



Appeal Decision

Site visit made on 23 July 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2024

Appeal Ref: APP/U2370/W/24/3336633

Track off Burned House Lane, Preesall, Lancashire FY6 0PQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Marion Manvell against the decision of Wyre Borough Council.
 - The application Ref is 23/00151/FUL.
 - The development proposed is described as a two bedroomed lodge on site for the security and welfare of our horses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated it on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
3. The appeal submission includes additional evidence which was not before the Council at the time of its decision. This includes a Flood Risk Assessment, Sequential Test and Exception Test. The Procedural Guide states that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
4. I have considered this additional information taking into consideration the principles established by the Courts in *Holborn Studios Ltd*¹. In this case, the additional information provides further evidence in relation to the Council's reasons for refusal, rather than significant amendments to the proposal. For this reason, I consider that there would be no prejudice to any party, and I have therefore determined the appeal on the basis of this additional information.
5. Planning permission² for three stables and a tack room was granted in May 2022. I observed during my site visit that the stables have been constructed and were in use.

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWCH 2823 (Admin)

² Planning Application Ref: 21/01145/FUL

Main Issues

6. The main issues are:

- whether the appeal site is in a suitable location with particular regard to development plan policy and accessibility to local services; and
- whether the appeal site is in a suitable location with particular regard to flood risk.

Reasons

Development Plan Policy and Accessibility to Local Services

7. The appeal site comprises a parcel of land, which is located adjacent to Burned House Lane (A588) and close to the junction with Hall Gate Lane, Park Lane, and Cemetery Lane. The surrounding area has a rural character, with farms and sporadic residential development found in the local area. There are some buildings, including dwellings located on the opposite side of the road. However, on this side of the road there are very few buildings present within the immediate surrounding area. The appeal site has an open, rural character.
8. The appeal is seeking approval for a two-bedroomed, single-storey bungalow, detached garage, and septic tank. The proposed development would be located close to the recently approved stable building and close to the front boundary of the site. It would be sited behind a mature hedgerow which runs along the boundary of the site adjacent to the main road.
9. Policy SP1 of the Wyre Local Plan 2011-2031 (incorporating partial update of 2022), adopted January 2023 (WLP) sets out the spatial approach to new development, identifying towns and rural settlements where new development will be supported subject to it being of an appropriate type and scale to the character of the settlement. It also prioritises development into the larger settlements. Policy SP1(4) of the WLP states that new development will take place within the settlement boundaries defined on the Policies Map unless development elsewhere in designated countryside areas is supported by other policies in the Local Plan.
10. The appeal site is located within the open countryside, outside of a settlement with a defined settlement boundary. Policy SP4 of the WLP states that new development will be permitted in the countryside if it comprises one of types of development listed under this policy, which includes, agricultural, forestry and equine related activities; an agricultural forestry or rural workers dwelling; or affordable housing. Policy SP4 does not make provision for open market housing within the countryside.
11. Whilst the submitted documents indicate a need to live on site to provide security and welfare for the horses which are currently grazing the land, or within the stables, no further information or substantive evidence has been provided to support this. Therefore, I find that it has not been demonstrated that there is a functional need to live on site.
12. The appeal documentation also indicates that the proposal is for self-build housing. However, no substantive evidence has been submitted in support of this claim and there is no mechanism by which to secure a self-build property. Notwithstanding this, even if appropriate evidence and a suitable mechanism

had been provided there is no exception listed in Policy SP4 of the WLP for self-build housing in the countryside. Furthermore, based on the evidence before me, there is no unmet need for self-build housing, with extant permissions currently greater than the number of people on the register.

