



Appeal Decision

Site visit made on 10 June 2025

by O Marigold BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 June 2025

Appeal Ref: APP/D1265/W/25/3361754

St Andrews Trading Estate, Unit 2, Shoe Lane, Bridport, Dorset DT6 3EX

- 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 Christopher Seal of PJS Developments against the decision of Dorset Council.
 - The application Ref is P/FUL/2024/03656.
 - The development is described as 'proposed retention of amphibious vehicle and decking for use as an amenity area linked to the existing leisure facilities'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of the appeal application by the Council, a revised National Planning Policy Framework (the Framework) has been published. The parties have had the opportunity to comment on this, and I have made my determination against the updated national policy context.

Background and Main Issues

3. The site lies within Local Green Space (LGS). The Framework makes clear that decisions about development within LGS should be consistent with national policy for Green Belts, excluding its provisions relating to grey belt and previously developed land.
4. The main issues are:
 - whether the appeal development would be inappropriate development within LGS, having regard to the Framework and any relevant Development Plan policies, including the effect on openness,
 - whether the appeal development complies with the Council's settlement strategy, including its effect on the character and appearance of the area, which lies within the Dorset National Landscape also known as an Area of Outstanding Natural Beauty (AONB),
 - the effect of the appeal development on the risks and impacts of flooding, including the sequential test,
 - the effect of the appeal development on ecology, and

- if the appeal development does amount to inappropriate development, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify it.

Reasons

Whether Inappropriate Development

5. The site consists of land within a fenced paddock owned and maintained by the appellant, next to a trading estate. It is adjacent to Seal's Cove, an indoor climbing facility, with children's soft play and a café. It lies within a wider recreational area known as Happy Valley. The appeal application seeks to retain an existing amphibious vehicle that has been sited on the paddock, together with raised decking areas, that are partly built. They would provide a picnic and amenity area used to provide refreshments for customers of Seal's Cove, as well as other people, for instance those using the adjacent public footpath.
6. Policy L3 of the Bridport Neighbourhood Plan (NP), adopted November 2019, identifies the appeal site and surrounding area as LGS, designated for its beauty, history, recreation, tranquillity and wildlife. It states that inappropriate development within LGS will only be permitted in very special circumstances.
7. Paragraph 153 of the Framework states that inappropriate development is, by definition, harmful to the Green Belt (and therefore LGS) and should not be approved except in very special circumstances. These will not exist unless the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
8. Framework Paragraph 154 identifies that development is inappropriate, unless an exception applies. These include, at 154(b), the provision of appropriate facilities for outdoor recreation, as long as the facilities preserve the openness of the Green Belt/LGS and do not conflict with the purposes of including land within it.
9. A fundamental aim of local and national planning policy is to prevent urban sprawl by keeping land open. There is no dispute that before the appeal development was positioned here, the land consisted of an area of undeveloped green space. The amphibious vehicle would be subject to periodic removal from the site, for cleaning and maintenance. Nevertheless, it would remain in place for considerable periods of time. Furthermore, the decking and seating, though secured by removable ground screws, is and would be a large and essentially permanent structure.
10. As a result, the appeal development intrudes into and harmfully diminishes the openness of the land. Visually, it can be seen clearly from the adjacent riverside footpath. Consequently, it has and would have spatial and visual effects that would fail to preserve the openness of the LGS. It encroaches into the countryside formed by the site, conflicting with one of the purposes identified at Framework Paragraph 143(c). As such, the appeal development would not benefit from the exemption under Framework paragraph 154(b).
11. For the reasons given above, the appeal development would constitute inappropriate development. To establish compliance with Policy L3 and the Framework, it is therefore necessary for me to assess whether any very special circumstances apply, which I will consider below.

Character, Appearance and Settlement Strategy

12. The site forms part of an attractive, green riverside walk, with the countryside providing visual relief from the built-up part of the town. The amphibious vehicle, boat-like but with wheels, provides an unusual feature. It currently has a somewhat run-down appearance, although it is said to be undergoing refurbishment.
13. Even so, the vehicle and the decking have a domesticating and urbanising design and influence. They result in built form encroaching into the countryside formed by the riverside open space hereabouts, which otherwise provides an attractive buffer to the industrial estate. As such, the features appear unexpected and out of place, detracting from the natural beauty of this part of the National Landscape. I have already found that the structures can be seen from the adjacent footpath.
14. NP policy CF1 seeks to protect and enhance community infrastructure and facilities, including open spaces. Policy COM5 of the West Dorset, Weymouth and Portland Local Plan (the Local Plan), adopted October 2015, resists new development on public open spaces, unless it is ancillary to the site, and improves its recreational and amenity value, or does not adversely affect playing pitches.
15. The appeal development is intended to be made available to footpath users, thereby adding to the amenity value of the open space. It has no effect on playing pitches. That said, given its close proximity, use and association with Seal's Cove, the appeal development would be primarily part of that site, rather than being ancillary to the wider Happy Valley area. Furthermore, it has resulted in the loss of part of the green open space, and does not enhance its appearance for the reasons already given. On this basis, I conclude that it does not accord with NP policy CF1 and Local Plan Policy COM5.
16. Local Plan policy SUS2 strictly controls new development outside Settlement Boundaries, as here, restricting it to certain types. These include local facilities close to an existing settlement, which encompasses the appeal development. However, the policy also requires that particular regard is given to the need for the protection of the countryside, and to environmental constraints. In light of my findings above, the appeal development would not accord with this policy.
17. For the reasons given, the appeal development would harm the character and appearance of the area and would not comply with the Council's settlement strategy. It would therefore conflict with Local Plan policies D8, ENV1, ENV10, ENV12, EVN15, and NP policy L1. These require a positive contribution to local distinctiveness and character, an appropriate design, and do not permit harm to the natural beauty of the AONB. In addition, for the reasons already stated, it would conflict with Local Plan policies COM5 and SUS2, and NP policy CF1.

Flooding

18. The appeal development is located close to the River Asker and lies within Flood Zones 2 and 3. There is no dispute that it constitutes a use less vulnerable to flooding¹. Nevertheless, its location is within an area of high risk. The Framework and Local Plan policy ENV5 require amongst other things that development does not exacerbate flooding elsewhere, that any residual risk can be safely managed,

¹ Framework Annex 3

and that safe access and escape routes are provided. A site-specific Flood Risk Assessment is required for all development in Flood Zones 2 and 3.

19. The application and appeal submissions contained information in respect of flooding. This states that, when flooded, the amphibious vehicle would float and so would not prevent the passage of water through the site. The decking itself would be permeable and the decking posts are secured by removable ground screws. Before the development, the land was used by the public as open space.
20. Even so, I have found that the decking and its seating is and would be an appreciable structure. Despite the use of ground screws, I have little evidence to show that the decking and its seating could be practically removed quickly in the event of a flood, which could occur with little warning and at a fast velocity. As such, the appeal development could well impede flood waters, potentially increasing flood risk elsewhere.
21. The application site includes land to the east of Seal's Cove. In times of flooding, emergency vehicular access may be possible within this land. A raised walkway is also shown as providing pedestrian access to the Seal's Cove site itself. However, few details of these access arrangements, or their suitability in times of flooding, have been provided. Measures necessary to make the appeal development safe, if possible, could well require physical changes, rather than just the submission of a Flood Management Plan. Consequently, this matter cannot safely be left to a planning condition.
22. Even if the appeal development could be made safe, without increasing flood risk elsewhere, the Framework's sequential test would still need to be satisfied². This seeks to steer development to areas of lowest flood risk if possible, resisting it in high-risk locations if there are alternative lower-risk sites reasonably available.
23. Footnote 62 of the Framework states that small non-residential extensions are not required to undertake a sequential test. The submitted plans show a pathway and gated access between Seal's Cove and the appeal site, but with little or no substantive built form. As such, the appeal development does not amount to an 'extension'. Accordingly, the sequential test must be met.
24. The appellant states that there are no reasonably available alternative areas within the Seal's Cove site which are not also within Flood Zones 2 and 3. However, I have little evidence to demonstrate this. Consequently, the sequential test is not passed and so the exception test does not apply.
25. For the reasons given above, I conclude that the appeal development would have harmful effects in respect of the impacts and risks of flooding, including the sequential test. It would therefore conflict with Local Plan Policy ENV5, and with the Framework.

Ecology

26. The River Asker forms part of an ecological network and wildlife corridor. It is also close to existing trees. The appeal development may have a developable area less than that required for an Ecological Impact Assessment. There is no dispute that a Biodiversity Net Gain Statement was not required. Notwithstanding references to a

² Planning Practice Guidance paragraph: 023 Reference ID: 7-023-20220825

licencing application, external music or lighting does not form part of the planning application.

27. Even so, the appeal development is close to ecological features. One of the trees on site has a canopy that extends over parts of the existing and proposed decking area. As such, I am concerned that the built form of the appeal development, and its future use by customers, could result in pressure for the tree to be pruned, for example to avoid debris from the tree or birds using it affecting the decking or seating. Such pressure could potentially adversely affect the long-term health of the tree.
28. Furthermore, the close proximity of the river and its flooding area means that the appeal development and its use may well have significant effects on species within the river. In the absence of a substantive ecological assessment, I cannot conclude that such affects would be acceptable or could be adequately mitigated.
29. The appellant intends to plant wildflowers in a dedicated area within the paddocks, which would provide food for birds, bees, butterflies and other insects. It would therefore have some ecological advantages. This area is not shown within the application site but, in any case, these modest benefits do not outweigh my concerns about the wider potential ecological effects of the appeal development.
30. For the reasons given above, the appeal development would conflict with Local Plan policies ENV2 and ENV10, and NP policy L2, which require that significant harm to nature conservation interests should be avoided, mitigated or compensated for, and that development should provide for the retention and protection of trees. However, as no external lighting is proposed, I find no conflict with NP policy D10, which seeks to minimise light pollution.

Other Considerations

31. The appeal development would have economic benefits, relating primarily to the existing family-run business as well as its wider supply chain. It is estimated that it would provide at least three additional, local jobs including in food preparation and leisure activity roles. I give these benefits moderate positive weight.
32. Local Plan policy COM2 supports new or improved local community buildings or structures where certain criteria are met. There is no dispute that the appeal development would accord with this policy. However, although it would be used for charity events, it would be principally commercial in nature, rather than having for example a wholly community use. As such, I give the support from Local Plan policy COM2 only moderate positive weight.
33. The appeal development would provide natural surveillance of the open space surrounding it. That said, the appellant suggests that it would operate only during daylight hours, reducing the benefits of such surveillance. I therefore give this limited positive weight.

Planning Balance and Conclusion

34. I have found that the appeal development would be inappropriate development in the terms set out by the Framework, to which I attach substantial weight. I also attach great weight to the harm caused to the character and appearance of the area, including the National Landscape and the conflict with the settlement

strategy. I give very significant weight to the harm in respect of flooding; and significant weight in respect of the ecological harm.

35. For the reasons given above, I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. It would therefore also conflict with NP policy L3.
36. For the reasons given, there would be conflict with the Development Plan, read as a whole. It would also conflict with the Framework. No other material considerations have been shown to have sufficient weight to outweigh this conflict. I therefore conclude that the appeal should be dismissed.

O Marigold

INSPECTOR