



Appeal Decision

Site visit made on 8 June 2023

by C Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2023

Appeal Ref: APP/K1128/W/22/3304261

Land at SX 690 402, Galmpton, Kingsbridge TQ7 3EY

- 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 Mr & Mrs Grayson against the decision of South Hams District Council.
 - The application Ref 3951/21/FUL, dated 18 October 2021, was refused by notice dated 4 March 2022.
 - The development proposed is described as "replacement agricultural barn (part retrospective) resubmission of 0882/21/FUL".
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues in this case are:
 - whether there is an agricultural need for the proposed development.
 - whether the proposed development would comply with policies which seek to manage the risk of flooding.
 - the effect of the proposed development on the character and appearance of the South Devon Area of Outstanding Natural Beauty (the AONB).

Reasons

Agricultural need

3. On my visit I saw an area of concrete hardstanding on the site of the proposed agricultural building, but otherwise the land is open undeveloped. While I am informed that there used to be a barn on the site, the photographs provided by the Council indicate that the proposed agricultural building would be a larger and more substantial building than the previous structure. As such, it is not a like-for-like replacement of what formerly existed.
4. Policy DEV15 of the Local Plan¹ permits forms of development which support the rural economy, including that which *meets the essential needs of agriculture or forestry interests*. Similarly, Policy TTV26 enables development which responds to a *proven agricultural, forestry and other occupational need that requires a countryside location*. The test is therefore whether there is a proven agricultural need for the proposed dwelling.

¹ Plymouth and South West Devon Joint Local Plan 2014-2034

5. I saw on my visit that the land is being used to keep sheep and I understand that the proposed building would be used by a tenant farmer to store animal feed and machinery in connection with this activity. However, although I am informed that there can be up to 45 sheep on the site in spring, very little additional evidence has been provided to explain why there is an agricultural need for the proposed building. For example, it is not made clear why machinery needs to be kept on the site and exactly what it would be used for. Nor is it clear what the current arrangements are for managing the site or how business operations may be compromised without the proposed building. In the absence of more detailed information on these matters, I am unable to determine that there is an essential need for the development.
6. I therefore conclude on this issue that an agricultural need has not been demonstrated. For the reasons given above, the development would not be supported by Policies DEV15 or TTV26 of the Local Plan. Nor would it be supported by Policy DEV24 which enables agricultural development that meets the objectively assessed needs of the local community.

Flooding

7. The flood risk assessment provided by the appellants indicates that the majority of the site is situated within Flood Zone 1, with a smaller area being within Flood Zone 3. However, the Environment Agency has subsequently confirmed (in its letter dated April 2023) that most of the site is within Flood Zone 3 with the remainder being in Flood Zone 2. Having reviewed the mapping data provided, I am satisfied that this is the case.
8. The Framework² says that a site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. While the appellants have provided a flood risk assessment, it is relatively short on technical detail and appears to be based on national mapping data rather than a bespoke survey of the site. Indeed, a comparison of the information provided by the appellants and the advice contained within the PPG³ in relation to site-specific flood risk assessments (including the checklist) leads me to conclude that there are a number of unanswered questions. For instance, the evidence does not clearly discount the possibility of the development increasing flood risk elsewhere in the vicinity. In the absence of such information, I am unable to verify with sufficient certainty that the proposed building would comply with the criteria set out in paragraph 167 of the Framework, which govern whether or not development should be permitted in the flood zone.
9. Furthermore, very little evidence has been provided to inform a sequential test, which is another requirement of the Framework. Although paragraph 168 of the Framework says that certain types of 'minor development' are exempt from the sequential test, the proposed agricultural building does not fall under the definition of minor development as defined in footnote 56. Without more detailed information about the agricultural activity on the site and the nature of the land holding, I am unable to rule out the possibility that the proposed building could be located outside the flood zone. Even if the proposed site is the most sustainable location for the building, this needs to be demonstrated through the application of the sequential test.

² National Planning Policy Framework, July 2021

³ National Planning Policy Guidance (Flood Risk and Coastal Change) as updated on 25 August 2022

10. Paragraph 163 of the Framework says that if it is not possible for development to be located in areas with a lower risk of flooding, the exception test may also have to be applied. In this case, the proposed agricultural building would be a 'less vulnerable' form of development and so (according to Table 2 of the PPG) could be located in Flood Zone 3a without the need for an exception test. However, I agree with the Environment Agency's view that the appellants' flood risk assessment is not sufficiently detailed enough to establish whether the site is within Flood Zone 3a or 3b. In any case, the exception test is only of relevance once the sequential test has been completed.
11. I therefore conclude on this issue that the proposed development would not be in compliance with policies which seek to manage the risk of flooding. This includes Policy DEV35 of the Local Plan, which reflects the national guidance contained within the Framework and the PPG. The proposal would also conflict with Policy SH Env 7 of the South Huish Neighbourhood Development Plan 2019 to 2034 in this respect.

Character and appearance

12. The site is situated outside the small settlement of Galmpton in area that is mainly characterised by open fields, hedgerows and mature trees. It is a distinctly agricultural landscape which forms part of the South Devon AONB. According to the Framework, such landscapes have the highest status of protection in relation to their scenic beauty.
13. Although the proposed barn would be relatively sizeable, it would be positioned at the bottom of a valley where it would not be widely exposed within the landscape. While the building would be seen from the rear of some properties to the north, it would sit low in the field where its form would be softened by existing vegetation as well as the proposed new planting. Views of the building from the public footpath to the east of the site would be further disrupted by intervening vegetation which would lessen its visual impact. Moreover, the presence of an agricultural building in an area that is dominated by farming would be in general keeping with the nature of the surroundings.
14. I therefore conclude on this issue that the proposal would have an acceptable effect on the character and appearance of the South Devon AONB. There would be no conflict with Policies DEV23 and DEV25 of the Local Plan which aim to protect landscape quality. This includes the Undeveloped Coast and Heritage Coast landscapes.

Conclusion

15. The Local Plan and Framework both seek to support the rural economy, including small farming enterprises. However, the proposal must be viewed against the background of long established planning policies which seek to control development in the open countryside and within areas which are prone to flooding. In recognition of this, the development requires an appropriate level of scrutiny. For the reasons given above, insufficient evidence has been provided to show that the proposal would be compatible with the relevant policies. I therefore conclude that the appeal should be dismissed.

C Cresswell

INSPECTOR