



Appeal Decision

Site visit made on 21 May 2025

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2025

Appeal Ref: APP/A2335/W/25/3362641

Parkside Farm, Woodman Lane, Nether Burrow, Cowan Bridge LA6 2HU

- 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 Mr and Mrs J and K Warburton against the decision of Lancaster City Council.
 - The application Ref is 23/00992/FUL.
 - The development proposed is the conversion of an existing barn to a dwelling and erection of three dwellings including hard and soft landscape works following demolition of existing barns.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of flood risk on the proposed development.

Reasons

3. The main parties agree that a sequential test was necessary in order to meet with the requirements of Policy DM33 of the Development Management Development Plan Document (climate emergency review) 2025 (DMDMP) and the National Planning Policy Framework (the Framework). No sequential testing has been undertaken and therefore the proposal fails to accord with those local and national policies. Furthermore, the Strategic Flood Risk Assessment (SFRA) has been updated since the planning application was determined. The new data now shows parts of the appeal site also to be in Flood Zone 2 and therefore to have a medium probability of river flooding. This is referred to in the Council's Statement of Case but is not addressed in any depth in the appellant's final comments.
4. My attention has been drawn to a fallback position whereas existing buildings on the site have received prior approval for conversion from agricultural use to residential. In order to establish whether a fallback position is a material consideration, the courts have set out there should be a greater than a theoretical possibility that the alternative development might take place, or in other terms a real prospect of the fallback being implemented. Given that the appellant has proceeded to submit and revise proposals for residential redevelopment and have pursued this appeal alongside renewing the prior approval consents, I consider there to be a real prospect that the fallback would be implemented if this appeal is not successful.
5. I have not been provided with any specific details of the prior approvals that have been obtained, or indeed to which exact buildings they relate. However, the

Council states that only one of the dwellings approved under the various prior approvals would be within what has now been identified as Flood Zone 2. By contrast, it would appear that three of the proposed dwellings subject to this appeal would be at least partially within Flood Zone 2. I accept that there would be likely to be a number of benefits which might make the appeal scheme more desirable than the prior approvals, including in design, landscape, ecological and energy sustainability terms. However, in the absence of a sequential test and any flood resistance and resilience measures that might be necessary, those benefits do not justify the permitting of an increased number of dwellings in Flood Zone 2 given the clear conflict with flood risk planning policy.

6. The data set out in the appellant's Surface Water Modelling Assessment (SWMA) demonstrates that the appeal site would, subject to the provision of a new drainage channel to direct water flow towards the watercourse to the north or landscaping works, not be at risk of surface water flooding. I have no reason to doubt the accuracy of the data provided in the SWMA or that the suggested works, if achievable, would be successful in eliminating surface water flood risk from the appeal site whilst ensuring that flood risk was not increased elsewhere. In such a circumstance and considering surface water alone, that the appeal scheme would almost certainly present a more coherent and better designed scheme than the fallback, and could provide the additional benefits referred to, would be a compelling material consideration to permit it in face of the conflict with local and national policies.
7. My attention has been drawn to a case in North Somerset¹ where the betterment of a proposed scheme over a fallback position was judged to outweigh the location of the site in Flood Zone 3 and the failure to have undertaken a sequential test. However, it would appear from the details provided that all the proposed and fallback dwellings were located within Flood Zone 3. That case is therefore materially different to the one that is before me. Although no objection was received from Lancaster City Council's Engineering Team subject to conditions, it is not clear that their remit extends beyond on-site and localised drainage matters. But, in any event, their lack of an objection does not justify the permitting of the appeal development in light of my findings above.
8. Whilst I have found there to be merit in the appellant's approach to surface water flood risk and the fallback position, the matter of fluvial flood risk is not addressed in the submissions before me. Any benefits that would arise from the appeal proposal in comparison to the fallback do not outweigh the harm that would result from an increase in the number of new dwellings that would be built in Flood Zone 2. The proposal is therefore contrary to Policy SP8 of the Strategic Policies and Land Allocations Development Plan Document (climate emergency review) 2025 and Policy DM33 of the DMDMP where collectively they seek to address flood risk matters, and the conflict with the development plan is not outweighed by other considerations.

Conclusion

9. For the reasons given above, the appeal should be dismissed.

Graham Wraight INSPECTOR

¹ 23/P/2461/FUL