



Appeal Decision

Site visit made on 7 January 2025

by A Veevers BA(Hons) PGDip(BCon) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2025

Appeal Ref: APP/T2350/W/24/3349285

Twin Brooks Barn, Up Brooks, Clitheroe, Lancashire BB7 1PL

- 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 Thornburn against the decision of Ribble Valley Borough Council.
 - The application Ref is 3/2023/0272.
 - The development proposed is demolition of detached collapsed storage building and erection of 1No. two storey dwelling house with private garden and parking areas. Erection of 1No. two storey outbuilding, providing garage and hobby room serving Twinbrook Barn.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Both main parties refer to the appeal site by various names in the appeal documents, including Twinbrook/s Barn and Twin Brook/s Barn. However, I have used the name given on the application form in the banner heading above.
3. During the appeal, a new version of the National Planning Policy Framework (the Framework) came into effect. Accordingly for the purposes of this decision I have referred to the latest version of the Framework. The main parties have been given the opportunity to comment on the revised Framework. Therefore, I am satisfied that no one would be prejudiced by this change to the national policy context.

Main Issue(s)

4. Whether the appeal site is a suitable location for the proposed development having regard to the development plan and national planning policy in relation to flood risk.

Reasons

5. The appeal site is located close to Mearley Brook, a main river. The Environment Agency (the EA) flood risk mapping shows the majority of the site lies in Flood Zone 3, the highest risk of flooding, with small areas on the north part of the site lying in Flood Zones 1 and 2.
6. Policy DME6 of the Core Strategy 2008-2028, 'A Local Plan for Ribble Valley', adopted December 2014 (the CS) states that development will not be permitted where a proposal would be at an unacceptable risk of flooding or exacerbate flooding elsewhere. This policy is supported by paragraph 170 of the Framework which seeks to ensure that development is steered away from areas at the highest risk of flooding. The Framework advocates a sequential risk-based approach

should be taken to applications in areas known to be at risk of flooding now or in the future from any form of flooding. Planning Practice Guidance (PPG)¹ explicitly states that the sequential test approach means avoiding, so far as possible, development in current and future medium and high flood risk areas considering all sources of flooding.

7. The Framework further sets out in paragraph 175 that the sequential test should be used, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).
8. The appellant's FRA² indicates that the proposed dwelling would be located within Flood Zones 3a and 2 and on land where there is a medium risk of flooding from the nearby river when assessed against the EA's Risk of Flooding from Rivers and Sea mapping³. Therefore, in accordance with guidance in the Framework, the sequential test applies.
9. The PPG⁴ gives advice on how the sequential test should be applied to planning applications in areas at risk of flooding. The area to apply the test will generally be defined by local circumstances relating to the catchment area for the type of development proposed. Only where other sites are not available would the proposal, as a 'more vulnerable' development, be subject to a further exception test to demonstrate that the sustainability benefits of the development would outweigh flood risk and that the site would be safe from flooding for its lifetime. Furthermore, although the evidence suggests the appeal site is located on land allocated for development in the CS, it is not allocated for residential development.
10. Even though the appellant asserts a sequential test is not required in this case, I note that one has been submitted. This appellant's sequential test includes a list of sites obtained from the Council with planning permission for one or two dwellings approved in the last three years in Flood Zone 1. It also includes the appellant's own review of an internet search for planning applications for one or two dwellings and available sites with planning permission advertised by local estate agents. It concludes that no potential alternative sites are available for the proposal or one similar to it.
11. Whilst acknowledging that the appellant has included the whole of the Borough in the area of search, rudimentary comments and limited information as to why each of the listed sites are not appropriate for the proposal have been provided. The PPG clarifies that a reasonably available site could include part of a larger site. However, I note such sites have been discounted by the appellant. Thus, the reasons for disregarding any land that is on the market has not been sufficiently justified. Furthermore, the evidence relating to the sequential test does not appear to have been sufficiently investigative and does not include other sources of information such as potential site allocations, housing land availability assessments, or a brownfield land register search.

¹ Paragraph: 023 Reference ID: 7-023-20220825

² GeoSmart Information Ltd, Flood Risk Assessment Ref:74970.00.01R1, dated 17 March 2023

