



Appeal Decision

Site visit made on 27 January 2020

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2020

Appeal Ref: APP/U2370/W/19/3241061

South View, Brick House Lane, Hambleton FY6 9BG

- 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 Andrew Gravner against the decision of Wyre Borough Council.
 - The application Ref 18/00939/FUL, dated 25 September 2018, was refused by notice dated 27 August 2019.
 - The development proposed is erection of new dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the development would be in an appropriate location with respect to matters of flood risk, and;
 - whether the proposal is consistent with policies relating to housing in rural areas, with particular regard to the effect on the character and appearance of the area and accessibility to local services and facilities.

Reasons

Flood Risk

3. The appeal site consists of land on the northern side of Brick House Lane that lies between Southview Farm and Brompton Cottage. The site is bounded by a hedgerow along the highway frontage with the adjoining parcel of land forming part of the domestic garden of Southview Farm. A further hedgerow separates the remainder of the site which consists of a small segment of a more extensive agricultural field. The site has a gradual upward slope in land levels from the highway frontage toward its rear extent which also continues into the agricultural field beyond.
4. Based upon the evidence before me, including a Flood Risk Assessment (FRA) provided by the appellant, the Environment Agency (EA) Flood Maps identify that the majority of the site lies within Flood Zone 3 (high probability) with the remainder in Flood Zone 2 (medium probability) ignoring the presence of defences as identified in Planning Practice Guidance (PPG)¹. The EA Flood Maps have been updated since an expired outline planning permission for a dwelling

¹ Flood Risk and Coastal Change, Paragraph 065 Table 1, Ref ID: 7-067-20140306 Revision date: 06 03 2014

(ref: 15/00422/OUT) was granted and the extent of the site identified as having a high probability of flooding has increased. The appellant has provided a topographical survey of the site to demonstrate differences between the Flood Zone boundaries. However, in the absence of any alternative hydraulic model, I necessarily assess the proposal in terms of the extent of high and medium probability of flooding identified within the site by the EA Flood Maps as it is based upon the most accurate and robust evidence available.

5. Policy CDMP2 of the Wyre Local Plan 2011-2031 (LP), adopted February 2019, amongst other things, seeks that where development is proposed in areas at risk of flooding (unless proposed in the LP), that it must be demonstrated that the Sequential Test has been applied and there are no reasonable available alternative sites at lower risk, considering the nature of flooding and the vulnerability of the development. The policy is consistent with the sequential test in the National Planning Policy Framework (the Framework).
6. The proposed dwelling in Flood Zone 3 and Flood Zone 2 is identified as more vulnerable development within the flood risk vulnerability classification and flood zone compatibility set out in the PPG² and is identified as 'appropriate' development in that respect. However, the PPG is clear that the table 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.
7. As the appeal site is not allocated for development in the LP, it is reasonable that the sequential test should be applied at a district level. In that respect, the Council have indicated that following the adoption of the LP, a supply of specific deliverable sites sufficient to provide 5.69 years of housing can now be demonstrated. The appellant has not sought to dispute housing supply matters and in the absence of any contrary evidence, I have no reason to conclude that the Council could not demonstrate a deliverable five-year supply of housing.
8. As part of the application subject of this appeal, the appellant provided a sequential test covering sites across the Wyre Borough based upon the most recent housing monitoring information available at the time, correspondence with local estate agents and internet searches. The evidence included a total of 70 comparator sites which were included in the appellant's evidence with reasons given for discounting each. However, the Council when making its decision identified a total of 15 sites with planning permission which it considered had been unreasonably discounted.
9. In response to the above, as part of this appeal the appellant has provided further evidence relative to its approach to each of the 15 disputed sites. In that respect, I consider it reasonable that two of the sites with planning permission³ can be discounted on the basis of being too small to accommodate the requirements of the proposal before me. To my mind, it is also reasonable that a further ten sites with planning permission can also be discounted given that they have either been confirmed as not available⁴, have been subject to a

² Flood Risk and Coastal Change, Paragraph: 067 - Table 3, Reference ID: 7-067-20140306
Revision date: 06 03 2014

³ Council refs: 16/00712/FUL, 17/00002/FUL.

⁴ Council refs: 16/01053/OUT, 17/00483/OUT & 18/00535/FUL, 17/00980/OUT, 18/00605/OUT.

recent reserved matters application⁵ or can be assumed to be not available given the lack of response to the appellant's enquiries⁶.

