



Appeal Decision

Site visit made on 1 October 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2019

Appeal Ref: APP/Y1110/W/19/3232632

Pocombe Orchard, Tedburn Road, Exeter EX2 9EX

- 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 Paul Warren against the decision of Exeter City Council.
 - The application Ref 18/1543/OUT, dated 15 October 2018, was refused by notice dated 30 April 2019.
 - The development proposed is 5 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The planning application was submitted in outline with all matters aside from access reserved. I dealt with the appeal on that basis, treating drawing Refs 2032-1-7C and 2032-1-7D as illustrative aside from where they relate to the proposed access.

Main Issues

3. The main issues are:
 - whether the site represents an appropriate location for housing having regard to flood risk; and,
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Flood Risk

4. The appeal proposal seeks to provide five dwellings at Pocombe Orchard, which is a largely open parcel of land adjacent to the Alphin Brook, on the edge of the small settlement of Pocombe Bridge. The Environment Agency has identified that the Alphin Brook has a catchment of around 16km² and responds quickly to rainfall given its valley setting. The appeal site is part of its non-functional floodplain and is within Flood Zone 3a. The Planning Practice Guidance (the PPG) defines Flood Zone 3a as having a high probability of flooding and identifies buildings used for dwelling houses to be a 'more vulnerable' form of development with regard to flood risk.
5. Amongst other things, Policy EN4 of the Exeter Local Plan First Review (adopted 2005) (ELP) states that permission should not be granted for development at risk of flooding. The reasoned justification for Policy CP12 of the Core Strategy (adopted 2012) (CS) aims to avoid inappropriate

development in flood risk areas. The policy wording identifies that the spatial strategy of the development plan reflects the precautionary approach to flooding and flood risk, with the Exeter Strategic Flood Risk Assessment used to ensure that development avoids areas of higher risk.

6. Paragraph 155 of the National Planning Policy Framework (the Framework) advises that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. This is substantiated in Paragraph 158, which outlines the need for development to pass a Sequential Test, the aim of which is to steer new development to areas with the lowest risk of flooding. If there are reasonably available sites at a lower risk of flooding, the development should not be permitted.
7. The PPG also states that only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered. The Exception Test may then be applied if required¹, which relates to the wider sustainability benefits of the proposal and the safety of the proposed development during its lifetime. As such, the Exception Test is carried out only if and when the Sequential Test is passed. The distinct requirements of these two separate tests should not be conflated.
8. The Council has identified, through a Strategic Housing Land Availability Assessment, that there are available sites elsewhere in Exeter at a lower risk of flooding which could deliver at least 5 dwellings. The appellant also accepts the existence of other available sites within Exeter at a lower flood risk. Given this evidence that there are sequentially preferable sites reasonably available, I find that it has not been demonstrated that the proposal would satisfy the Sequential Test.
9. As the Sequential Test has not been passed, it is not necessary to go on to consider the Exception Test. Whilst I have noted the detailed mitigation measures set out within the appellant's Flood Risk Assessment (FRA), and the wider sustainability benefits of the proposal, these factors do not address the Framework's general objective of avoiding such development in higher risk locations in the first instance.
10. The appellant has drawn my attention to three sites within Flood Zone 3 where the Council deemed the Sequential Test to be met². This includes the adjacent site at Pocombe Grange, which is very similar to the appeal site. However, I must assess this proposal on its own individual merits. To this end, any inconsistency between the Council's approach to these decisions and the proposal would not release me from the requirement to establish the suitability of the appeal site for housing on a sequential basis. For this reason, these permissions have had limited weight in my assessment in relation to this issue.
11. I therefore find that the site does not represent an appropriate location for housing having regard to flood risk. The proposal would therefore be contrary to Policy EN4 of the ELP and Policy CP12 of the CS which, taken together, seek to avoid inappropriate development in areas at risk of flooding. It would also be contrary to the sequential approach to the provision of housing within areas of flood risk set out within the Framework.

¹ Paragraph: 019 Reference ID: 7-019-20140306

² Refs: 18/1473/FUL, 16/0082/FUL and 16/1216/OUT

Character and Appearance

12. With limited exception, the buildings of Pocombe Bridge are set in a linear fashion on the west side of Tedburn Road, within an otherwise largely rural valley setting. The area falls within the Alphington-Whitestone Cross Valley Park, which is a local designation under Policy L1 of the ELP. Although the city of Exeter is close by to the east, the steepness of the intervening topography and the prevalence of woodland significantly prevent any perception of this dense urban area.
13. The site occupies the valley floor to the east of Tedburn Road, with the meandering and tree lined Alphin Brook to the south and east. Whilst there is a section of roadside hedgerow which is comparatively sparse, it is nonetheless a continuous and verdant feature which runs along the majority of the site's boundary. It contrasts with the built form on the opposite side of the highway and emphasises Pocombe Bridge's rural setting.
14. For these reasons, although the site has no individual designation nor is it defined as a valued landscape, I find that it makes a positive and meaningful contribution to the rural character of the area. The appellant has drawn my attention to appeal decisions elsewhere which raise similar issues³. Although details are limited, those decisions would have been made on a site-specific basis, and on the individual circumstances of the case. They therefore carry very limited weight in favour of this proposal.
15. The plans indicate that the proposed dwellings would be set back from the highway. A new access would be created at the approximate centre of the site's roadside boundary, at the hedgerow's weakest point, from which parking and turning areas could be provided. The removal of the hedgerow and creation of a domestic vehicular access at this point would disrupt the continuous linear form of the boundary and harm the site's verdant character. This would not be mitigated by closing up the existing access, which is less prominently located at the far northern end of the site.
16. Whilst the retained boundary and additional landscaping would screen the houses from view to an extent, the presence of development would be visible from the public highway through the new access. The Council considers the appellant's submission that only 7m of hedgerow and two trees would need to be removed inconsistent with the highway consultation response, which requires 43m visibility splays to be maintained. Although the appellant considers that this would require only the scaling back of the hedgerow, to my mind such works would diminish the substantive appearance of the boundary, and further erode the site's contribution to the rural character of the area.
17. The linear layout of the housing seeks to relate the scheme more closely to the properties across the highway, in order to address concerns raised in a previous appeal decision⁴. However, owing to the site's location, the housing would nonetheless appear visually isolated from the established concentration of development on the west side of Tedburn Road. I acknowledge that there are houses to the east and south of the site, some of which have been extended or improved with outbuildings. These properties have now been joined by the three houses at Pocombe Grange. However, the trees that line

³ Appeal Refs: APP/Y1110/A/14/2215771, APP/Y1110/W/17/3168133 and APP/Y1110/W/18/3202635.

⁴ Appeal Ref: APP/Y1110/W/16/3155552

the Alphin Brook significantly restrict intervisibility between these other housing sites and the appeal site. Given such, they add little urbanisation to the setting of the appeal site and set no precedent for its development.

18. I therefore conclude on this issue that the proposal would have an unacceptable harmful effect on the character and appearance of the area. It would conflict with the design and visual amenity aims of Policies L1 and LS1 of the ELP, Policy CP16 of the CS and the Framework. Given the appellant's submission with regard to the compatibility of Policy LS1 with the Framework, the conflict I have identified with this policy attracts only limited weight.

Planning Balance and Conclusion

19. The appellant has identified that the Council cannot currently demonstrate a five-year supply of deliverable housing sites, and this has not been disputed. As such, Paragraph 11 d) of the Framework applies. It states that, in these circumstances, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Pursuant to footnote 6, this includes where a proposal would be within an area at risk of flooding.
20. The appellant has highlighted that the mitigation measures within the Flood Risk Assessment would ensure that the dwellings would be safe from flooding through the lifetime of the development. However, footnote 6 refers to areas at risk of flooding, not specific sites or proposals. The site is within an area of Flood Zone 3a and there are sequentially lower risk sites elsewhere. I therefore find that the application of policies in the Framework which relate to the Sequential Test provide a clear reason for refusing the development proposed, and the presumption in favour of sustainable development is not engaged.
21. The government is seeking to significantly boost the supply of housing and the scheme would provide five homes thereby contributing to addressing the housing shortfall in the area. The houses would be in an area with adequate access to services and facilities, which would likely gain from the increased footfall. Due to the small number of houses that would be delivered, I find that these benefits of the scheme would be modest.
22. The proposal would be inappropriately located in an area with high probability of flooding. Its development would cause unacceptable harm to the character and appearance of the area. Individually and together, I attribute these matters significant weight, and find that they would outweigh the benefits I have identified.
23. I therefore find that the proposal would conflict with the development plan when read as a whole. There are no other considerations, including the Framework, that outweigh the harm.
24. Taking all matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR