



Appeal Decision

Site visit made on 11 August 2025

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2025

Appeal Ref: APP/V4250/W/25/3359777

Land Adjacent 135 Plank Lane, Leigh WN7 4QE

- 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 L Pratt on behalf of LJP Investments Ltd against the decision of Wigan Metropolitan Borough Council.
- The application Ref is A/23/96329/FULL.
- The development proposed is construction of 1 pair of semi-detached houses.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Subsequent to the appeal being lodged the Environment Agency (EA) updated its Flood Map for Planning. The main parties were given the opportunity to comment on the implications of this in relation to the appeal proposal and I have taken into account any comments raised.

Main Issue

3. The main issue is whether the proposal represents an acceptable form of development having regard to flood risk.

Reasons

4. The appeal site is located within Flood Zone 3 as shown on the updated EA Flood Map for Planning. As such, the appeal site is at risk from flooding.
5. The appellant has drawn my attention to a number of flood defence measures in the area which reduce the risk of flooding at the appeal site. These include a new culvert entrance at Common Lane Brook to prevent blockages; the provision of a weir; and the increased capacity of the Nevinson's Flash area. I observed these features during my site visit.
6. These measures and defences do not however mean that the appeal site would be safe from flooding, only that whilst these defence features are maintained the risk of flooding at the appeal site is reduced. Nevertheless, as mentioned above, the appeal site is located within Flood Zone 3 on the updated EA Flood Map for Planning and the appeal proposal must therefore be determined on this basis.
7. The National Planning Policy Framework (the Framework) sets tests to protect people and property from all sources of flooding. In this regard paragraph 170 of the Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). This is known as using the sequential approach.

8. Paragraph 173 of the Framework confirms that a sequential risk-based approach should be taken to individual applications in areas known to be at risk now or in future from any form of flooding.
9. Paragraph 174 of the Framework then sets out the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposal in areas with a lower risk of flooding.
10. In addition, the Planning Practice Guidance (PPG) states that this approach is designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This means avoiding, so far as possible, development in medium and high flood risk areas from all sources of flooding. Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures like flood defences, flood warnings and property level resilience features.
11. Furthermore, Policy CP 16 of the Wigan Local Plan Core Strategy (2013) (Local Plan) seeks to reduce the risk of flooding from all sources, notably in Flood Zones 3 and 2, by ensuring that development follows a sequential approach in accordance with national planning policy.
12. The submitted Flood Risk Assessment¹ (FRA) includes a section titled “Sequential Test” which details that the site was acquired by the appellant in 2008 and the proposal is in essence an extension to the residential area with new infrastructure in place to reduce flood risk. The FRA therefore states that the sequential test is passed provided appropriate floor levels are set.
13. The “Sequential Test” section of the FRA does not however provide evidence that there are no reasonably available sites for the development in areas with a lower risk of flooding. As such, the submitted FRA does not demonstrate compliance with the sequential test.
14. A further submission² on flood risk was submitted as part of the appeal and this states that a sequential test is utilised to direct development away from areas of higher risk to those with reduced risk, or a proposed development can be made safe throughout its lifetime without increasing flood risk elsewhere. The appellant’s submissions therefore propose mitigation measures to reduce the impact of flooding on the appeal scheme, including raising the finished floor levels of the proposed dwellings to 19.22m above ordnance datum and the provision of a sustainable drainage system.
15. On this matter however, the PPG is clear that even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied. Consequently, the sequential test set out in the Framework needs to be satisfied before any proposed mitigation measures, such as raising the finished floor levels of the dwellings and the implementation of a sustainable drainage system, can be considered.
16. In this regard, and as mentioned, I have not been provided with any evidence to demonstrate that the sequential test has taken place and that there are no suitable alternative sites with a lower risk of flooding for this proposed development. The

¹ Report QA Number: QA23/033

² Report QA Number: QA25/056

appeal proposal has not therefore passed the sequential test and consequently the mitigation measures proposed by the appellant are not determinative in my consideration of this proposal.

17. In coming to this view, I acknowledge that the EA raised no objection to the appeal proposal. However, the EA comments relate to the passing of the exception test and clearly state that this does not remove the need to apply the sequential test and consider whether it has been satisfied. The PPG is clear that the exception test should only be applied when it has been demonstrated that it is not possible for the development to be located in areas with a lower risk of flooding following the application of the sequential test.
18. The appellant states that the site has previously been used to accommodate housing. Whilst limited substantive evidence of this has been provided, in any case, the potential existence of previous dwellings on the appeal site does not negate the requirement for the appeal proposal to pass the sequential test.
19. In view of all the above, I conclude that the appeal site is at risk of flooding and there is insufficient information before me, by way of a sequential test, to conclude that there are no reasonably available sites for the development in areas with a lower risk of flooding. The required sequential test has therefore not been satisfied and the proposal has failed to demonstrate that the site is appropriate for housing having regard to flood risk.
20. Consequently, the appeal scheme conflicts with Local Plan Policy CP 16 and Policy JP-S4 of the Places for Everyone Joint Development Plan Document (2024). These policies require, amongst other things, that the risk of flooding in flood zones 2 and 3 is reduced by ensuring that development follows a sequential approach in accordance with national planning policy and that flood risk be managed by locating development so as to minimise the impacts of current and future flood risk. Furthermore, the proposal does not meet the requirements of the Framework to avoid, where possible, flood risk to people and property by directing new development to areas at the lowest risk of flooding.

Planning Balance

21. The proposal would make a positive contribution to the Council's housing land supply. Albeit the benefits arising from the provision of two dwellings would be limited.
22. Economic benefits would arise from the proposal, including contributions to the local economy during the construction of the development. These however would be short term benefits. Further economic benefits would also arise from additional spending in the wider area by future occupants of the dwellings. Cumulatively, given the scale of development the economic support to the area arising from the appeal proposal would be relatively small. I therefore attach limited weight in respect of the economic benefits.
23. Whilst I have found that there would be some limited benefits arising from the proposal, these benefits do not outweigh the conflict I have found in respect of the proposal's failure to avoid, where possible, flood risk to people and property by directing new development to areas at the lowest risk of flooding.

Conclusion

24. The proposal conflicts with the development plan taken as a whole and there are no material considerations, including the Framework, to suggest the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, the appeal is dismissed.

R Major

INSPECTOR