10. Notwithstanding the above, when assessing whether the remaining sites are reasonably available alternatives at a lower risk of flooding, I consider that in terms of a proposal for a single dwelling it is not appropriate to discount sites solely on the basis that a planning permission has already been granted for more than a single dwelling. In that regard, I acknowledge the advice prepared by the Environment Agency with respect to the approach to the sequential test. However, the responsibility for the sequential test is a matter for the local planning authority. In that regard, the Council approach in terms of small scale and lower density development is logical in taking account of both site size and site capacity that could reasonably accommodate the proposed development when identifying comparator sites. I, therefore, apply it accordingly.
11. It follows that of the remaining sites in dispute, that the presence of a full planning permission (Council ref: 17/00368/FUL) for three dwellings at 833 Garstang Road, Barton may imply that the site is unlikely to be available for a fewer number of dwellings and on balance, could be discounted for that reason. However, based upon the evidence, the two other disputed sites have established only the principle of residential development with outline planning permissions for three dwellings at Town End Cottage, 39 Smithy Lane, Stalmine (Council ref: 17/00287/OUT) and for two dwellings at Lyncrest, Barrows Lane, Great Eccleston (Council ref: 17/00573/OUT). With respect to those two sites, the evidence is insufficient to disregard them as reasonably available alternative sites to accommodate the proposed development in locations at lower risk of flooding. Consequently, I must conclude that there is insufficient evidence to demonstrate that the proposal has met the requirements of the sequential test.
12. In reaching the above findings, I have taken into account that the appellant and his family own and run a successful holiday cottage nearby and have been recently granted a licence from the Caravan and Camping Club to site caravans and tents on a neighbouring field. However, the evidence before me of the intended future operation of the appellants' business in those respects is limited, including why any existing arrangements for management of the holiday cottage would no longer be suitable and also in terms of the planning status of the proposed use of the neighbouring field. Consequently, the evidence before me is not sufficient to demonstrate a functional need for residential accommodation within the appeal site to monitor/manage visitors.
13. The evidence provided by the appellant, including the FRA, refers to the existing flood defences in the area and indicates that there is no evidence that the existing site has flooded in the previous 20 years. However, such matters do not remove the potential for flooding in the future. In that respect, the FRA suggests that due to the mixed nature of the identified flood risk zones across the site, the overall assessment for the development is medium/high risk. The development could incorporate flood resistance and resilience measures, including finished floor levels of no lower than 7.86m above ordnance datum (AOD) for the dwelling and 6.60m AOD for the garage respectively, with the

⁵ Council ref: 16/00969/OUT.

⁶ Council refs: 16/00521/OUT, 16/00846/OUT, 17/00529/FUL & 18/01183/FUL, 17/00823/FUL & 18/00297/FUL, 18/00681/OUT.

dwelling, therefore, being 600mm above the EA design flood level (1 in 200 yr flood level with allowance for climate change).

14. The above measures and other recommendations, such as connection to a flood warning system and evacuation plan with access onto areas to the rear of the site outside the flood zone, a flood resistant garage door and a suitable on-site drainage system, could be secured by condition and would provide some mitigation of site risks whilst not increasing flood risk elsewhere. In that respect, the Environment Agency offered no objection on the basis of the mitigation measures set out in the appellant's evidence. However, such matters do not outweigh the failure to meet the requirements of the sequential test.
15. I have taken account of the outline planning permission previously granted at the site in 2015 which has now expired. However, it is evident that the decision on the outline application reflected an assessment of that proposal against the sequential test that would have been in different circumstances given that the Council were unable to demonstrate a deliverable five-year supply of housing at the time. I have, therefore, assessed this proposal on its own merits.
16. I conclude that the development would not be consistent with policies relating to flood risk. The proposal conflicts with Policy CDMP2 of the LP and the Framework in terms of their approach to managing flood risk and the associated guidance in the PPG, due to the failure to demonstrate that the requirements of the sequential test have been met.

