



Appeal Decision

Site visit made on 17 June 2025

by **H Nicholls MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 July 2025

Appeal Ref: APP/U1105/W/25/3360422

Land adjacent Shute Farm, Fluxton

- 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 Carolyn Chapman against the decision of East Devon District Council.
 - The application Ref is 23/2121/FUL.
 - The development proposed is proposed barn and polytunnels.
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Decision

1. The appeal is allowed and planning permission is granted for proposed barn and polytunnels at Land adjacent Shute Farm, Fluxton, in accordance with the terms of the application, Ref 23/2121/FUL, subject to the conditions in the schedule attached.

Preliminary Matters

2. As the site location details were absent from the application form, I have described the location of the site as per the decision notice. This appears to correlate with the address subsequently provided the appellant and as per the submitted plans.

Main Issue

3. The main issue in the appeal is whether the development would be located so as to be safe with regard to flood risk and whether it would avoid increasing the risk of flooding elsewhere.

Reasons

Flood Risk

4. The appeal site comprises an area of around 1 hectare in area and to the south of the hamlet of Fluxton. It is enclosed by hedgerows and accessed via Tipton Vale which borders the west of the site. The evidence details that the site is used, in part, for horticultural purposes in association with the production of cut flowers. It was evident from my site visit that the site is also used for agricultural purposes for the keeping of livestock.
5. The proposal seeks to site a timber barn and polytunnels on the north-western parts of the site to assist with the continued mixed use of the land to expand the flower growing season and provide storage, in addition to providing the ground floor of the barn as housing for the livestock. The polytunnels would be fairly typical in appearance, laid out side-by-side and measuring approximately 12m by 6m. The barn would be constructed from timber with grey metal sheet roof with limited openings. It would broadly measure 14m x 7m by around 5m to the ridge.

6. The submitted Flood Risk Assessment¹ (FRA) details that the JFlow data obtained from the EA indicated that in the modelled 1 in 100 year event, the lower elevations of the site could experience flood depths around 0.7m, however, where land levels are higher, flood depths would be as low as 0.1m, with the majority of the area proposed for development shown not to flood at all. The FRA was based on the then relevant data with the site entirely covered by Flood Zones 2 and 3.
7. By letter dated 25 March 2025, and following the submission of the appeal, the Environment Agency (EA) confirmed that its Flood Maps had been updated through the National Flood Risk Assessment 2 (NaFRA2) publication. The updated maps indicate that the site is not entirely within Flood Zone 2 and 3 but that the flood zone still extends across the access/egress to the site. The location of the barn and polytunnels and surrounding land to the south on higher ground would be outside of Flood Zones 2 and 3. There are no changes to the Flood Zone categorisation applicable to the access to the site in the south-western corner which remains within the flood zone with a high probability of fluvial flooding.
8. Policy EN21 of the East Devon Local Plan (2016) (Local Plan) indicates that the sequential approach will be taken when considering whether new developments, excluding minor developments and changes of use, will be permitted in areas subject to river and coastal flooding. The National Planning Policy Framework (the Framework)² clarifies that a sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding. The sequential test is to steer new development to areas with the lowest risk of flooding from any source and a sequential test should be used in areas known to be at risk 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, would be located on an area that would be at risk of flooding from any source, now and in the future.
9. As the access and escape route to/from the site is still at risk of flooding, the sequential approach is relevant. This is confirmed in the Environment Agency's correspondence of 7 November 2023 and 25 March 2025, which detail no objections subject to the application of the sequential test. The Planning Practice Guidance (PPG) confirms that³ for individual planning applications subject to the sequential test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed and that a pragmatic approach needs to be taken where proposals involve comparatively small extensions to existing premises (relative to their existing size), where it may be impractical to accommodate the additional space in an alternative location.
10. In this case, the proposal is for a modest amount of built development, i.e. less than a total of 250 sqm, for agricultural/horticultural purposes on a low flood risk area of the site, accessed via a gateway which is within Flood Zones 2 and 3. The appellant's evidence does not detail the outcome of any searches for potentially available alternative sites at a lower overall risk of flooding within the surrounding area or wider district. Whilst the PPG indicates that lower risk alternative sites do not necessarily need to be owned by the applicant to be considered 'reasonably available', in this case, the nature of the use of the site is as existing and the commercial elements of this use have been established from the site since around

¹ Aegaea, dated 29 May 2025, Ref EG4888_EX11_Fluxton_01

² Paragraph 173

³ Paragraph: 027 Reference ID: 7-027-20220825

2021. The evidence details that this is the only land available to the appellant on which to site the barn and polytunnel as a means to expand and grow the commercial aspects. Given the accepted need for pragmatism where proposals are small scale and where there are impracticalities involved in relocating related development elsewhere, such as business continuity, in light of its scale and nature, there are no sequentially preferable alternative sites available for the specific proposal.

11. Having ascertained that there are no reasonably available alternative sites for such purposes, it is evident that a sequential approach has been adopted within the site by proposing the barn and polytunnels on land that is at low risk of flooding.
12. In terms of the exceptions test approach, as the development would fall to be considered as a less vulnerable category of development, an exceptions test is not strictly applicable. Nonetheless, the FRA details measures to advance the safety of employees and visitors in the event of a flood, with a locally available flood warning system to which the appellant could subscribe to receive relevant notifications and warnings.
13. In terms of whether the proposals would increase the risk of flooding elsewhere, the built development would result in modest additional impermeable areas which would displace modest additional surface water. Policy EN22 of the Local Plan requires that the surface water run-off implications of the proposal have been fully considered and found to be acceptable, including implications for coastal erosion.
14. The submitted FRA indicates that a Sustainable Urban Drainage System (SUDS) could be implemented, utilising water butts and grey water harvesting. These measures would appear logical given the nature of the use of the site and a condition could require compliance with the FRA to secure such.
15. In view of the above and subject to conditions, the proposal would be acceptably located so as to be safe with regard to flood risk and would avoid increasing the risk of flooding elsewhere. The proposal therefore complies with Policies EN21 and EN22 of the Local Plan and accords with the expectations of the Framework in respect of flood risk considerations.

Conditions

16. In the interests of certainty, conditions are necessary specifying the time limit for commencement and the relevant approved plans.
17. In the interests of the safety of users and minimisation of flood risks, a condition shall secure drainage and flood resilience measures as outlined in the FRA. To maintain the character and appearance of the area, it is also necessary to secure details of the external materials of the barn prior to its construction.

Conclusion

18. For the reasons given above, the proposal accords with the development plan and there are no considerations to indicate that a decision should be made other than in accordance therewith. Accordingly, the appeal should be allowed.

H Nicholls

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan, scale 1:1250
 - Proposed Floor Plans, Ref 3860/02
 - Proposed Elevations, Ref 3860/01
 - Proposed Site Plan, Ref 3860/04
 - Proposed Polytunnels, Ref 3860/03
- 3) The development hereby permitted shall be carried out in accordance with mitigation measures of the submitted Flood Risk Assessment, document reference AEG4888_EX11_FLUXTON_01, conducted by 'Aegaea'.
- 4) Prior to their installation details of the external materials to be used on the barn hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

ENDS-----