



---

## Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 19/11/19

gan Joanne Burston BSc MA MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 28.11.2019

## Appeal Decision

Site visit made on 19/11/19

by Joanne Burston BSc MA MRTPI

an Inspector appointed by the Welsh Ministers

Date: 28.11.2019

---

**Appeal Ref: APP/T6850/A/19/3235806**

**Site address: Pony House, Criggion, Shrewsbury SY5 9BQ**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- 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 Matthew Owen against the decision of Powys County Council.
  - The application Ref 18/1186/FUL, dated 13 December 2018, was refused by notice dated 25 July 2019.
  - The development proposed is the erection of a replacement dwelling, construction of attenuation pond and all associated works.
- 

### Decision

1. The appeal is dismissed.

### Procedural Matters

2. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards the Welsh Ministers' well-being objectives of driving sustainable growth and building resilient communities.

### Main Issue

3. The main issue in this case is the effect of the proposed development on flood risk.

### Reasons

4. The site of the proposed dwelling lies predominantly within Flood Zone C2, as defined on the Development Advice Maps (DAMs) that accompany the Welsh Government's Technical Advice Note 15: Development and Flood Risk (TAN 15). Flood Zone C2 is defined as areas of the floodplain without significant flood defence infrastructure, and TAN 15 prescribes that 'highly vulnerable development', which includes all residential premises, should not be permitted in such zones.
  5. This principle is particularly important in the light of climate change, which is expected to significantly increase the risk of flooding over time. Where development has to be
-

considered in such areas the tests<sup>1</sup> in TAN 15 in respect of justification and acceptable flooding consequences are applicable. These tests are broadly incorporated into Policies DM5 and DM6 of the Powys Local Development Plan (LDP).

6. PPW also aims to minimise and manage environmental risks and pollution and contains relevant policies on flood risk. Paragraph 6.6.22 states that "*Flooding as a hazard involves the consideration of the potential consequences of flooding, as well as the likelihood of an event occurring. Planning authorities should adopt a precautionary approach of positive avoidance of development in areas of flooding from the sea or from rivers.*" Paragraph 6.6.25 asserts that "*Development should reduce, and must not increase, flood risk arising from river and/or coastal flooding on and off the development site itself.*" And paragraph 6.6.26 sets out that "*TAN 15: Development and Flood Risk should be referred to for further policy advice on development and flood risk.*"
7. The appellant has undertaken a Flood Consequences Assessment (FCA) in consultation with Natural Resources Wales (NRW). In summary this concludes that a dwelling with a finished floor level of 62.25m AOD would be above the estimated 1:100 year fluvial event flood levels and would also prevent the dwelling being inundated by the 1:1,000 year fluvial event. Furthermore, the predicted water velocity of below 0.1 m/s would allow occupants sufficient time to escape the dwelling and an attenuation basin would be constructed to prevent flood risk elsewhere.
8. Nevertheless, TAN 15 para 6.2 states:

*"New development should be directed away from zone C and towards suitable land in zone A, otherwise to zone B, where river or coastal flooding will be less of an issue. In zone C the tests outlined in sections 6 and 7 will be applied, recognising, however, that highly vulnerable development and Emergency Services in zone C2 should not be permitted (My emphasis). All other new development should only be permitted within zones C1 and C2 if determined by the planning authority to be justified in that location."*

Accordingly, in Flood Zone C2 only development types listed as 'Less Vulnerable Development'<sup>2</sup> could be subject to the justification and acceptability tests set out in TAN 15 sections 6 and 7, which is not the case here.

9. I accept that NRW state in their consultation response to the Council that "*the FCA has demonstrated that the consequences of flooding can be acceptably managed in accordance with TAN 15.*" However, in reviewing an FCA, NRW's advice on flood risk is primarily based on the contents of any FCA submitted in support of a planning application, rather than the principle of the development.
10. The appellant sets out that the development provides an opportunity to improve the long-term flood risk sustainability of an existing dwelling by a replacement for a more robust dwelling. Nonetheless, I have no substantive evidence of flooding incidents in relation to the existing dwelling itself which is outside, but abuts, the floodplain<sup>3</sup> and I am concerned that by moving the dwelling further into the floodplain the risk of danger to people entering and exiting the property in times of flood are increased. Therefore, the case before me is not sufficiently robust to overcome the principle of siting highly vulnerable development in the flood zone.

<sup>1</sup> TAN 15 Paragraph 6.2

<sup>2</sup> TAN 15 Figure 2

<sup>3</sup> Paragraph 6.10 of the Appellant's Grounds of Appeal and NRW Figure 1 Current Flood map

11. Overall, I am not satisfied that the benefits expressed by the appellant or the lack of any objection from NRW are sufficient to outweigh the fundamental objection to the principle of siting highly vulnerable development in the C2 flood zone. The development would be contrary to national and development plan policies (set out above) aimed at avoiding unnecessary development in areas at risk of flooding.

**Conclusions**

12. Therefore, for the reasons given above, and taking all other matters into account, I conclude that the appeal should be dismissed.

*Joanne Burston*

INSPECTOR