³ Figure 7 of appellant's FRA

⁴ Paragraph: 027 Reference ID: 7-027-20220825

12. The appellant argues that the proposed dwelling would be a self-build dwelling. However, the application form and the appellant's Design and Access Statement refer to a market dwelling. While of contemporary design, no details have been provided to indicate why the proposal would be self-build, other than it is claimed that it would be a financially viable form of development. Even if the proposed dwelling was self-build, which could limit the number of potentially available sites for the development at less risk of flooding, it would not require a specific geographical location and could be accommodated elsewhere in the Borough on sustainably located land of lower flood risk. There is no imperative, overriding reason that the scheme must be in an area with a high risk of flooding to negate engaging with the required sequential test in this regard.
13. The Council refer to 'other' sites that have not been considered by the appellant but have only provided a planning application reference and address of one specifically identified as being available as an alternative site to accommodate the development, although the appellant asserts that application has not yet been determined. Nonetheless, whilst I have very few details about any other sites the Council claim would be sequentially preferable, it has not been satisfactorily demonstrated by the appellant that there are no reasonably available sites appropriate for the proposed net additional dwelling in areas of lower flood risk in the Borough. Therefore, the proposal does not pass the sequential test.
14. While I note the details regarding the re-profiling of land levels within the site, the contents of the FRA and further evidence from the appellant regarding predicted flood levels and sustainable drainage, there is no doubt the part of the appeal site that would accommodate the proposed dwelling falls within Flood Zones 2 and 3 as defined by the EA's most up to date EA flood risk classification. Even if the FRA showed the development could be made safe throughout its lifetime without increasing risk elsewhere, the PPG⁵ indicates that the sequential test still needs to be satisfied. As the sequential test has not been passed, it is not necessary to subsequently apply the exception test.
15. The EA do not object to the proposal. Nevertheless, the application of the sequential test remains a matter for the decision maker. The EA response does not mean they endorse the appellant's consideration of any sequential test and their response is not determinative. For the reasons set out above, the requirements of the sequential test have not been satisfied in this case, irrespective of the EAs comments.
16. The proposal includes the demolition of a stone and brick outbuilding on the site and its replacement with a two storey outbuilding of considerable scale. The appellant's evidence concludes that the building would be located within Flood Zone 3 but would be a floodable structure that would replace an existing outbuilding and would only be used for garaging, domestic storage and as a hobby/games room for use by occupants of the existing dwelling. Even if I found the application of the sequential test would not be necessary in relation to this building, having regard to footnote 62 of the Framework, and that the findings of the FRA in relation to this building were acceptable, the overall development includes a proposed dwelling in an unsuitable location in relation to flood risk.

⁵ Paragraph: 023 Reference ID: 7-023-20220825

17. To conclude, it has not been demonstrated that there are no reasonably available sites appropriate for the proposed dwelling in areas with a lower risk of flooding and as such the proposal does not pass the sequential test. The appeal site is therefore not a suitable location for the proposed development having regard to the development plan and national planning policy in relation to flood risk. The proposal conflicts with Policy DME6 of the CS and advice in Section 14 of the Framework concerned with planning and flood risk. Collectively these seek, amongst other things, to steer new development to areas with the lowest risk of flooding from any source.

Other Matters

18. The appellant seeks to draw comparison with the circumstances of the appeal proposal in terms of flood risk with a recent planning permission for dwellings adjacent to the site at Twin Brook Farm which was granted planning permission without the requirement for a sequential test⁶. The appellant also refers to a previous application for 3 dwellings at the site which was refused but not for reasons relating to flood risk⁷ as well as a permission granted for development at nearby Twin Brook Business Park⁸. However, the business park is a commercial site and I have no evidence to indicate that this example is directly comparable to the current appeal.
19. Nonetheless, limited details of these permissions or the background and approach taken by the Council to these examples have been provided. In any event, whilst consistency of decision making is important, whatever the Council's approach in these other examples, I am required to reach conclusions based on the individual circumstances of this appeal having regard to local and national policy relating to flood risk at the current time. Accordingly, the above cases do not justify approving the appeal proposal.
20. The site is enclosed by development and would make effective use of land in an accessible urban location close to local services and facilities. The proposal would contribute an additional dwelling towards the Council's housing supply which would align with the overarching aims of the Framework to significantly boost the supply of homes. It would provide a short term economic boost to the local economy in the construction phase, and a social and economic boost to the area post-construction. Whilst these are benefits of the proposal, the benefits to be attributed to one dwelling would be limited.
21. There would be an increase in landscaping, along with other measures to enhance the biodiversity of the site, including bat and bird boxes. However, it has not been shown that this scheme represents the only way of achieving this aim. As such, I give this matter little weight.
22. The proposal would be of good design and energy efficiency technologies would be incorporated, such as air to water source heat pumps. Such measures would contribute to climate change adaptation, but there is little to suggest the development would be particularly innovative or that it would go beyond the requirements of the development plan. They are neutral factors that neither weigh in favour or against the proposal.

⁶ LPA Ref: 3/2019/1103

⁷ LPA Ref: 3/2022/0107

⁸ LPA Ref: 3/2015/0159

23. In this case, given that the development is not in a suitable location having regard to the development plan and national planning policy in relation to flood risk, it does not constitute the sustainable development that the Framework seeks to achieve.
24. I acknowledge the appellant's desire to remain in the Up Brooks area. I also note the appellants frustration with the Council in respect of the advice provided during the processing of the planning application, including in relation to the need for sequential test and the provision of a draft decision notice of approval dated 23 August 2023. However, the reasons for the eventual officer recommendation and decision are clearly set out in the Officer Report and communications prior to that point do not have a bearing on my consideration of the main issue, as set out above.

Planning Balance and Conclusion

25. The limited benefits of the proposal would not outweigh the harm I have identified with regard to the location of the development in relation to flood risk. For the reasons outlined above, the proposed development conflicts with the development plan taken as a whole and the Framework. There are no other relevant material considerations worthy of sufficient weight that indicate the application should be determined other than in accordance with the development plan as a whole.
26. I therefore conclude that the appeal should be dismissed.

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INSPECTOR