



Appeal Decision

Site visit made on 10 August 2020

by J M Tweddle BSc(Hons) MSc(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 December 2020

Appeal Ref: APP/U2370/W/19/3242665

Chatsworth House, Garstang Road, St Michaels PR3 0TD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr C French against the decision of Wyre Borough Council.
 - The application Ref 19/00075/OUT, dated 10 January 2019, was refused by notice dated 12 June 2019.
 - The development proposed is the erection of a single dwelling house.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline with all matters reserved for future consideration. I have therefore taken any indication of reserved matters shown on the submitted drawings to be illustrative only.

Main Issue

3. The main issue is whether the development would be in a suitable location with regard to local and national policies relating to flood risk.

Reasons

4. The appeal site is a small parcel of garden land to the rear of properties along the southern side of Garstang Road within the settlement of St Michaels-on-Wyre. There is no dispute in principle that a dwelling could be positioned within the site in a manner that would sit comfortably alongside existing properties without affecting the living conditions of neighbouring residents or resulting in any adverse effect on highway safety or ecology. However, the entirety of the site falls within Flood Zone 2, where the Planning Practice Guidance (PPG) advises there is a medium probability of flooding¹.
5. The National Planning Policy Framework (the Framework) sets strict tests to protect people and property from flooding. Where these tests are not met, national policy is clear that new development should not be allowed. Accordingly, the Framework requires that, where possible, development should be directed away from areas at highest risk from flooding using a sequential, risk-based approach. The PPG confirms that this general approach is designed to ensure that areas of little or no risk of flooding are developed in preference to areas at higher risk. The aim being to keep development out of medium and

¹ PPG - Flood risk and coastal change: Table 1: Flood Zones, Paragraph: 065 Reference ID: 7-065-20140306, Revision Date: 06 03 2014

high flood risk areas (Flood Zones 2 and 3) and other areas affected by other sources of flooding where possible².

6. Locally this approach is set out in Policy CDMP2 of the Wyre Local Plan 2011-2031 (the WLP), adopted February 2019, which states, amongst other things, that where development is proposed in areas at risk of flooding (unless proposed in the WLP), it must be demonstrated that the Sequential Test has been applied and there are no reasonable available alternative sites at lower risk, considering the nature of flooding and the vulnerability of the development. This requirement is consistent with paragraph 158 of the Framework which explains that the aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding.
7. The appeal site is not allocated for development by the WLP and therefore, in considering the site's suitability for development, it is necessary to apply the Sequential Test. Therefore, as part of the application which led to this appeal, an initial Borough-wide search³ for alternative comparable sites was carried out, with the appellant's methodology including discussions with local estate agents, a search of online listings for suitable plots of land and a search of sites with planning permission. This identified 16 potential sites that were discounted by the appellant.
8. However, the Local Planning Authority (LPA) considered the appellant's approach to the Sequential Test to be flawed for several reasons: it did not consider sites on a capacity basis to accommodate a single dwelling (instead comparing sites on the basis of size only); it did not consider the most recent housing land monitoring data available at the time; no evidence of correspondence with local estate agents had been provided; clear reasons for discounting each site with planning permission had not been provided; where sites were found to be suitable but not on the market, no attempt was made to ascertain site's availability; and, that two sites had been unreasonably discounted on the basis of their asking price. The LPA also identified two further sites which it considered to be capable of accommodating the proposal. Owing to these factors, I too consider the appellant's initial approach to have been flawed.
9. To address these deficiencies, the appellant submitted a Supplementary Statement⁴ which identified an additional 26 comparable sites based on a review of the LPA's Housing Land Monitoring Information/Housing Land Position (31 March 2018). Correspondence with one local estate agent was also provided. However, rather than a Borough-wide search, the search area was limited to the 'Central Rural Plain' Housing Market Sub Area, which appears to cover less than half of the Borough.
10. The Framework does not define the extent of a sequential test search area. The PPG advises that the area to apply the Sequential Test across will be defined by local circumstances relating to the catchment area for the type of development proposed and that a pragmatic approach on the availability of alternatives should be taken⁵. Furthermore, it advises that the developer should justify with

² PPG – Flood risk and coastal change: The sequential, risk-based approach to the location of development, Paragraph: 018 Reference ID: 7-018-20140306, Revision Date: 06 03 2014

³ Flood Risk Sequential Test by JWPC Chartered Town Planners, dated February 2019

⁴ Flood Risk Sequential Test: Supplementary Statement by JWPC Chartered Town Planners, dated May 2019

⁵ PPG – Flood risk and coastal change: Applying the Sequential Test to individual planning applications, Paragraph: 033 Reference ID: 7-033-20140306, Revision Date: 06 03 2014

evidence to the local planning authority what area of search has been used when making the application. Ultimately the local planning authority needs to be satisfied in all cases that the proposed development would be safe and not lead to increased flood risk elsewhere⁶.

