



Appeal Decision

Site visit made on 10 September 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2024

Appeal Ref: APP/L3245/W/24/3338097

Abattoir, Dale Street, Craven Arms, Shropshire SY7 9PA

- 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 M Nadeem of Euro Quality Lambs against the decision of Shropshire Council.
 - The application Ref is 23/04035/FUL.
 - The development proposed is extension of existing water culvert.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would be acceptable in terms of flood risk.

Reasons

3. The appeal proposal is the culverting of an engineered channelled watercourse that crosses through a site, used by a meat processing firm, and flows on into the River Onny. It would extend an existing culvert over which Corvedale Road passes, and which continues partially into the lorry park which is part of the business premises. The proposed culvert would, by covering over an open watercourse, extend the lorry park.
4. The proposal is supported by a site-specific flood risk assessment (FRA) which indicates that the site is within Flood Zone 3a, an area at high risk of flooding. The FRA indicates that the proposed site usage, as a lorry park, places it into the 'Less Vulnerable' category and that an exception test will not be required. In effect, the FRA concludes that notwithstanding the risk of flooding that has been identified, the site is suitable for the intended use. This is not disputed by the Council, and there is no evidence before me that would lead me to disagree.
5. Nonetheless, paragraph 173 of the National Planning Policy Framework (the Framework) states that when determining any planning applications, it should be ensured that flood risk is not increased elsewhere. The FRA, however, does not consider the risk of flooding off site posed by the proposal. Furthermore, no detail is provided within the appeal documents as to how exceedance flows throughout the site would be addressed. Without such information it has not been demonstrated that the proposal would not result in flooding of land outside of the premises.

6. The appellant suggests that as the same controlled flow of water will run through the extended culvert as through the existing, it can be concluded that the proposal would not increase flood risk elsewhere. However, the Planning Practice Guidance¹ states that proposals to introduce new culverting are likely to have adverse impacts on flood risk, amongst other things, and the FRA does not provide any evidence to demonstrate otherwise in support of the appellant's conclusions.
7. Given such guidance, and in the absence of detailed information that demonstrates otherwise, I cannot be satisfied that the issue of flooding elsewhere would be capable of being satisfactorily mitigated. A reduction in the length of the culvert, as suggested by the appellant, would not alter my findings, as it would still need to be established that a shorter extension would not pose a flood risk off site.
8. I therefore find that as it has not been demonstrated that the proposal would not increase flood risk elsewhere, it is not acceptable in this regard. Consequently, the proposal would conflict with Policy CS18 of the Core Strategy which requires that developments reduce flood risks. It would also be contrary to the requirements of paragraph 173 of the Framework, as referred to above, and to Policy 6 of the Local Flood Risk Management Strategy that states that no person shall erect any culvert that would be likely to affect the flow of any ordinary watercourse.

Other Matters

9. The watercourse is a barrier that affects circulation and thereby adversely affects the ease and efficiency of the business operations that take place on the site. Nevertheless, whilst I acknowledge the benefits to the business that would arise from the proposal through the removal of the barrier and the extension of the lorry park, that does not justify development I have found to be unacceptable.
10. No compelling case has been presented to support the appellant's claim that the watercourse severely interferes with the free flow and safe operation of traffic on the highway or that demonstrates how the proposal would improve highway safety.
11. The appellant has indicated the intention to relocate the business in the future and highlighted that the redevelopment of the vacated site would provide an opportunity to reinstate the open watercourse. Whilst that may be the case, any increased risk of flooding elsewhere, even for a limited period, would still be unacceptable.
12. I acknowledge that the Council's ecological adviser has not raised objection to the proposal, subject to conditions. Accordingly, there is no basis upon which to conclude that the proposal would adversely affect protected species, reduce natural habitats or result in the fragmentation or loss of a wildlife corridor. Such a lack of harm in this respect is, however, a neutral factor and does not overcome the harm identified above.
13. It has been drawn to my attention of likelihood that the proposed works would require an Ordinary Watercourse Consent under the Land Drainage Act.

¹ Paragraph: 067 Reference ID: 7-067-20220825

Nonetheless, that regime is distinct from planning and such a requirement does not alter my findings.

Conclusion

14. The proposed development conflicts with the development plan as well as national guidance and legislation and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
15. I therefore conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR