



Appeal Decision

Site Visit made on 15 January 2021

by Mr Andrew McGlone BSc(Hons), MCD, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2021

Appeal Ref: APP/P2365/W/20/3261041

339 Blackgate lane, Tarleton PR4 6JJ

- 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 Peter Jackson against the decision of West Lancashire Borough Council.
 - The application Ref 2020/0294/FUL, dated 2 April 2020, was refused by notice dated 24 August 2020.
 - The development proposed is the demolition of existing buildings and erection of one detached dormer bungalow.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and erection of one detached dormer bungalow at 339 Blackgate lane, Tarleton PR4 6JJ in accordance with the terms of the application, Ref 2020/0294/FUL, dated 3 April 2020, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Peter Jackson against West Lancashire Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appeal site lies within the Green Belt. I agree with the main parties that the proposal would not be inappropriate development as the appeal scheme would redevelop previously developed land, preserve the openness of the Green Belt and not conflict with the purposes of including the land in the Green Belt. I also agree with the Council's assessment that the proposal would not be an isolated form of development, about the loss of employment site and that, subject to planning conditions, harm would not arise to the character and appearance of the area, neighbours living conditions and ecology.

Main Issue

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

Reasons

5. According to the Environment Agency Flood Map for Planning, the appeal site lies within Flood Zone 3. However, the Environment Agency (EA) agree with the appellant that this map is inaccurate. Following an earlier appeal decision¹

¹ Appeal Decision Ref: APP/P2365/W/17/3181655

- on the site, further assessments have been carried out. This has led to the site now to be within Flood Zones 1 and 2. I have no reason to disagree.
6. A Flood Risk Assessment (FRA) and plans have been submitted which include details of the finished floor levels. Site-specific flood risk assessments should be proportionate to the degree of flood risk and make optimum use of information already available. It should also be appropriate to the scale, nature and location of the development. The EA consider that they are satisfied that the development would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures are implemented. Furthermore, no objections are raised, subject to the imposition of conditions, concerning drainage of the development.
 7. Policy GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document (Local Plan) requires development to satisfy the sequential, and if necessary, the exceptions test as set out within the National Guidance, for proposals within Flood Zones 2 and 3 on sites that have not been allocated within the Local Plan. Local Plan Policy GN5 seeks to achieve the same and outlines the scope of a Sequential Test. The Council and the EA consider that the Exception Test would not apply to this site as the proposal would fall into the 'more vulnerable' flood risk vulnerability classification. I agree.
 8. Nevertheless, the Planning Practice Guidance (the Guidance) confirms that the Sequential Test should be applied first to guide development to Flood Zone 1, then Zone 2, and then Zone 3. Paragraph 158 of the National Planning Policy Framework (the Framework) explains that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. No Sequential Test is included within the FRA, but the Guidance sets out that when applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken. This echoes Framework paragraph 159 which talks about taking into account wider sustainable development objectives.
 9. The appeal scheme would, like, the development at the Riverside Caravan Park² redevelop previously developed land. This can only take place on the site itself. It is also true that any other site in the Green Belt available to the appellant would be inappropriate development which would, unless very special circumstances could be demonstrated, rule it out. For a single dwelling and based on the submitted evidence relating to this case, this is an unlikely scenario taking into account wider sustainable development objectives.
 10. Considering the views expressed by the EA and the Council about the drainage strategy, it is reasonable to adduce that there may not be a better site available. Therefore, requiring something more in respect of a Sequential Test for flood risk would not advance matters further.
 11. Due to the specific circumstances before the Inspector in the Riverside Caravan Park decision he went on to consider that scheme in relation to the Exception Test. Two criteria need to be satisfied to pass this test. One of which is the development providing wider sustainability benefits to the community that outweigh the flood risk. As there is no dispute around the need for an Exception Test, the same assessment is not needed in this case.

² Appeal Decision Ref: APP/P2365/W/18/3214555

12. I therefore conclude that the proposed development would comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding. The proposal would accord with Local Plan Policies GN3 and GN5 together with Framework paragraphs 155, 158, 159 and 163. These policies jointly seek to direct development away from areas at highest risk of flooding, and to ensure development does not result in unacceptable flood risk or discharge problems.