13. Policy SP4 of the WLP also states that the open and rural character of the countryside will be recognised for its intrinsic character and beauty. Development which adversely impacts on the open and rural character of the countryside will not be permitted unless it can be demonstrated that the harm is necessary to achieve substantial public benefits that outweigh the harm.
14. Whilst the proposed dwelling is not in an isolated position in so far as it would be located in close proximity to the recently constructed stable building, and would be situated behind a mature hedgerow, it would nevertheless result in an encroachment of development into an area of undeveloped land. This would have an adverse impact on the open and rural character of the site and of the local area. In this particular case, no public benefits of sufficient weight have been demonstrated that would outweigh the harm which has been identified. It would thus fail to comply with this part of Policy SP4 of the WLP.
15. In terms of accessibility to local services, Policy SP2 of the WLP states that all development should be sustainable and contribute to the continuation or creation of sustainable communities in terms of its location and accessibility. Policy CDM6 of the WLP states that development should demonstrate measures to encourage access by road, bicycle, and public transport, and reduce car reliance.
16. The appeal site is located off the A588 which is a busy road, and a 60mph zone. The closest bus stops are 160 metres away. Lancashire County Council, as Highway Authority objected to the application on highway safety grounds stating that there is no means of a safe pedestrian access to the proposed dwelling as there are no footways and the road has narrow verges. They also state that the A588 is a high accident route and there have multiple collisions within a short distance of the proposed property. Based on the evidence before me and my own observations, I see no reason to disagree with these conclusions.
17. The appellant states that there will be no increase in traffic as a result of the proposal. However, whilst I accept that there may be a reduction in journeys to and from the site in connection with the horses, there would be an increase in the number of journeys involved with day-to-day living which would be reliant on the use of a private car.
18. For these reasons, I find that the site is not located in a sustainable location that would be accessible on foot, by bicycle or public transport. As such, its location would not minimise the reliance on the private car for journeys to and from the site. It would thus conflict with Policies SP2 and CDM2 of the WLP.
19. Consequently, I therefore conclude that the proposed development would not be in a suitable location having regard to development plan policy and the accessibility to local services. Thus, it would be contrary to Policies SP1, SP2, SP4 and CDM6 of the WLP. These policies seek, amongst other things, to direct development to the most sustainable locations within defined settlement boundaries and where access can be provided on foot, by bicycle or public

transport thereby reducing the reliance on a car. These policies also seek to protect the open, rural character of the countryside.

Flood Risk

20. The appeal site is located within Flood Zones 2 and 3, which are identified as being at a medium and high risk of flooding. The proposed development would introduce a residential use to the site, which is classified as a 'more vulnerable' use.
21. Policy CDMP2 of the WLP states that development will be required to demonstrate that it will not be at unacceptable risk of flooding and would not lead to an increased risk of flooding elsewhere.
22. The Flood Risk Assessment (FRA) submitted with the application related to the erection of a stable building, rather than the proposed dwelling. The application was also not accompanied by a Sequential Test to determine whether or not other reasonable, comparable, alternative sites are available which would be at a lower risk of flooding. As a result, the Environment Agency objected to the application on the basis of the information submitted. However, as outlined above the appeal is supported by an updated FRA, Sequential Test and Exception Test.
23. In respect of the FRA³, it states that the site is at risk of flooding but is currently protected by flood defences. It also states that there are no records of flooding occurring within the appeal site. Nevertheless, in assessing flood risk at the appeal site, the assessment acknowledges that flooding is possible, even if this risk would be dependent upon the magnitude of the event and the location and extent of the breach.
24. The FRA sets out a range of mitigation measures proposed to ensure the building can be protected in the event of flooding, it also provides a flood warning and evacuation plan. Therefore, based on the evidence before me, I find that the FRA has demonstrated that the proposed development would not be at unacceptable risk of flooding and would not lead to an increased risk of flooding elsewhere.
25. However, Policy CDMP2 also states that where development is proposed in areas at risk of flooding, unless specifically proposed in the Local Plan, it must be demonstrated that the Sequential Test has been applied and there are no reasonable alternative sites at lower risk of flooding.
26. The Framework and Planning Policy Guidance (PPG) seek to direct development to areas with the lowest probability of flooding through the application of the sequential approach. A new dwelling does not fall within any of the exceptions listed in Footnote 60 of the Framework and accordingly a Sequential Test is required, as set out at Paragraph 174 of the Framework.
27. The Framework does not define the extent of a Sequential Test search area. The PPG advises that the area to apply the Sequential Test will be defined by local circumstances relating to the catchment area for the type of development proposed and that a pragmatic approach on the availability of alternatives should be taken.

