



Appeal Decision

Site visit made on 3 May 2022

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 July 2022

Appeal Ref: APP/P1615/W/21/3275360

The Willows, Horsefair Lane, Newent GL18 1RG

- 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 & Mrs Paul Gurney against the decision of Forest of Dean District Council.
 - The application Ref P0542/21/OUT, dated 16 March 2021, was refused by notice dated 12 May 2021.
 - The development proposed is the erection of one dwelling (associated works to include a vehicular access).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Outline planning permission is sought with all matters reserved. I have regarded details on the submitted plans as indicative. I have determined the appeal on this basis.
3. During the appeal, the appellant submitted additional information, including details relating to flooding and self-build properties. A further public consultation process was carried out and the Council were given the opportunity to comment on the new evidence. Therefore, no parties would be prejudice by my taking this information into account in my reasoning and I have done so.

Main Issue

4. The main issue of the appeal is whether the proposal would comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding and reduce the risks from flooding.

Reasons

5. The appellant indicates the site has not flooded in their time at The Willows and the Environment Agency A have stated they have no evidence of flooding occurring. The site is said to be shown within Flood Zone 1 on local flood maps. However, Planning Policy Guidance (PPG) refers to use of the EA's Flood Map for Planning (Rivers and Sea) showing the location of Flood Zones¹.
6. The Flood Risk Assessment (FRA) provided during the appeal confirms that the site lies mostly within Flood Zone 2 as shown on the EA maps and that these

¹ Paragraph: 003 Reference ID: 7-003-20140306

do not take account of the possible impacts of climate change and consequent changes in the future probability of flooding. While currently part of the garden for The Willows, the FRA confirms that the use of the land would change from 'less vulnerable' to 'more vulnerable'.

7. Policy CSP.1 of the Core Strategy requires schemes to consider flood risk, including a sequential approach and provide details of mitigation and to ensure the development is safe and flood risk is not increased elsewhere. Policy CSP.2 of the Core Strategy requires proposals to demonstrate that they will reduce the impacts of climate change, including from flood risk. Policy AP.1 of the Allocations Plan relates to the different strands of sustainability of a development, including environmental effects.
8. PPG² and the Framework³ aim to steer development to areas with the lowest probability of flooding through a sequential test. The aim is to steer new development to Flood Zone 1 (areas with a low probability of river or sea flooding). Where there are no reasonably available sites in Flood Zone 1, local planning authorities in their decision making should take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2.
9. Consequently, planning applications, such as the appeal proposal, are required to apply a sequential test to establish whether there are other reasonably available sites for the proposed development in areas with a lower probability of flooding.
10. PPG refers to sequential test areas being defined by local circumstances relating to the catchment area for the type of development⁴. The appellant's Sequential Test says the appropriate catchment area could be considered to be the whole district and be limited to, or at least concentrate on, opportunities for individual self-build plots for single dwellings.
11. That there is no specific policy in the development plan for self-build dwellings, does not imply that any location is suitable for such properties or that there is no suitable site in areas at a lower risk of flooding. Similarly, that the Council are unable to demonstrate a 5-year supply of housing land or that the appeal site could be provided at no cost does not indicate that there are no sites available for development. Although the site is said to be for a member of the appellant's family, there has been no convincing case that the scheme would have to be located at the appeal site.
12. A list of self-build applications has been provided. However, no clear reason has been given for discounting some of these, other than them being part of schemes of more than 1 dwelling. It has not been shown why a plot part of a larger scheme would be unsuitable.
13. Even if I were to agree with these parameters, there are no details of whether there are any single plots or land in Flood Zone 1 available that have not been subject to a previous self-build planning application. On the individual circumstances of this case, I cannot be certain that the search has considered all reasonably sequentially preferable locations and there are no other sites

² Paragraph: 019 Reference ID: 7-001-20140306

³ Paragraph 167

⁴ Paragraph: 033 Reference ID: 7-033-20140306

elsewhere in the District that could accommodate the proposed development in areas of lesser flood risk.

14. Some allocations in the development plan are located in Flood Zone 2 and Flood Zone 3. The suitability of development plan allocations and the development boundaries around settlements is not a matter for this appeal. PPG states that the Sequential Test does not need to be applied for individual developments on sites which have been allocated in development plans through the Sequential Test.
15. The FRA includes flood mitigation measures including flood resistant design measures including finished floor levels, signing up to a flood warning system and a surface water drainage strategy. Other measures such as a flood plan could be subject to conditions were the appeal to be allowed.
16. Nevertheless, on the basis of the information before me and the individual circumstances of the case, I have not been satisfied that the principle of development at the site is acceptable.
17. The proposal would not comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding and reduce the risks from flooding. The proposal would be contrary to the aims of Policies CSP.1 and CSP.2 of the Core Strategy, Policy AP.1 of the Allocations Plan, the Framework and PPG where they seek to steer development to areas with the lowest risk of flooding and require sequential evidence to be provided.
18. While the Core Strategy and Allocations Plan pre-date the Framework and are of some age, they are broadly consistent with the Framework. Therefore, I give the conflict with them significant weight.

Other Matters

19. The Council are currently not able to demonstrate a 5-year supply of housing land. However, the application of policies in the Framework that protect areas or assets of particular importance, in this case areas at risk of flooding, provides a clear reason for refusing the development proposed. Therefore, in accordance with paragraph 11d)i of the Framework, paragraph 11d)ii is not engaged.
20. Even if I were to agree that there is a shortage of self-build plots in the District, and that the Council are not meeting their requirements with regard to self-build, in the absence of a legal agreement there would be no mechanism to secure the dwelling as a self-build unit.
21. The appeal site would be provided to the appellant's family without cost. Nonetheless, I do not have detailed costs of the proposed scheme or sufficient information of alternative sites, including financial implications, to indicate that the appeal site is the only option available.
22. The proposal would align with the Framework where it seeks to significantly boost the supply of housing, including through windfall development and acknowledges that small-scale developments can make an important contribution to meeting the housing requirement and be built out quickly. There is also support for self-build properties, although there is no mechanism before me to secure the property as such.

23. While any contribution is welcome, being for a single dwelling, and even if I were to consider the site as previously developed land, the benefits of this and contribution towards housing supply, along with economic and social benefits from the construction and occupation of the property, and biodiversity enhancements would be small. The scale of the scheme also means any energy efficiency or low carbon benefits would be small.
24. I do not have details of the mechanisms or considerations of deciding whether a site is suitable for inclusion in the Strategic Housing Land Availability Assessment. Its suitability as such would not alter my findings with regard to the sequential test and availability of other sites.
25. A lack of refusal reasons regarding matters such as the accessibility of the site to services and facilities, location of the site outside settlement limits, highways safety, character and appearance and living conditions of nearby occupiers do not weigh in favour of the scheme. That there was no public objection to the proposal is not a reason in itself to allow a development that is unacceptable.
26. My attention has been drawn to other permissions for residential development in the area. The information before me does not indicate that these are in Flood Zone 2. Therefore, they would not have been subject to the sequential test. The conduct of the Council during the application does not alter my findings on the main issue.

Conclusion

27. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
28. Therefore, for the reason given above, I conclude that the appeal should be dismissed.

Stuart Willis

INSPECTOR