Housing in Rural Areas (including Character and Appearance, and Accessibility)

17. The site lies in a gap between linear development along the northern side of Brick House Lane and forms part of the transition to a more sporadic form of development within the countryside, despite the presence of a smaller grouping of bungalows on the opposite side of the road. The site and the clusters of properties along Brick House Lane are not defined as a rural settlement for the purposes of the development strategy in Policy SP1 of the LP and are within an area of countryside as defined on the LP Policies Map. Policy SP1, amongst other things, indicates that new built development will take place within settlement boundaries on the Policies Map, unless development in designated countryside areas is specifically supported by another policy in the LP.
18. Policy SP4 of the LP relates specifically to countryside areas. The policy follows the approach of paragraph 170 of the Framework in recognising the open and rural character of the countryside for its intrinsic character and beauty. In doing so, amongst other things, Policy SP4 sets out the types of development that may be acceptable in the countryside subject to the requirements of other LP policies. The proposal before me consists of an open market dwelling which does not fall within any of the categories permitted under the policy. The proposal is, therefore, contrary to Policy SP4.
19. The site lies close to an existing bungalow on one side, known as Brompton Cottage, and includes part of the existing residential curtilage of the more distant dwelling to the opposite side, known as Southview Farm. There are also small groupings of other properties nearby. The site, therefore, is not remote from other dwellings and the proposal would not result in the creation of an isolated home in the countryside which the Framework seeks to avoid. Nonetheless, the Framework does not imply that a dwelling has to be "isolated" in order for restrictive policies to apply and there may be other circumstances

where development in the countryside should be avoided. In that respect, Policy CDMP3 of the LP, amongst other things, sets out that development must be designed to respect or enhance the character of the area and have regard to issues including density, siting, layout, height, scale, massing, orientation, landscaping and use of materials.

20. With regard to the above, the site frontage and its undeveloped nature forms part of a visual break within the existing pattern and clusters of built form adjoining Brick House Lane. The resultant gap in built form observed when travelling along Brick House Lane makes an important contribution to the rural setting and the character of the countryside, with the site also forming part of an evident reduction in the depth of residential curtilages when compared with properties closer to the junction with Carr Lane (A588).
21. The immediate surroundings include a mixed character of existing development, including bungalows nearby and two storey properties with differing architectural styles and materials interspersed in the wider setting. Nonetheless, the proposed large two-storey dwelling with a projecting front outrigger on land levels that rise from the road edge would introduce built form with a considerable footprint, depth, scale, bulk and massing. When taken together with any hardstanding and associated domestic paraphernalia, the built form would inevitably change the character of the site when compared with the modest outbuildings, ornamental trees and hedgerows that are currently in situ, whilst partly encroaching upon an open field. The design of the dwelling, including the differing proportions of glazing in the front outrigger, would also draw attention to the property as a conspicuous feature that would erode the existing gap in built form on Brick House Lane which contributes to its rural character. Consequently, the proposal would lead to a prominent intrusion of development into the countryside.
22. The resultant harmful loss of countryside and the change in character of the site would be evident from Brick House Lane above existing hedgerows. The potential for boundary screening or landscaping to soften the appearance of the development would not overcome the harm even if hedgerow removal were limited to provision of only a safe and suitable highway access for the dwelling and a replacement were to form the rear boundary as indicated on the site plan. The limited separation between the boundary with the open field beyond and the depth of side gardens as amenity space would not be dissimilar to the nearby arrangement of Southview Farm and The Hayloft. As such, space could be utilised to each side of the dwelling to overcome the Council concerns in terms of the extent of the amenity space provision and overshadowing. However, the absence of concern in those respects does not override the harm to the character and appearance of the area that would be evident along Brick House Lane, contrary to Policies SP1, SP4 and CDMP3 of the LP.
23. Turning to accessibility, Policy SP2 of the LP in order to deliver sustainable communities, amongst other things, seeks to ensure accessible places and minimise the need to travel by car. The distance from the appeal site to Hambleton, where a range of services and facilities are available, is beyond what could reasonably be considered a short or convenient walk along the A588 - a relatively busy road with limited street lighting. There are nearby bus stops on the A588 which provide regular services to and from Hambleton, together with larger towns and villages including Blackpool, Poulton-le-Fylde and Knott End where a wider range of services and facilities are available.

