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# Appeal Decision

Site visit made on 1 April 2019

**by David Fitzsimon MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 April 2019

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## **Appeal Ref: APP/U2370/W/18/3214184**

### **Land West of Heywood House, Smallwood Hey Road, Pilling PR3 6HE**

- 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 John Maddison against the decision of Wyre Council.
  - The application Ref 17/01092/OUT, dated 23 November 2017, was refused by notice dated 24 August 2018.
  - The development proposed is the erection of 1 no. detached dwelling.
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### **Decision**

1. The appeal is dismissed.

### **Procedural Matters**

2. The application was made in outline with all matters reserved for subsequent consideration.
3. Since the Council determined the application, the Wyre Local Plan 2011-2031 (LP) has been formally adopted. My decision reflects this.

### **Main Issue**

4. The main issue in this case is whether the proposal meets the tests imposed by the National Planning Policy Framework (the Framework) and the LP relating to residential development in a Flood Zone 3 area.

### **Reasons**

5. The appeal site is a small parcel of land which sits between existing dwellings within the settlement of Smallwood Hey as defined by the LP. There is no dispute that a dwelling could be designed in a manner which would sit comfortably alongside existing built development in this location without adversely affecting nearby residents and I agree. However, the site lies within a Flood Zone 3 Area.
  6. Paragraph 155 of the Framework explains that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. This paragraph goes on to say that where development is necessary in such areas, it should be made safe for its lifetime without increasing flood risk elsewhere.
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7. Paragraph 157 of the Framework explains that all plans should apply a sequential, risk-based approach to the location of development – taking into account the current and future impacts of climate change so as to avoid, where possible, flood risk to people and property. It explains that plans should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test; b) safeguarding land from development that is required, or likely to be required, for current or future flood management; c) using opportunities provided by new development to reduce the causes and impacts of flooding; and d) where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to relocate development, including housing, to more sustainable locations.
8. Paragraph 158 of the Framework explains that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. It states that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding and the strategic flood risk assessment will provide the basis for applying this test. It directs that the sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.
9. Paragraph 159 of the Framework states that if it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. Paragraph 160 explains that the application of the exception test should be informed by a strategic or site specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. It advises that for the exception test to be passed, it should be demonstrated that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall. Paragraph 161 directs that both elements of the exception test should be satisfied for development to be allocated or permitted.
10. Policy CDMP2 of the LP is consistent with the approach outlined by the Framework.
11. The appellant has submitted a Sequential Test (ST) which examines sites capable of accommodating a single dwelling within the Borough. The ST has drawn on the draft Local Plan (as was), the Fleetwood Area Action Plan, the 2017 SHLAA and the Housing Land Monitoring Reports (2017 and 2018) to evidence comparable sites. In producing the ST, the appellant also consulted three local estate agents to establish the availability of single plots for sale.
12. The Council asserts that the appellant's approach to the ST has several flaws. Firstly, the Council argues that the approach taken has compared sites on the basis of site size only, instead of site capacity. The Framework does not define what is a '*reasonably available site appropriate for the proposed development*'. However, the Council has produced an Advice Note which sets out a methodology for assessing whether any sequentially preferable sites are available to accommodate a similar development. The Advice Note explains that comparables for residential sites can be made on the basis of site area or

capacity and that for lower density developments, for instance large detached houses, the site capacity should normally be used.

13. The Council argues that in this case for the erection of a single dwelling, it would be most appropriate to compare other sites that can also accommodate a single dwelling as clearly, it may be possible to build a single dwelling on a larger or smaller site than the appeal site, depending on a range of physical and development management related factors. This seems a reasonable and logical approach to me, particularly bearing in mind the overall guiding principle of directing residential development away from the highest areas of flood risk.
14. The Council points to the fact that (at the time of submissions) one of the plots referred to by the Estate Agents remains for sale (Nicksons Lane, Preesall (17/00236/FUL) whilst other plots for a single dwelling are available on property websites including 255 Park Lane, Preesall (18/00419/REM), Occupation Lane, Stalmine (17/00980/OUT) and Butts Lane, Great Eccleston (18/00221/OUT). In addition, the Council asserts that a further 12 potential sites are contained within the Monitoring Report (Refs. 2785, 2783, 2778, 2739, 2698, 2802, 2845, 2839, 2668, 2852, 2764 and 2854) which have not been referred to by the appellant and suggests that these are comparable and are in locations with a lower risk of flooding. The appellant has not provided any compelling reasons why these sites should be outside the scope of the sequential test.
15. In light of the above and based on the information available to me, I cannot be satisfied that no other sites are reasonably available within the Borough for the erection of a dwelling with a lower risk of flooding than the appeal site. Whilst neither the Council nor the Environment Agency raises any particular issues with the submitted Exception Test, this only applies once the Sequential Test is passed. To this end, I conclude that the proposal does not meet the tests of the Framework and policy CDMP2 of the LP as outlined above.
16. In light of the above factors, and having considered all other matters raised, the appeal does not succeed.

*David Fitzsimon*

INSPECTOR