



Appeal Decision

Site visit made on 5 March 2024

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 27 March 2024

Appeal Ref: APP/P2365/W/23/3331981

Land to the rear of 16 Chapel Lane, Banks, Southport PR9 8EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Halton against the decision of West Lancashire Borough Council.
 - The application Ref is 2022/1247/OUT.
 - The development proposed is described as 'Outline Application for the erection of 1no. single storey accessible dwelling with access, all other matters reserved.'
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline, with access to be considered at this stage. The remaining matters of appearance, scale, layout and landscaping are therefore reserved for later consideration. I have dealt with the appeal on this basis.
3. Subsequent to the date of the Council's decision, a revised version of the National Planning Policy Framework (the Framework) was published. The content of the revised Framework has been considered but in light of the facts in this case it does not alter my conclusion.

Main Issue

4. The main issue is whether or not the location of the appeal proposal would be sequentially preferable, with particular regard to flood risk.

Reasons

5. The appellant's Flood Risk Assessment (FRA) identifies the appeal site as falling within Flood Zone 3. This is the zone at the highest risk of flooding. Policy GN3 of the West Lancashire Local Plan 2012-2027 Development Plan Document, 2013 (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. This is consistent with advice in the Framework which states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.
6. When applying the Flood Risk Vulnerability Classification in Annex 3 of the Framework, the proposed development is classed as more vulnerable. Table 2 Flood Risk Vulnerability and Flood Zone 'incompatibility' of the Planning Practice

Guidance (PPG) also states that more vulnerable types of development should only be permitted in Flood Zone 3 if the exception test and sequential test are passed.

7. The PPG is clear that the area to apply the sequential test across will be defined by local circumstances relating to the catchment area for the type of development proposed. Local Plan Policy GN5 sets out that the extent of the area of search will depend on the scale and nature of the proposed development. It also states that this will usually be the settlement, ward or parish in which the proposed development site lies but could also include land in adjacent settlements, wards, parishes or boroughs.
8. In this regard, the Council advised the appellant that the Northern Parishes would be an appropriate search area. It appears, having regard to the email correspondence from the Council's Drainage Officer, that this was considered to be reasonable and appropriate given the strong policy requirement to steer development away from areas at risk of flooding.
9. The appellant considers this to be excessive and erroneous, and has instead, advanced the much smaller settlement boundary of Banks as an alternative search area in the FRA. Whilst I note that the proposal consists of an infill dwelling, and an extensive search area may be a more time consuming and expensive exercise, this does not adequately substantiate or justify the much narrower area of search advanced. Furthermore, it appears, on the basis of the evidence before me, that all of the Banks settlement lies within Flood Zone 3. I am not convinced that sustaining a community at flood risk by introducing more vulnerable development is an ambition of the Local Plan Policy or advice within the Framework.
10. I am mindful of the mitigation measures set out in the FRA and the willingness for an emergency plan to allow for safe evacuation from the property to be provided and secured via a planning condition. I have also been made aware that United Utilities has not objected to the proposal. However, the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source, rather than relying on existing flood defences or other mitigation measures. The Framework also advises 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.
11. Accordingly, the requirements of the sequential test have not been satisfied and there is no need to consider flood risk further. On the basis of the evidence before me, I am therefore unable to find that the location of the appeal proposal would be sequentially preferable, with particular regard to flood risk. The proposed development would thereby conflict with Local Plan Policy GN3.

Other Matters

12. As a single dwelling, the proposed development would make a contextually very small contribution to housing supply. Its accessible design, which the appellant states would be a much-needed bungalow on underutilised land, have been put forward as favourable factors in support of the proposed scheme. I am also informed that the Council's Housing and Economic Development Needs Assessment 2017 and the Liverpool City Region Strategic Housing and Employment Land Market Assessment 2018 support bungalow developments

on appropriate sites. Nonetheless, given the outline nature of the proposal there is uncertainty about the layout, scale and appearance of the proposed dwelling, as these are matters reserved for later approval. Moreover, given my reasoning above, I do not consider that the proposal would be located on an appropriate site.

13. All other elements of the proposal pertaining to the outline application were considered to be acceptable by the Council. However, the absence of harm in these respects are not factors that weigh in the scheme's favour. Whilst I am also aware that the proposed scheme has been amended since the previously refused application on the site (Ref: 2018/0970/FUL), for the reasons given above, I continue to find that the scheme conflicts with current local and national policies. It would therefore not constitute sustainable development.
14. Furthermore, the listing of plans on the Council's decision notice is an administrative matter that has had no bearing on the outcome of this appeal.

Conclusion

15. For the reasons given above, there are no material considerations that warrant taking a decision otherwise than in accordance with the development plan when taken as a whole. The appeal should therefore be dismissed.

Mark Caine

INSPECTOR