Conditions

13. I have imposed a plans condition in the interests of certainty. Conditions to secure details of external materials, boundary treatment and landscaping are necessary in the interests of the character and appearance of the area. Although brief boundary details are shown on the proposed site plan, the height measurement for the fence seems to be incorrect. To ensure that the development does not result in harm to protected species a condition is necessary so that the recommendations of the submitted report are carried out. I have imposed a condition to secure an electric vehicle charging point to reduce transport emissions. Conditions in respect of drainage are necessary to ensure that the site is drained in accordance with the submitted Flood Risk Assessment and so precise details of the strategy are secured.
14. I have imposed a condition relating to surfacing the initial 5 metres from the highway boundary in the interests of highway safety, but not the other suggested surfacing condition as it would not be necessary. I have amended the condition securing the use of obscure glazing in the window on the eastern elevation so that it is proportionate to the relationship that would exist with the neighbouring property. This condition is necessary to protect their living conditions. A condition in respect of finished levels is not necessary given the site's existing topography and the details shown on the plans.

Conclusion

15. For the reasons given above I conclude that the appeal should be allowed.

Mr Andrew McGlone

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: LOC04/20 Rev A; LS04/20 Rev A; ELSS04/20 Rev B; and PO4/20 Rev A.
3. Notwithstanding the details shown on the approved plan no development above slab level shall take place until full details and samples of the external wall and roofing materials and windows and doors have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.
4. Notwithstanding the details shown on the approved plan no development above slab level shall take place until a landscaping scheme, including full details of the boundary treatments, has been submitted to, and approved in writing by, the Local Planning Authority. The landscaping scheme shall show the location, branch spread, and species of all existing trees, shrubs and hedges; the location, species and number of all proposed trees, shrubs and hedges; and the location of all existing and proposed grassed and hard surfaced areas. Trees and shrubs planted shall comply with BS. 3936 (Specification of Nursery Stock) and shall be planted in accordance with BS. 4428 (General Landscape Operations). Within a period of 9 months from the date when any part of the development is brought into use the approved landscaping scheme shall be carried out in full. All planting shall be maintained and dead or dying material shall be replaced for a period of five years from the date of planting.
5. The recommendations contained within the Inspection and Assessment in Relation to Bats and Birds (Tyrer Ecological Consultants, April 2020) shall be implemented in full throughout the duration of the development.
6. Prior to the first occupation of the dwelling, it shall be provided with an electric vehicle charging point which shall be retained for that purpose thereafter.
7. No development shall take place until a strategy for the separate foul and surface water drainage of the development, including any necessary attenuation measures, maintenance management proposals and phasing of delivery has been submitted to and approved in writing by the Local Planning Authority. The surface water drainage strategy must take account of the relevant provisions of the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement standards. The drainage scheme shall be completed in accordance with the approved details and in accordance with the approved phasing of the scheme. To aid the checking of calculations the mdx file for the surface water drainage design should be submitted, if applicable.
8. The drainage for the development hereby approved, shall be carried out in accordance with principles set out in the submitted Flood Risk Assessment (Ref: CFC18046, Rev B, January 2020). No surface water will be permitted to drain directly or indirectly into the public sewer. Any variation to the discharge of foul shall be agreed in writing by the Local Planning Authority prior to the commencement of the development. The development shall be completed in accordance with the approved details.

9. Before the access is used for vehicular purposes, that part of the access extending from the highway boundary for a minimum distance of 5 metres into the site shall be paved in tarmacadam, concrete, block pavements, or other approved materials.
10. Prior to the first occupation of the dwelling hereby permitted, the first floor window on the eastern elevation (facing no. 337 Blackgate Lane) below a height of 1.7m above the floor of the room in which the window is installed, shall be fitted with obscure glazing (Pilkington level 3 or equivalent) and shall remain so fitted at all times thereafter for the duration of the development.

END OF SCHEDULE