
Appeal Decision

Site visit made on 25 March 2019

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th April 2019

Appeal Ref: APP/U2370/W/18/3211572

Land South of Fouldrey Avenue, Poulton-le-Fylde FY6 7HE

- 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 Ms Claire Wareing against the decision of Wyre Borough Council.
 - The application Ref 17/00669/OUT, dated 16 July 2017, was refused by notice dated 15 March 2018.
 - The development proposed is the erection of bungalows, 5-meters to ridge on land to the south of Fouldrey Avenue, Breck Road, Poulton-le-Fylde with all matters reserved.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application is in outline form with all matters reserved for subsequent approval. The illustrative plans and accompanying details indicate that the development comprises 6 detached bungalows with garages in a cul-de-sac arrangement served by a single access off Fouldrey Avenue. I have taken these plans and details into account only insofar as they are relevant to my consideration of the principle of residential development on the site.
3. On 28 February 2019, the Council adopted the Wyre Local Plan (2011-2031) (LP), which has replaced the saved policies of the Wyre Borough Plan 1999, to which the Council's reason for refusal and the evidence refers. The main parties have had the opportunity to submit comments in relation to the LP, which I have taken into account.
4. On 19 February 2019, the Government published its Housing Delivery Test (HDT) results alongside an updated revised National Planning Policy Framework (the Framework). The HDT outcome for the Council indicates that the delivery has been above the requirement over the last 3 years. The matter of the Council's 5-year supply of deliverable housing sites appears not to be an issue between the main parties. There is no change to the housing position as a result.
5. The revisions to the Framework do not otherwise materially alter the national policy approach in respect of the issues raised in this appeal and therefore the main parties have not been prejudiced by the updates to this document.

Main issue

6. The main issue is whether the proposed development would comply with national planning policy, which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

7. The appeal site lies within Flood Zone 3, which has a high probability of flooding. The Framework and the Planning Practice Guidance (PPG) set out strict tests to protect people and property from flooding. The PPG classifies the proposed type of residential use as 'more vulnerable' and so the proposal should be considered against the Sequential Test and, if necessary, the Exception Test before planning permission may be granted.
8. The aim of the Sequential Test is to steer new development to areas with the lowest risk of flooding. Paragraph 158 of the Framework makes clear that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. LP Policy CDMP2 echoes this requirement. It states that unless proposed in the LP, it must be demonstrated that the Sequential Test has been applied and that there are no reasonable available alternative sites at a lower risk, given the nature of flooding and the vulnerability of the development.
9. A Sequential Test supported the application, which assessed a number of potential alternative sites, all of which were discounted as not being reasonably available or appropriate for the proposal. The Council has, however, identified 2 locations that it considers are sequentially preferable: Lea Farm, Carr End Lane, Stalmine ('Site No 1') and at Bloomfield Garage, Cockerham Road, Forton ('Site No 2'). According to the Council, both sites are located within Flood Zone 1, which is a lower risk of flooding than the proposal.
10. The PPG indicates that the area to which the Sequential Test should be applied will be defined by local circumstances. In this instance, the Council states that it should be produced for the entire Borough, which accords with the advice within its Flood Risk Sequential Test: Advice for Applicants. To my mind, this is a reasonable approach as defined by local circumstances. Consequently, while Sites Nos 1 and 2 may be situated in areas with different characteristics to those of the appeal site, that in itself does not disqualify either of them as a comparator site.
11. Site No 1 is smaller than the appeal site. However, the Council states that it has outline planning permission for up to 6 dwellings and that it is considering an application for 6 dwellings. The scale of development on Site No 1 is therefore the same as the proposal as it is shown on the indicative plans. Site No 2 is similar in size to the appeal site although its planning history indicates that it may accommodate fewer dwellings than the proposal. Specifically, there appear to be 2 planning permissions in place, one for 4 dwellings and another for 3 dwellings, each with the residential conversion of a barn. While this capacity is less than the appeal scheme before me, the plans are illustrative and thus could change if planning permission were to be granted. In those circumstances, at least some flexibility needs to be applied in considering the total number of units that might come forward on the appeal site. Taken together, it seems to me that Site No 2 is a comparator site in the Sequential Test in terms of its size and likely capacity.

12. The appellant states that Site No 1 is no longer listed for sale and that feedback from the owners of both sites indicates that a sale to a developer was expected very shortly. However, no further update has been provided and so I cannot be certain of the status of this or any other transaction. On that basis, I am unable to conclude that Site No 1 or Site No 2 is no longer available for residential development.
13. Since the appellant's Sequential Test, the Council has produced a housing land supply position as at 31 March 2018 as part of the local plan process. It contains a lengthy list of sites with planning permission for housing that it considers will come forward for residential development. I cannot rule out the possibility that within this list are additional sites that should be assessed under the Sequential Test given that their size or capacity is similar to the proposal and they could be in areas with a lower risk of flooding.
14. I note that the appellant is a long time owner of the site and has not known it to flood. However, an interested party reports that part of the site and nearby land regularly floods.
15. The Environment Agency (EA) has accepted the appellant's site specific Flood Risk Assessment (FRA), which primarily relates to criterion b of the Exception Test as set out in paragraph 160 of the Framework. The EA is satisfied that the proposal would be safe and that it would not be at an unacceptable risk of flooding or exacerbate flood risk elsewhere, provided the scheme proceeds in line with the recommendations of the FRA. I note that the floor levels of the development would be above the predicted 200-year flood level and that the dormer design would provide a safe refuge for residents if required. However, the EA also states that it is for the local planning authority to determine if the Sequential Test has been met. If it is not, the EA makes clear that it would not support the application because it would be contrary to the Framework.
16. For the reasons given above, I am not satisfied that there are no alternative, reasonably available sites that are appropriate for the proposed residential development in areas at a lower probability of flooding. The Sequential Test has not therefore been met. In those circumstances, the Framework clearly states that development should not be permitted. The proposal also conflicts with LP Policy CDMP2.

Other matters

17. The site is available for development and it is not within the Green Belt. The proposal would add to the amount and choice of new housing and would contribute towards meeting the Council's land provision requirement. It would also contribute to the local economy during the construction phase through the sale of materials and following completion, as future residents would be likely to use local services and facilities. Reference is also made to the benefits of providing a turning point for vehicles and a footway that would allow school children to be safely dropped off and picked up. The appellant states that the site would be properly drained and that rainwater harvesting for later use would be provided. Although a matter for later approval, landscaping would provide an opportunity to improve the site's appearance to which an interested party refers.

18. However, the Sequential Test is not met and so it is unnecessary to progress to the Exception Test and the other matters set out in paragraph 160 of the Framework, which include the wider sustainability benefits to the community.

Conclusion

19. Because the proposal does not meet the specific tests within the Framework and LP relating to flood risk it is not an acceptable form of development. For the reasons set out above, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR