

APPEALS LODGED AND DECIDED

Appeals Lodged between 15 September – 15 October 2015

Application Number	Location	Proposal	Com/Del decision	Appeal Type	Date Lodged
No appeals lodged					

Appeals Decided between 15 September – 15 October 2015

Application Number	Location	Proposal	Com/Del decision	Decision	Date Decided
14/00942/OUT	Land at Libby Lane, Pilling, PR3 6HG	Outline application for the erection of a single dwelling including layout and access (all other matters reserved)	Committee	Dismissed	12 October 2015

arm/rg/pla/cr/15/0411nc1

Appeal Decision

Site visit made on 25 August 2015

by Matthew Birkinshaw BA(Hons) Msc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 October 2015

Appeal Ref: APP/U2370/W/15/3128987

Land at Libby Lane, Smallwood Hey, Pilling, Lancashire, PR3 6HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by the Trustees of J.B Clarkson against the decision of Wyre Borough Council.
 - The application Ref 14/00942/OUT, dated 24 November 2014, was refused by notice dated 5 February 2015.
 - The development proposed is the erection of a single dwelling, with siting and access.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the Trustees of J.B Clarkson against Wyre Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The application was submitted in outline with access and layout proposed for consideration at this stage. I have therefore determined the appeal on the same basis, treating the appearance, landscaping and scale of development as indicative.
4. At the appeal stage the appellant submitted an Extended Phase 1 Habitat Survey. This concluded that subject to new hedgerow and tree planting the proposal would not have any adverse impact on biodiversity or ecology. Following receipt of the report the Council identified that it no longer wished to pursue the second reason for refusal, and confirmed that the development would be acceptable in this regard subject to conditions. Based on the evidence provided I find no reasons to disagree, and have therefore determined the appeal on this basis.

Main Issue

5. The main issue is whether or not the proposal would provide a suitable site for housing, having particular regard to its location within Flood Zone 3a.

Reasons

6. The appeal relates to a broadly rectangular parcel of land adjacent to a pair of semi-detached houses on Libby Lane. Despite the erection of coastal defences

- in the area it falls within Flood Zone 3a; an area with a high probability of flooding as defined by Environment Agency mapping.
7. The National Planning Policy Framework ('the Framework') seeks to avoid inappropriate development in areas at risk of flooding by directing development away from those areas at highest risk. This includes the application of the Sequential Test, which aims to steer new development to areas with the lowest probability of flooding. Paragraph 101 of the Framework confirms that development should not be permitted if there are reasonably available sites appropriate for the proposal in areas with a lower probability of flooding.
 8. In this case a Sequential Test has not been carried out at the strategic (Local Plan) level, and is instead addressed by the appellant's Flood Risk Assessment (FRA). Following receipt of the FRA the main area of dispute between the parties relates to the relevant geographic area. In contrast to the catchment area of roughly 2km defined by the appellant, the Council consider that a Borough-wide approach should be adopted.
 9. Advice on the application of the Sequential Test is provided in the National Planning Practice Guidance. For individual applications it advises that the relevant area will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases it may be identified from Local Plan policies such as the need for affordable housing within a town centre, or a specific area identified for regeneration. The Guidance also states that where large areas fall within Flood Zones 2 and 3 and development is needed to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives.
 10. Pilling is defined as a 'Small Rural Settlement' in the *Wyre Borough Council Local Plan*. It contains a range of services commensurate with its size to include a convenience shop, primary school, public house and local bus service. It therefore supports the day-to-day needs of the immediate surrounding rural community, the vast majority of which falls within Flood Zones 2 and 3. The nearest 'Main Rural Settlements' of Preesall and Knott End-on-Sea are approximately 3.5 miles and 4 miles away respectively. This is also roughly the same distance to the nearest available sites in Flood Zone 1.
 11. However, no evidence has been provided to indicate that there is a specific need for development within Pilling, or a 2km (approximately 1.4 mile) radius. For example, there is nothing before me to suggest that the population of the village is in decline, that numbers are falling at the primary school or that the local pub and/or shop are struggling. Similarly, despite the letter of support from a local Councillor, no information has been provided to substantiate comments that new open market dwellings are required to address the mix of housing in the village, or that the demographic of the area is unsustainable following the approval of additional affordable housing.
 12. A similar conclusion was reached in appeal decision Ref APP/U2370/A/2209077, dated 20 January 2014. In this case the Inspector found nothing to "...indicate that that there is a specific need for housing within the settlement or that the settlement is in decline and that development is needed to sustain the existing community..." Although the proposal before me relates to a different settlement and the area of search is not confined to the settlement boundary, the same conclusions apply to the 2km radius adopted by the appellant.

13. Furthermore, the Council has provided evidence to identify the availability of two sites in Preesall which fall in Flood Zone 1. Whilst potential future occupants are unlikely to walk to the village shop, in the context of the rural area which characterises this part of the Borough I am not persuaded that a distance of roughly 4 miles would preclude residents from using the primary school, or visiting the pub in Pilling. This reflects advice in the Framework which recognises that where there are groups of smaller settlements, development in one village may support services in a village nearby.
14. In summary therefore, development of sequentially preferable sites in Preesall would help support the local rural community whilst ensuring that new housing is directed to areas with the lowest probability of flooding. Although I find the evidence regarding the application of a Borough-wide approach inconclusive, in the absence of any robust, specific information to suggest that there is a need for new residential development to support the community in Pilling, limiting the search area to a radius of roughly 2km is too restrictive.
15. In reaching this view I appreciate that the *Wyre Core Strategy* sought to define Pilling as a 'local rural service centre'. The *Preferred Options* document also confirmed that such centres would provide key local services for their residents and the immediate surrounding area, and that additional development would be permitted to sustain services. The *Wyre Local Plan (Issues and Options)* also recognises that excluding all development from settlements which lie in high flood risk areas will affect the long-term sustainability of communities. Furthermore, reference has been made to the February 2014 *Fylde Coast Strategic Housing Market Assessment*. Combined with the Council's lack of a 5-year housing land supply, this points to a need for new housing in the area.
16. However, emerging local planning policy is only at a relatively early stage and may be subject to change. It is therefore not possible to attribute this any significant weight in reaching my decision. In addition, given the availability of sites in the surrounding area outside of Flood Zone 3, the appeal site does not need to be developed at this stage in order to meet the Council's housing targets. As identified in Appeal Ref APP/U2370/A/14/2223802, dated 25 November 2014, the need for the Council to meet some of its housing demand in Flood Zones 2 and 3 does not obviate the requirement for the proposal to pass the Sequential Test at this moment in time.
17. I have also borne in mind that the Council has previously approved planning permission for new residential development in Flood Zones 2 and 3 by adopting a settlement-based approach to the Sequential Test. The appellant maintains that they were encouraged by pre-application advice which indicated that the same methodology would be adopted. Nevertheless, not all of the circumstances of each case have been provided to enable any meaningful comparison with the appeal proposal. Moreover, I am required to consider the scheme on its specific merits, having due regard to relevant development plan policy and guidance and I have determined the appeal on that basis.
18. Based on the evidence provided I therefore conclude that due to the availability of sequentially preferable sites in areas at lower risk of flooding, the proposal would not provide a suitable site for housing. As a result, it conflicts with the Framework which clearly states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding.

Other Matters

19. In reaching my conclusion against the main issue I have also taken into account the appellant's comments which illustrate how the Exception Test would be met. This includes reference to coastal defences constructed in the 1980s which protect the village. Nevertheless, the Framework requires that both tests are passed. Thus, by failing to meet the requirements of the Sequential Test, it is not necessary to consider the Exception test.
20. It is also undisputed between the parties that the Council cannot demonstrate a 5 year supply of deliverable housing land. I have therefore had regard to paragraphs 47-49 of the Framework and its presumption in favour of sustainable development. For decision taking this directs granting planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or, specific policies indicate that development should be resisted. However, 'locations at risk of flooding' are given as one such example where specific policies in the Framework indicate that development should be restricted. Consequently, the proposal is not the sustainable development for which there is a presumption in favour.
21. Finally, the Council has not raised any other concerns with regard to the living conditions of neighbouring residents, highway safety, matters relating to design or ecology following receipt of the appellant's survey. Based on the evidence provided I find no reasons to disagree. Nonetheless, this does not justify granting planning permission given the conflict I have identified with the Sequential Test set out in the Framework.

Conclusion

22. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Matthew Birkinshaw

INSPECTOR