



Appeal Decision

Site visit made on 15 May 2020

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th June 2020

Appeal Ref: APP/U2370/W/19/3243385

Pointers Grove, Taylors Lane, Pilling, PR3 6AP

- 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 Jim Brown against the decision of Wyre Borough Council.
 - The application Ref 18/00902/FUL, dated 11 September 2018, was refused by notice dated 31 October 2019.
 - The development proposed is erection of three industrial units (use Class B1/B8).
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development given above is taken from the Decision Notice and the Appeal Form. This reflects amendments that were made to the scheme at application stage and the proposal was determined on that basis.
3. A revised parking and turning plan was submitted with the appeal. This proposes minor changes to the parking spaces and illustrates a tracking layout for larger vehicles. These changes would be minor in nature and not readily perceptible from any public vantage point. The Council has had the opportunity to comment on the revised plan through the appeal process, and I do not consider that any other party would be prejudiced by my acceptance of it. I have therefore taken the revised plan into account in my determination of this appeal.

Main Issues

4. The main issues are whether the development would, firstly, prejudice highway safety and, secondly, comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

Highway safety

5. The development would utilise the existing access route to Taylors Lane. This is a relatively long and narrow route that is used by both vehicles and pedestrians. It is flanked on either side by accesses to the adjoining properties.

6. The appeal site is currently served by larger commercial vehicles and refuse/recycling collection vehicles. At present, these are able to turn within the site and enter/leave in a forward gear. Given the length and width of the access route, any reversing along it by larger vehicles would risk collisions and pose a danger to pedestrians.
7. Two plans have been submitted by the appellant to illustrate that the development could accommodate appropriate parking and turning facilities. The first of these¹, which was commented upon by the Highway Authority, illustrates that a larger vehicle could enter and turn within the site. However, under this arrangement, a number of the proposed parking spaces would be very difficult to enter/leave. The westernmost space would also be close to the turning area required by a larger vehicle, and poor parking in this space could obstruct the turning area. Moreover, this plan does not take account of vehicles parked in front of the existing units opposite, which could also restrict the ability to turn.
8. The second plan², submitted at the appeal stage, illustrates a different parking layout that would preclude the turning arrangements shown in the original plan. The vehicle tracking also lacks detail and it is unclear what vehicle type it relates to. Moreover, at the time of my site visit, vehicles were parked in front of existing Unit 1 in a way that would obstruct the turning area for a larger vehicle. Other submitted photographs also show vehicles parked in this position. Whilst a parking plan has been provided that shows spaces side-on to the existing units in this position, it is unclear how this arrangement would be enforced. Moreover, it is not clear whether it would be possible to properly mark out these spaces given the make-up of the existing surface. Given these uncertainties, I am unable to conclude that appropriate turning could be provided within the site for larger vehicles.
9. Separately, a number of minor alterations to the edge of the carriageway are proposed that would improve visibility at the junction with Taylors Lane. These would include the use of road markings to realign the edge of the carriageway, which would allow vehicles to pull out further before entering the road. This would significantly improve visibility at the junction for vehicles associated with both the existing and proposed units, as well as the accesses on either side. The slight reduction in the width of the carriageway may also act to reduce vehicle speeds along Taylors Lane. Moreover, the Highway Authority's Personal Injury Accident data indicates that there were no reported incidents relating to this junction in the 5 years prior to 15 November 2018. This indicates that it is currently operating safely.
10. The appellant has submitted a Visibility Plan which identifies that a 2.4m x 35m visibility splay can be achieved to the east, solely within the adopted highway. Whilst a splay of only 2.4m x 25m is shown to the west, given the proposed improvements to the junction and the Personal Injury Accident data, I consider that this shortfall would be acceptable in this case. Moreover, additional visibility is available across the frontages to the adjoining properties, albeit I recognise that this land is privately owned.
11. The Council state that the submitted plans fail to demonstrate that the access route would be constructed in a hard bound surface to prevent loose stones

¹ 'Proposed Site Plan SCA' (undated)

² 'Proposed Parking Plan for Existing Units out of the Proposed Turning Area' (5 December 2019)

entering the highway. However, this matter could be dealt with by condition. In this regard, the appellant states that they have the right to maintain and repair the access route, and I see no reason to doubt this. However, that does not alter my concerns in relation to vehicle turning within the site.

12. For the above reasons, I conclude that the development would be likely to prejudice highway safety. It would therefore be contrary to Policy CDMP6 of the Wyre Local Plan (2019) which requires that safe and adequate vehicular access and appropriate circulation within the site be provided.

