



Appeal Decision

Site visit made on 18 June 2025

by **C Billings BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 01 July 2025

Appeal Ref: APP/J3720/W/25/3360882

Toad Hall, Tiddington Road, Tiddington CV37 7AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class AD of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
- The appeal is made by Mr Nic Allen against the decision of Stratford-on-Avon District Council.
- The application Ref is 24/01805/NDAD.
- The development proposed is erection of single dwelling above existing bungalow.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Under Schedule 2, Part 20, Class AD of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended (the GPDO), planning permission is permitted for new dwellinghouses on detached buildings in use as a dwellinghouse, subject to limitations and conditions.
3. As part of the appeal process an updated Flood Risk Assessment (FRA) and an amended plan has been submitted to relocate the parking area of the proposed dwelling to another part of the appeal site, so it would be in Flood Zone 1. While the changes within the updated FRA include minor points of clarification and correction, the amended plan to relocate the parking area includes a fundamental change to the application proposal, which all relevant parties have not had opportunity to comment on. Therefore, it would be procedurally unfair to consider the amended plan. Accordingly, I have determined the appeal on the basis of the plans submitted to and considered by the Council in their determination of the application for prior approval, including Proposed Site Plan ref. 10538-201.

Background and Main Issue

4. It is undisputed by the main parties that the proposal is permitted development under Class AD and that the proposal would meet the conditions of paragraph AD.2(1) (a) to (c) and (e) to (h) of Part 20 of the GPDO, which require the developer to apply to the local planning authority for prior approval in relation to a number of matters. Based on the evidence provided, I have no reason to disagree with that assessment on such conditions.
5. Therefore, the main issue is whether the proposed development would accord with Part 20, Class AD.2 (1)(d) in respect of flooding risks in relation to the building.

Reasons

6. The Environment Agency (EA) flood maps show that part of the appeal site is within Flood Zone 2, at medium risk of flooding, including most of the existing bungalow itself and part of its garden area. Also, part of the proposed driveway and the new parking spaces for the existing and proposed dwelling would be in Flood Zone 2. While the appeal site boundary does not extend to a public highway, access to the appeal property would be via the private access driveway leading through the holiday park to Tiddington Road. The EA flood maps indicate that part of this private access is within Flood Zone 2.
7. The site-specific FRA sets out that, having regard to EA modelled flood levels for the River Avon and taking account of climate change and comparing to a topographical survey, part of the appeal site, including part of the existing building footprint, would be inundated by flood water on the worst case scenario for the 100-year plus climate change event, even if much of the water would be lost to the wider floodplain. Also, the FRA notes there are historical flood map records of flooding inundating Toad Hall, with inundations representative of Flood Zone 2.
8. Therefore, while the risk of fluvial flooding is demonstrated to be low for much of the appeal site, some parts of the site, including part of the building footprint is at medium risk of flooding. In view of such, the FRA sets out proposed mitigation measures for fluvial flooding.
9. Paragraph 175 of the National Planning Policy Framework (the Framework), states that the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).
10. The main living accommodation of the proposed dwelling would be at first floor level and the finished floor level inside the building are demonstrated to be above flood zone levels set out in the site specific FRA. However, part of the existing building and so part of the built development of the proposed dwelling would be within an area at risk of flooding. Additionally, the entrance doorway into the new dwelling and its proposed parking area would be at a level at risk of flooding. Therefore, even though the occupiers of the proposed dwelling would have a place of refuge during flooding events, part of the appeal building and built development would be within an area at medium risk of flooding and the access and means of escape from the property would likely be cut off during times of flooding. Consequently, a sequential test is required in this instance.
11. Condition AD.2.(1)(d) of part 20 of the GPDO refers to flooding risks in relation to the building¹ in particular, and not in relation to the site, unlike other types of permitted development categories within Parts 3 and 4 of the GPDO. Although, these other categories relate to the change of use of existing buildings or include temporary uses or temporary buildings. Furthermore, compared to such other forms of development, the proposal is for a new dwelling to be built above a building whereby part of its footprint is within an area at risk of flooding. Therefore, I have considered the proposal on its own merits, having regard to the specific relevant

¹ My emphasis.

part of the GPDO and the Framework. Consequently, it is necessary to consider the risks of flooding in regard to the appeal proposal, including on the whole building and not just part of it.

12. Appeal decision ref APP/Q1445/W/21/3267608 relates to a different appeal site in a different location. Also, the main issue in that appeal related to the external appearance of the building, rather than flooding risks in relation to it. Furthermore, unlike the appeal proposal, this appeal case example had different considerations in relation to the building, including that it refers to 'of' rather than 'in relation to' the building. Therefore, the Inspectors interpretation as to what should/should not be considered in such example is a neutral matter in regard to my findings on the appeal proposal.
13. Footnote 62 of paragraph 176 of the Framework sets out that some minor development and changes of use are not subject to the sequential test, nor the exception test. However, even if this is not a closed list, in reference to the judgement made in *CAB Housing Ltd, Beis Noeh Ltd & Mati Rotenberg v SSLUHC* [2022] EWHC208 (Admin), it is my view that a new dwelling would not be so minor as to be excluded from such tests, particularly as dwelling houses are classified as more vulnerable to flood risk under Annex 3 of the Framework.
14. The exception test would be considered having applied the sequential test first. However, notwithstanding such and that car parks are classified as less vulnerable under Annex 3 of the Framework, parking associated with the use and occupation of a dwelling would not be the same as, nor fall within the same use class as a car park.
15. The proposed flood mitigation measures in the FRA include adding the appeal property and the existing bungalow to the Flood Evacuation Management Plan serving the caravan site. This would allow betterment for the existing dwelling which is partly within Flood Zone 2. Also, one additional dwelling within an area at risk of flooding may not materially increase the scale of rescue operations associated and compared with that of the existing surrounding uses. However, such considerations do not negate the requirement for a sequential test, nor justify more vulnerable forms of development within an area at risk of flooding.
16. The EA did not provide a substantive response to their consultation on the application and so, the Council did not receive specialist input from the EA in assessing the application. However, this and the actions of the Council in seeking the EA views during the application process does not affect my findings on the appeal that a sequential test is necessary in this instance.
17. Having regard to the above and in the absence of a sequential test, the proposed development would not accord with Part 20, Class AD.2 (1)(d) in respect of flooding risks in relation to the building.

Conclusion

18. Accordingly, I conclude that the appeal should be dismissed.

C Billings

INSPECTOR