11. The LPA has published a detailed Advice Note⁷ which explains how it will apply the Sequential Test and what information will be required from developers. The guidance clearly states that the normal area of search is the **whole Borough**, any departure from this in order to apply a reduced area must be 'clearly and rigorously justified' by reference to one or more of the following: 1) evidence that there is a specific need for the proposed development in that locality; 2) evidence that the proposed development is needed to sustain an existing community; 3) the functional requirements of the development as a whole or in part; 4) for affordable housing. Furthermore, I am mindful that when considering similar issues at an appeal⁸ earlier this year within the Borough, an Inspector found it to be 'reasonable that the sequential test should be applied at a district level'.
12. The appellant suggests that a Borough-wide search area is wholly disproportionate to the development of a single house but has provided no substantive evidence to justify the reduced search area. The fact that the appellant owns the appeal site and has a desire to stay within the locality are not reasons to depart from the LPA's published guidance. In my view, a whole-Borough approach is entirely reasonable given the strong policy impetus to steer new development to areas with the lowest risk of flooding and therefore I see no reason to deviate from a Borough-wide approach.
13. I also find the evidence of correspondence between the appellant and a local estate agent to be very limited as it does not confirm any details with regard to the area searched or the criteria used by the estate agent to search for sites. It does not therefore give me sufficient assurance that a robust search has been carried out.
14. Furthermore, the appellant has discounted sites because, in their view, they are being marketed at an unrealistic value that is beyond the financial reach of the appellant. They argue that any site available for purchase would essentially be unaffordable on the basis that the appeal site is already within the ownership of the appellant. However, this is a private matter for the appellant and does not justify discounting available sites that could accommodate the proposal with a lower risk of flooding. Indeed, if I were to accept this argument, this would fundamentally undermine the sequential risk-based approach, as it would be extremely difficult if not impossible to identify an alternative site on this basis. Therefore, I cannot accept this approach. Furthermore, I have not been provided with any evidence to suggest that these alternative sites are not being offered at a fair market price which reflect their location and potential for development.
15. Consequently, I find that the appellant has artificially curtailed the search area for alternative available sites with a lower risk of flooding, contrary to the LPA's published guidance, and without good reason. Alternative sites have also been

⁶ PPG – Flood risk and coastal change: Who is responsible for deciding whether an application passes the Sequential Test? Paragraph: 034 Reference ID: 7-034-20140306, Revision Date: 06 03 2014

⁷ Wyre Council Flood Risk Sequential Test Guidance for Applicants V1.1 May 2015

⁸ Appeal Ref. APP/U2370/W/19/3241061

unreasonably discounted based on their value and the fact that they are not within the appellant's ownership. This does not therefore represent a sensible interpretation or application of the sequential approach to site selection and comparison. I am therefore led to the inescapable conclusion that insufficient evidence has been provided to demonstrate that there are no sequentially preferable locations available at a lower risk of flooding. Therefore, I am not persuaded that the appeal proposal has met the requirements of the Sequential Test.

16. For the above reasons, and on the evidence before me, I cannot be satisfied that no other sites are reasonably available within the Borough for the erection of a dwelling with a lower flood risk than the appeal site. To this end, I conclude that the development would not be in a suitable location with regard to local and national policies relating to flood risk. As such, the proposal would conflict with Policy CDMP2 of the WLP, the policies of the Framework and the associated guidance of the PPG, which together seek to manage flood risk by directing development to areas at the lowest risk of flooding.
17. In their submission, the appellant has advised that as part of the appeal a further search has been undertaken to identify alternative sites to accommodate the proposal, but no evidence has been presented to support these assertions. Therefore, this does not lead me away from my conclusion on the main issue.

Conclusion

18. For the reasons I have set out, and having considered all other matters raised, the appeal is dismissed.

Jeff Tweddle

INSPECTOR