favour of the proposed development.
29. The appellant also identifies that the location of the site, adjacent to the coastal path, provides an opportunity to enable people with disabilities to access and use the path, that would not otherwise readily exist. In this respect however, no details of improved access are included within the appeal application. Therefore, whilst I do not seek to bring into question the benefits that such access would deliver, without details of how these benefits would be delivered, I have attributed them little weight in the overall planning balance.
30. The appellant also identifies that the toilet block, during hours of operation, would be available to members of the public using the coastal path and that this would be an asset to the area. There is however no evidence before me to show that there is a need for such an asset and, whilst I agree that having such facilities would be a benefit, given the lack of evidence to support the need, I have attributed this little weight in the overall planning balance.
31. On the other side of the planning balance, I have found that the proposed development would be located within an unsustainable location and would harm the rural character and appearance of the area. I have also found that inadequate information has been provided in relation to flood risk, effects upon nearby designated sites, and drainage features. The proposed development therefore conflicts with the development plan in these respects.
32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions to be made on planning applications in accordance with the development plan, unless material considerations indicate otherwise.
33. In this instance, whilst I acknowledge the considerable benefits that the proposed development would bring, I find that the totality of these benefits are not sufficient to outweigh the conflict with the development plan I have identified.
34. For the above reasons, and having considered all matters, the appeal is dismissed.

Adrian Hunter

INSPECTOR