



Appeal Decision

Site visit made on 1 November 2022

by **C Rafferty LLB (Hons), Solicitor**

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Appeal Ref: APP/U2370/W/22/3297893

Braemar, Rosslyn Avenue, Preesall FY6 0HE

- 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 Timmins against the decision of Wyre Council.
 - The application Ref 21/01250/FUL dated 12 October 2021 was refused by notice dated 20 January 2022.
 - The development proposed is the change of use from agricultural to domestic curtilage, demolition of existing agricultural buildings, erection of garage, workshop and stabling.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from agricultural to domestic curtilage, demolition of existing agricultural buildings, erection of garage, workshop and stabling at Braemar, Rosslyn Avenue, Preesall FY6 0HE, in accordance with the terms of the application Ref 21/01250/FUL dated 12 October 2021 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan as Proposed Drawing No. 1893.07 Revision P1 dated November 2020; Outbuilding Elevations as Proposed Drawing No. 1893.05 Revision P3 dated June 2020; Floor Plan and Block Plan as Proposed Drawing No. 1893.04 Revision P4 dated May 2020; and Outbuildings Floor Plan and Elevations as Existing Drawing No. 1893.02 dated May 2020.
 - 3) The building hereby permitted shall not be used for purposes other than for those ancillary to the residential use of the dwelling known as Braemar, Rosslyn Avenue, Preesall FY6 0HE.
 - 4) The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment by Architectural Services (NW) Ltd reference 1893.06(a).

Main Issue

2. The main issue is whether the proposed development is suitable with regards to flood risk.

Reasons

3. The site comprises a parcel of land to the west of the residential dwelling of Braemar. It is currently in agricultural use and houses two buildings, neither of which are in a good state of repair. Although the site is not part of the rear gardens of Braemar there is no physical separation between the two, which are both in the ownership of the appellant.
4. The main parties agree that the site is within Flood Zone 3, such that it is situated within land with a high probability of flooding. The Council has raised concerns regarding the effect of the development on flood risk. It considers that the proposal is not ancillary to the dwelling at Braemar and that, as such, a sequential test is required, which has not been carried out. However, the appellant considers the proposal to be ancillary development. Accordingly, in order to assess the effect of the proposal on flood risk, I must first examine whether the proposal is ancillary to the dwelling at Braemar.
5. The proposal seeks to change the use of the site to domestic curtilage, demolish the current buildings and erect a replacement building. In accordance with the plans this building would be used as a garage, workshop, stables, equine store and garden store. While it would have a somewhat sizeable footprint, this alone would not prevent it from being ancillary to the residential use of Braemar, which is a matter of fact and degree.
6. Each of the proposed uses of the building is capable of having a functional relationship with the residential use of Braemar. Horses kept in the stables would be for private use, while it is also reasonable to consider that a workshop and garage would serve to meet residents' needs, being uses that are commonly incidental to a dwellinghouse. In addition, due to the limited scale of each use proposed, I am satisfied that they would be secondary to the primary residential use of Braemar.
7. The proposed building would be accessed by the driveway to the side of the main dwelling, with no separate vehicular access to the highway or opportunity within the site to provide this. The main dwelling also has habitable windows with clear views and outlook towards both the driveway and the proposal, which is situated particularly close to the current rear gardens and property elevation. This creates a strong visual link and relationship between the dwelling and the proposal.
8. Consequently, the proposed building would have a functional dependency and clear link to the residential use of Braemar. Even acknowledging the number and design of openings on the equine store and stables, it would read as an ancillary building rather than a separate planning unit. While the appeal site is sizeable, this would not create the appearance of a separate curtilage belonging solely to the building. Rather, due to the lack of physical separation the site as a whole would read as forming part of, and being incidental to, the main dwelling at Braemar. This would be further highlighted by the single storey nature of the proposed building which ensures that it retains a sense of subservience to the main dwelling.
9. The Council's concerns that the appellant intends to use the proposed building for independent residential use are noted. There is no indication that the proposal seeks to become an independent dwelling, and substantive evidence to the contrary has not been presented. While previous applications were

made for a residential use at the site, I must decide the appeal on the basis of the development before me, which makes no reference to a such a use and does not provide facilities for independent day to day living. Nevertheless, I consider that such concerns could be addressed by an appropriate condition to link the proposal to the dwelling, providing clarity as to how it is to be used and to ensure that it would not become a separate dwelling.

10. For the reasons given, as a matter of fact and degree I find that the proposed development would not create a separate planning unit. As it would therefore be ancillary to the residential dwelling of Braemar, I find that for the purposes of flood risk, the proposal should be assessed as a building for dwelling house, defined as a 'more vulnerable use' in the 'Flood risk vulnerability classification' in the Planning Practice Guidance (PPG).
11. Policy CDMP2 of the Wyre Local Plan 2011-31 states that where development is proposed in areas at risk of flooding, unless specifically proposed in the Local Plan, it must be demonstrated that the sequential test has been applied. I must make my decision in accordance with the local development plan policies unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) and PPG are material considerations.
12. The Framework and PPG advise when a sequential test is required, and acknowledge that there are certain situations when a sequential test is not needed. In this regard they confirm that such a test does not need to be applied to minor development and changes of use, such as householder development. Accordingly, and on the basis of my conclusions above, I find that the proposal meets this exception. Due to both its scale and nature, a sequential test is not required in this case.
13. Nevertheless, the Framework is clear that all development in Flood Zone 3 should still be accompanied by a site-specific flood risk assessment. A Flood Risk Assessment was provided and subsequently revised. This proposes mitigation measures to ensure that the proposal would not increase the risk of flooding. I have no reason to dispute the findings of the assessment.
14. While the Flood Risk Assessment was prepared for a previous application at the site, it has been assessed by both the Council and the Environment Agency as relating to the proposal before me. The Council is clear that the Environment Agency is satisfied the development would not exacerbate flood risk provided the mitigation measures are implemented. The Council further states that its original concerns regarding drainage have been overcome by the revised Flood Risk Assessment and raises no further issues with regards to the assessment. On the basis of my observations, I have no reason to disagree with the Council.
15. For the reasons given, I therefore consider the proposal to be a suitable form of development, having regard to flood risk. As such, it would comply with Policies SP2 and CDMP2 of the Wyre Local Plan 2011-31, insofar as they seek to ensure that flood risk is reduced and managed. While it would conflict with the requirement of Policy CDMP2 to apply the sequential test, this is outweighed by the material considerations noted above.

Conditions

16. Regard has been had to the conditions suggested by the Council, which the appellant has had the opportunity to comment on. The standard time limit condition as well as a condition that the development is carried out in accordance with the approved plans are necessary for the avoidance of doubt and in the interests of proper planning and certainty.
17. For the reasons given above, a condition to ensure that the building remains ancillary to the main dwelling is also necessary for the avoidance of doubt. In addition, I have imposed a condition relating to the development being in accordance with the approved Flood Risk Assessment, which is reasonable and necessary to minimise the impact of the proposal with regard to flood risk.
18. A condition requiring approval of details of external materials was also suggested, However, as such information is already noted on the submitted plans in appropriate detail I do not consider such a condition to be necessary.

Conclusion

19. For the reasons given, the proposal would accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be allowed subject to the conditions at paragraph 1 of this decision.

C Rafferty

INSPECTOR