



Appeal Decision

Site visit made on 25 July 2023

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 August 2023

Appeal Ref: APP/P2365/W/23/3316012

Chapel of Ease, Heyes Street, Appley Bridge WN6 9AS

- 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 Ian Lythgoe against the decision of West Lancashire Borough Council.
 - The application Ref 2020/0361/FUL, dated 1 August 2019, was refused by notice dated 23 August 2022.
 - The development proposed is demolition of former chapel and construction of single bungalow.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in relation to this appeal is whether the proposal represents an acceptable form of development given its flood zone location and the provisions of the development plan and the National Planning Policy Framework (the Framework), with particular regard to the Sequential Test.

Reasons

3. The appeal site comprises a former chapel set in extensive vegetated grounds. The proposed development would result in the erection of a residential bungalow in a similar position, but within a smaller garden area.
4. The Framework and Planning Policy Guidance (PPG) aim to steer development to areas with the lowest probability of flooding through a Sequential Test. Policy GN3iii of the West Lancashire Local Plan; Development Plan Document 2013 (DPD) also includes this provision. The PPG highlights that a Flood Risk Assessment (FRA) should establish the evidence to allow the local planning authority (LPA) to apply the Sequential Test. The PPG also states that in the first place it is the responsibility of the LPA to consider if the Sequential Test has been satisfied, informed by evidence provided by the developer¹.
5. The submitted Flood Risk Assessment (FRA) identifies the appeal site as being within Flood Zone 2 (FZ2), whilst the Council suggests that the location of the proposed dwelling is in FZ2, and other parts are within Flood Zone 3. The Appellant has not sought to contest the Council's position in their statement of case. Either way, the appeal site is located in an area at risk of at least a medium probability of flooding, in the context of which residential uses are categorised as a 'more vulnerable' form of development².

¹ Paragraph: 034 Reference ID: 7-034-20140306.

² Annex 3 of the Framework.

6. The Appellant simultaneously suggests that the Sequential Test has been complied with and/or should not be deemed applicable³. It is clear from the evidence before me, namely the FRA, that a Sequential Test has not been carried out. There is no exemption to the Sequential Test in respect of land considered to be brownfield, nor because no other land is owned or available to buy, due to cost. The PPG is unambiguous that lower-risk sites do not need to be owned by the Appellant to be considered 'reasonably available'⁴.
7. It is suggested that a Sequential Test would not be required for the change of use of the former chapel to a dwelling. Be that as it may, the plans and description of development are clear that the proposal is for the erection of a new dwelling. Regardless, the collapsed and dilapidated condition of the former chapel is unlikely to enable a change of use.
8. Whether a technicality or not, given the lack of a Sequential Test, it has not been demonstrated that there are no reasonably available alternative sites or locations for the proposed development, that have a lower probability of flooding. Paragraph 161 of the Framework and the PPG⁵ are clear that without the Sequential Test, there is no need for me to consider the Exception Test, including whether the development would provide wider sustainability benefits to the community or would be safe for the lifetime of the development.
9. For the above reasons, the location of the appeal site is not acceptable in terms of the risk of flooding, with particular regard to the Sequential Test. The proposal therefore conflicts with Policy GN3 of the DPD which seeks to steer development away from areas at higher risk of flooding. For similar reasons, the proposal would also be contrary to the provisions in the Framework and the PPG in relation to planning and flood risk.

Other Matters

10. Reference is made to the submission of supporting documents that were not referenced in the Council's pre-application advice. The pre-application enquiry response before me indicates that a number of supporting documents were recommended, as well as reference to the validation checklist. Regardless, the PPG is clear that pre-application advice cannot pre-empt the democratic decision-making process. Matters may arise during the detailed consideration of a proposal that may require the provision of additional information to address specific issues. Concerns raised in relation to the statutory consultation responses and the Council's handling of the planning application are matters for the main parties.
11. Interested parties have raised concerns regarding the proposal setting a precedent for further residential development as well as the effect on wildlife, traffic and car parking. As the main issue provides a clear reason for dismissing the appeal, there is no need for me to consider these matters further.

Conclusion

12. For the reasons outlined above and having regard to the development plan as a whole, the approach in the Framework and all other relevant considerations, the appeal is dismissed.

M Clowes - INSPECTOR

³ Appellant's Statement of Case.

⁴ Paragraph: 028 Reference ID: 7-028-20220825.

⁵ Paragraph: 032 Reference ID: 7-030-20220825.