24. However, the section of Brick House Lane closest to the site and leading to the A588 consists of a route of around 150m which is largely unlit and has no footway. During my visit, I observed that Brick House Lane had frequent traffic movements in both directions with vehicles travelling relatively fast within the 60mph limit. Although the route has land levels that are relatively flat it includes a bend where visibility between pedestrians, cyclists and approaching traffic is significantly reduced. To my mind, those highway conditions are not an ideal or convenient route for future occupiers of the dwelling to regularly travel on foot or by cycle to meet day-to-day needs despite the intermittent refuges provided by existing driveways. Consequently, there would inevitably be some dependence on the use of a private car to access a full range of services to meet day to day needs and employment as a matter of convenience, particularly in periods of darkness and inclement weather. In that regard, little weight can be given to the existing travel patterns of the appellant and other family members, given that future occupiers of the development may not have the same ability or inclination to walk or cycle along the route.
25. The proposal would not, of itself, generate a large number of traffic movements. Furthermore, a greater dependency on car use is inevitable in rural locations and there are existing residential properties in the immediate vicinity. However, the cumulative effect of allowing developments in locations such as the proposal would be likely to increase the amount of unsustainable journeys made contrary to Policy SP2 of the LP.
26. In reaching the above findings, I have had regard to the appeal decisions drawn to my attention relating to planning permissions granted for a detached bungalow at Back Lane, Stalmine⁷, and detached dwellings at Langtree Lane, Elswick⁸ and Puddle House Lane, Poulton-Le-Fylde⁹, together with a number of planning applications that have been recently determined by the Council that have been drawn to my attention. However, as they reflect different locational circumstances to the proposal before me, I have necessarily determined this appeal on its own merits.
27. I have also taken into account that the Council have reached a different view when compared with conclusions on the accessibility of the location when granting previous planning permissions (Council refs: 15/00422/OUT & 14/00991/FUL). However, it was clear that the judgement made at the time of the previous outline application was finely balanced and that the Council reassessed the proposal before me to take account of subsequent appeal decisions and updated policies and guidance. In any case, I have reached my own findings on the basis of the evidence before me and my own observations.
28. I conclude that the development would not be consistent with the objectives of policies relating to the location and supply of housing in rural areas, with particular regard to the effect on the character and appearance of the area and the inadequate accessibility of local services and facilities resulting in some reliance upon private car use. The development is, therefore, contrary to Policies SP1, SP2, SP4 and CDMP3 of the LP and the Framework.
29. Upon the adoption of the LP, Policy SP13 of the previous Wyre Local Plan was replaced and therefore, although drawn to my attention by the appellant it can

⁷ Appeal Ref: APP/U2370/W/17/3177796 - Allowed with Conditions - 20 December 2017

⁸ Appeal Ref: APP/M2325/W/18/3194499 - Allowed with Conditions - 2 July 2018

⁹ Appeal Ref: APP/U2370/W/18/3205296 - Allowed with Conditions - 5 October 2018

be afforded no weight as this appeal is necessarily assessed relative to the current development plan policies.

Other Matters

30. The development would make a positive contribution to the supply of housing with potential low carbon credentials. The proposal would also have economic benefits to the local area through Council tax revenue and support for local services and facilities including those close by such as a nearby tea-room, bistro and hydrotherapy pool located further along Brick House Lane and a veterinary practice close to the junction on the A588. In addition, there would be temporary economic benefits with respect to the necessary construction works associated with the development.
31. The new access and parking arrangements would be a safe and acceptable highway solution for the limited increase in traffic and parking demand. The separation distance and boundary screening to properties opposite and to each side, together with the inclusion of only non-habitable windows in the side elevations facing Southview Farm and Brompton Cottage that could be obscure glazed, would ensure no harmful impact in terms of outlook or loss of privacy to occupiers of neighbouring properties or for future occupiers of the development. Appropriate safeguards and mitigation could also be secured to overcome any potential harm in terms of ecology and contaminated land. However, the absence of concern in those respects is a neutral factor.
32. The appellant has expressed concerns about the Council's approach when determining the application and the circumstances which led to the expiry of the outline planning permission. However, such matters are separate from the planning merits of the proposal and have no influence on the outcome of this appeal. I necessarily determine the appeal before me on the basis of the application submitted to the Council and upon which it made its decision.

Conclusion

33. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the policies of the development plan relating to flood risk due to the failure to meet the requirements of the sequential test. The proposal also conflicts with policies relating to housing in rural areas with associated harm upon the character and appearance of the countryside area, and inadequate accessibility of local services and facilities resulting in some reliance on private car use.
34. The conflict with the development plan, the Framework and the associated harm are significant and overriding factors. The other material considerations in this case, including the limited contribution to housing supply and associated benefits previously identified, do not indicate that the application should be determined otherwise than in accordance with the development plan.
35. For the reasons given above, I conclude that this appeal should be dismissed.

Gareth Wildgoose

INSPECTOR