³ Prepared in November 2023 by Keystone Design Associates Ltd

28. The Sequential Test⁴ states that it has been prepared in accordance with guidance issued by the Council and considers a large number of sites across the borough, utilising data from sources which include the Local Plan, Strategic Housing Land Availability Assessment (SHLAA), recent planning applications and housing land monitoring reports.
29. The PPG states⁵ that reasonably available sites are those in a suitable location for the type of development with a reasonable prospect that the site is available to be developed at the point in time envisaged for the development. These could include a series of smaller sites and/or part of a larger site if these would be capable of accommodating the proposed development. Such lower-risk sites do not need to be owned by the applicant to be considered reasonably available.
30. The Sequential Test concludes that there are no reasonable alternative sites which are available, comparable, and sequentially preferable. However, whilst I acknowledge that the Sequential Test considered a large number of sites and recognising that the proposal is for a single dwelling, the supporting evidence as to why particular sites have been discounted is nevertheless limited. For example, where it discounts sites solely on the basis of size, it fails demonstrate that it has considered, in accordance with the guidance set out in the PPG, whether part of the discounted site could be a suitable, reasonable alternative site.
31. Furthermore, it is unclear from the evidence provided how the site area for the purposes of the assessment has been calculated. The Sequential Test makes reference to the 'Location Plan' which includes all of the field within the red line boundary, which measures approximately 1.2 hectares. This is also the figure for site area given on the application form. It is a much larger site area than that which has been identified for the purposes of the Sequential Test, which measures approximately 0.13 hectares. The use of this smaller site area is particularly relevant given that a significant number of sites, potentially located in areas of lower flood risk, were discounted solely due to their size and without any further evidence or consideration being provided within the report. Therefore, I am not persuaded that sufficient evidence has been provided to demonstrate that there are no sequentially preferable sites available at a lower risk of flooding.
32. Consequently, I am not satisfied, given that the objective of the Sequential Test to direct development to areas at the lowest risk of flooding and based on the evidence before me, that the Sequential Test as required by the Framework has been applied and that the proposed development would comply with policies to direct development to areas at the lowest risk of flooding.
33. Turning to the exception test, as I have found that the Sequential Test has not been met, it is not necessary for me to proceed to the exceptions test.
34. For these reasons, I conclude that it has not been demonstrated that the proposed development is in a suitable location having regard to flood risk. Therefore, I find that the proposed development would be contrary to Policies SP2 and CDMP2 of the WLP which require, amongst other things, that where development is proposed in areas at risk of flooding, unless specifically

⁴ Prepared in November 2023 by Keystone Design Associates Ltd

⁵ Paragraph Ref: 028 Reference ID: 7-028-20220825

proposed in the Local Plan, it must be demonstrated that the Sequential Test has been applied and there are no reasonable alternative sites at lower risk of flooding.

Other Matters

35. In respect of the proposed access, the proposal would utilise the existing access point, which was approved under the previous application for the stables. The Council raised no objection to the use of this access to serve the proposed dwelling on the basis that the access would be constructed as per the approved details. Although works have commenced in relation to the stable building, the works to create the access are still to be completed. However, based on the evidence before me, I see no reason to disagree with the conclusions of the Council with regards to highway safety.
36. In respect of ecology, whilst the appeal site is located with 100 metres of a pond, there was found to be a low risk of the presence of Great Crested Newts on site due to the distance and habitats present on site. Based on the evidence before, I see no reason to disagree with this conclusion. The proposed development would result in the loss of a small area of low ecological value grassland. However, the Council found that this could be mitigated, and biodiversity enhancements secured through the introduction of native tree and hedge planting and the provision of bird and bat boxes within the site. If I had been minded to allow the appeal these measures could have been secured by imposition of a suitably worded planning condition.

Conclusion

37. For the reasons given, the development does not accord with the development plan when taken as a whole. There are no material considerations of sufficient weight that indicate the appeal should be determined other than in accordance with the development plan. The appeal is therefore dismissed.

K Lancaster

INSPECTOR