Flood risk

13. The appeal site is identified on the Environment Agency's flood mapping as being within Flood Zone 3 (defended). This risk relates to sea flooding. The National Planning Policy Framework ('the Framework') seeks to steer new development to areas with the lowest probability of flooding by applying a Sequential Test. It states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.
14. In relation to the Sequential Test, Planning Practice Guidance ('PPG') states that "*in considering planning applications for extensions to existing business premises it might be impractical to suggest that there are more suitable alternative locations for that development elsewhere*"³. In this regard, the development would expand the appellant's existing business at the site which rents out small commercial units to local businesses. However, there is no indication that the proposed units would be occupied by any business currently operating at the site, and instead they would be likely to accommodate businesses currently based elsewhere. Accordingly, the proposal could be located anywhere within the catchment area for this type of development.
15. A sequential assessment has been submitted in support of the appeal proposal. However, this does not identify the relevant catchment area, nor does it provide a detailed assessment of reasonably available alternative sites. In this regard, Pilling is a relatively small settlement and there is no evidence before me to suggest it comprises its own employment catchment area. Moreover, the Council has highlighted a number of alternative sites, which the appellant has not addressed in its submissions.
16. The appellant does not own any suitable land outside of Flood Zone 3 and it is asserted that it would be impractical to locate the development elsewhere due to cost, and distance from the existing site. However, I do not accept that the sequential assessment should be limited to land owned by the appellant only. The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding, taking account of reasonably available alternative sites. National guidance does not indicate that only sites in the appellant's ownership should be considered as 'reasonably available'. Moreover, the development is intended to meet a need for new business accommodation in the wider area rather than to facilitate the expansion of a business occupying one of the existing units. In these circumstances, it would not be impractical for the development to be located elsewhere.

³ Paragraph: 033 Reference ID: 7-033-20140306

17. Reference has been made to the *Tesco v Dundee Judgment*⁴, which addressed a separate Sequential Test that relates to main town centre uses. However, that Judgement does not support the contention that only sites owned by the appellants should be considered in a sequential assessment.
18. It is asserted that an existing industrial estate in Pilling has been subject to a number of planning permissions in recent years. In addition, my attention has been drawn to a planning approval at Fell View Cottage, Preesall (Ref 19/00784/FUL). However, the full details of those cases are not before me. In any case, I have come to my own view on this matter rather than relying on the approach the Council may have taken elsewhere.
19. It is asserted that there is strong local demand for smaller industrial units, both in Pilling and across the Borough. However, only limited information has been provided to substantiate this, and in any case, that does not remove the need to undertake a rigorous Sequential Test assessment.
20. The Environment Agency ('EA') has not objected to the development on flood risk grounds. However, the EA is not responsible for assessing compliance with the Sequential Test and this is the task of the Local Planning Authority.
21. Whilst the site is in Flood Zone 3 it benefits from sea defences which provide some protection to the appeal site. However, a breach in these defences cannot be ruled out during harsh conditions. In this regard, there is little detail before me regarding the nature of the existing defences or their likely resilience during a flood event. These uncertainties reduce the weight I can attach to the presence of flood defences in this case.
22. Separately, the development proposes 'less vulnerable' B1 and B8 uses and is therefore not required to pass the Exception Test, as set out in 'Table 3: Flood risk vulnerability and flood zone compatibility' in PPG. In this regard, Table 3 states that 'less vulnerable' development is "*appropriate*" in Flood Zone 3a. However, the notes accompanying that table clearly state that it does not show the application of the Sequential Test which should be applied first to guide development to Flood Zone 1, then Zone 2, and then Zone 3.
23. For the above reasons, I conclude that the development would fail to comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding. It would therefore be contrary to Policy CDMP2 of the Wyre Local Plan (2019), which requires that new development in Flood Zones 2 and 3 meet the Sequential and Exception Tests as appropriate. It would also be contrary to guidance in the Framework relating to flood risk.

Other Matters

24. The proposed B1/B8 uses would be not be intrusive in nature and would be unlikely to generate significant noise or disturbance to neighbouring occupiers. In this regard, conditions could be applied to ensure that the development did not operate outside of standard working hours. The rear of the proposed units would also be relatively low in height and would be set in from the boundary. In my view, they would not result in any significant overbearing effect to neighbouring garden areas.

⁴ *Tesco Stores Ltd v Dundee City Council* (Scotland) [2012] UKSC 13 (21 March 2012)

25. Reference is made by interested parties to localised flooding and drainage issues. However, the site is identified as being at very low risk of surface water flooding on the Environment Agency's flood risk mapping. Moreover, I note that the Council's Drainage Engineer has not objected to the development on these grounds, subject to the imposition of planning conditions.
26. The submitted plans show 4 existing commercial units on the site. However, at the time of my site visit, there appeared to be 6 units present. It is therefore unclear whether the development would provide sufficient parking for these existing units. However, as I am dismissing the appeal on other grounds, this matter is not determinative in this case.

Conclusion

27. As set out above, I conclude that the development would fail to comply with national guidance relating to flood risk and would prejudice highway safety. Whilst it would provide new employment accommodation on a previously developed site, and would generate some economic benefits, that does not alter my view that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR