



Appeal Decision

Site visit made on 14 January 2020

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2020

Appeal Ref: APP/D0840/W/19/3235071

The Vicarage, Cox Hill, Cocks TR6 0AT

- 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 M Greet of The Truro Diocesan Board of Finance against the decision of Cornwall Council.
 - The application Ref PA18/07502, dated 9 August 2018, was refused by notice dated 10 June 2019.
 - The development proposed is the erection of a single residential dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. An amended plan Ref 3001 Rev E accompanied the appeal. It replaces the culvert with an open drainage ditch. Taking account of the fact that the Council and others would have had limited or no opportunity to comment on such a material change, and having regard to the Wheatcroft Principles¹, I have not taken this into account in my assessment of the scheme, as this would potentially prejudice other parties.

Main Issue

3. The main issue is whether or not the site represents an appropriate location for housing having regard to flood risk.

Reasons

4. The appeal site is the northern section of residential land associated with the dwelling The Vicarage. Access is from Bone Mill Road, which passes the frontage of the site along its north east boundary. At its north west extremity, the site meets the bank of the Bolingey Stream, placing the area of the site under its influence within Flood Zone 3 (FZ3). A tributary to this watercourse enters the site at its south west corner and runs through a culvert before entering the Bolingey Stream.
5. 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 the 'sequential test', the aim of which is to steer development to areas with the lowest risk. If such areas are reasonably available, the development

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment and Another (1980)

should not be permitted. The potential need for the sequential test is not exclusive to FZ2 and FZ3; the aim should be to keep development out of other areas affected by other sources of flooding where possible².

6. Policy 26 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted 2016) (CLP) requires, amongst other things, for development to be sited in a manner that takes into account the need to avoid areas of flood risk. Its supporting text identifies its intention to complement national policy and guidance on the subject, particularly the sequential test. I therefore find it to be consistent with the Framework.
7. The proposal seeks the erection of a dwelling with associated access, parking and outside space. The scheme has identified an approximate location for FZ3 within the site and positions the dwelling, the site access and immediate amenity areas away from this area. Although this identification of FZ3 is inconsistent with the Council's records, I am mindful that the appellant's data is site specific and has the endorsement of the Environment Agency, the expert advice of which I attribute significant weight. It is therefore the most accurate identifier of the extent of FZ3 within the site.
8. The area of the appeal site within FZ3 would contain open residential land, with no operational development, as per the existing situation. This element of the proposal would not, in my view, trigger the requirement for the sequential test. However, I understand that water flows quickly down Cocks Hill and brings a great deal of debris with it. The first-hand accounts of interested parties and the technical evidence suggests that this causes the culvert to block on occasion, either as a result of its deformity and/or the cumulation of debris at its entrance. This is only going to get worse as I understand that the culvert is in very poor condition and continuing to deteriorate. This site is therefore at risk of localised flooding,
9. The appellant has modelled the flood event in this scenario, formulating a flood level of 10.80m AOD for the 1 in 100-year + climate change (40%) flood event and 10.81 AOD for the 1 in 1000-year event. When cross-referenced with site plan Ref TRBU419542.30 and the topographic survey, this suggests to me that the dwelling and some of its amenity space, such as that in the vicinity of the front door, would be located within the area at risk. Whilst I accept that flood levels within the site would be shallow and the floor level of the dwelling could be set above the flood level, it seems to me likely that the living conditions of future residents would be affected. On this basis, pursuant to the Framework, it is my view that the sequential test should apply.
10. The appellant's sequential test focuses upon the dwelling's location within FZ1 and does not acknowledge the localised surface water flooding issue. Whilst it has applied the Council's Strategic Flood Risk Assessment Level 1 (2009) (SFRA) to the appeal site, the SFRA has not been used to consider the potential of sequentially preferable sites elsewhere in the area. As such, it does not demonstrate that sites at lower risk of flooding are not reasonably available. Consequently, the sequential test has not been passed.
11. It is not lost on me that the scheme has the potential to resolve the issue that has caused the requirement for the sequential test. It proposes to replace the substandard element of the culvert with a system with better and simpler

² Planning Practice Guidance Paragraphs 018 and 019 Reference ID: 7-018-20140306

access for maintenance. However, whilst flood risk would be better managed as a result, this appears reliant upon the diligence of future occupants to a significant extent. Given such, although it may be that the risk of flooding would be lessened to a degree, the evidence does not allow me to conclude with certainty that the issue would be resolved.

12. I therefore conclude that the site would be an inappropriate location for housing having regard to flood risk. The proposal would conflict with Policy 26 of the CLP insofar as it seeks proposals to avoid areas of flood risk. It would also be contrary to the sequential approach to the provision of housing within areas of flood risk set out within the Framework.

Planning Balance and Conclusion

13. The proposal would make a modest contribution to Cornwall's housing supply. Furthermore, given the ringfencing of funding generated from the sale of the site to clergy housing, there could be a public benefit through the safeguarding of the provision of such in the area. However, given the scale of the scheme, these benefits would be modest. The proposal would conflict with the development plan and national policy in regard to its location within an area at risk of flooding. This is a matter to which I attribute significant weight, and which outweighs the benefits of the scheme.
14. I therefore find that the proposal would conflict with the development plan when read as a whole and that there are no other considerations, including the Framework, that outweigh this conflict.
15. For the reason outlined above, and taking all matters raised into account, I conclude that the appeal should be dismissed.

Matthew Jones

INSPECTOR