



Planning Committee Supplement

Wyre Borough Council
Please ask for : Daphne Courtenage
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**Planning Committee meeting on Wednesday, 6 October 2021 at 2.00 pm
in the Council Chamber - Civic Centre, Poulton-le-Fylde**

4. Appeals

(Pages 3 - 12)

The Appeal Decision reports related to the Schedule of Appeals lodged and decided between 15 August 2021 – 15 September 2021, is attached. These were missing from the original publication.

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Appeal Decision

Site Visit made on 13 July 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 14 September 2021

Appeal Ref: APP/U2370/W/21/3271899

Creg-Ny-Baa, Six Arches Lane, Scorton, Preston PR3 1AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr B Holden against the decision of Wyre Borough Council.
 - The application Ref 20/01075/FUL, dated 4 November 2020, was refused by notice dated 1 February 2021.
 - The development proposed is the erection of a dwelling and associated infrastructure.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal. References to the Framework in this decision therefore reflect the revised Framework.
3. The Council has submitted additional representations, outside of the timeframe given. Nonetheless, as I am dismissing the appeal on other substantive grounds it is not necessary to explore this matter further.

Main Issues

4. The main issues are:
 - Whether the proposal would provide a suitable site for housing with particular reference to its location and accessibility to local services and facilities
 - The effect of the proposed development on the character and appearance of the area.
 - The effect of the proposed development on the living conditions of the residents of neighbouring properties, with particular regard to privacy.

Reasons

Whether a suitable site for housing

5. Policy SP1 of the Wyre Local Plan (2011 – 2031) (adopted February 2019) (Local Plan) sets out the settlement hierarchy for the borough. This indicates that new development should take place within the settlement boundaries, as defined on the Policies Map, with the majority of new development taking place in the settlements higher up the hierarchy. Outside of settlements with defined

boundaries new built development is strictly limited, with the forms of development that may be acceptable being set out in Policy SP4 of the Local Plan.

6. It is uncontested that the appeal site is located outside of a settlement boundary as defined in the proposals map of the Local Plan. For the purpose of the Local Plan the appeal site is therefore located within a designated 'Countryside Area'.
7. Local Plan Policy SP4 indicates that the only forms of housing considered acceptable in countryside areas are either affordable housing or that proposed for agricultural or rural workers. The proposal is for an open market dwelling and therefore conflicts with Local Plan Policies SP1 and SP4 in this regard.
8. I am mindful that the Framework suggests that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, the closest settlement is Scorton, with the majority of the services within it being located approximately 1 mile from the appeal site. These services are limited to a post office, primary school, convenience store, public house, café, restaurant, community facility and place of worship. There are also some limited facilities along the A6, including a convenience store, hot food takeaway, and a public house/restaurant.
9. There is a bus service to Scorton, Garstang, Lancaster and Preston available on the A6. However, on my site visit I noted that these bus stops are an approximate 10 minute walk away from the appeal site. Access to the bus stops and Scorton on foot would therefore have to involve utilising the narrow unlit Six Arches Lane and Station Lane which have no pavements. The distances involved and the nature of the roads would therefore be likely to deter pedestrians and cyclists, especially the elderly or pedestrians with young children, particularly after dark and in bad weather. As such there would be a strong likelihood that most future occupiers would be dependent on the private car to access the majority of the services in the area, and further afield.
10. I appreciate that the occupiers of the neighbouring caravan park may walk along these highways. Nonetheless, I consider that the needs of a permanent household would be materially different from the day-to-day needs of holiday makers who, it seems to me, would be unlikely to generate as many daily trips as would be likely to be associated with permanent domestic occupation. These trips would include the daily commute to work and back, and to visit supermarkets, doctors, secondary schools and other essential services.
11. Given the site's proximity to other residential properties on Six Arches Lane, and the adjacent caravan park site, the proposal would not result in the creation of an isolated home in the countryside which the Framework seeks to avoid. However, it would be remote from services and facilities and thereby not be located where it would enhance or maintain the vitality of rural communities.
12. As such I find that the proposal would not provide a suitable site for housing with particular reference to its location and accessibility to local services and facilities. It would therefore conflict with the requirements of Policies SP1, SP2, SP4 and CDMP6 of the Local Plan with regards to development strategy, ensuring accessible places and minimising the need to travel by car. It would

also fail to accord with policies in the Framework that relate to rural housing, and sustainable transport solutions.

Character and appearance

13. The appeal relates to an area of garden land adjacent to a detached dwelling named 'Creg-ny-Baa'. It is located on the opposite side of the road to a ribbon of detached properties and there are also two dwellings situated on the same side of Six Arches Lane as the appeal site. The land to the rear of the site falls away to an area that is utilised as a large holiday caravan park.
14. The proposal would result in the introduction of further built development into the countryside. However, forming part of a residential garden, containing a detached garage and other structure, screened from view by tall boundary hedges, within the body of a built-up area, the appeal site contributes little to its open rural character and appearance.
15. The proposal would also respect the linear pattern of development on Six Arches Lane, be sited in a relatively generous plot, thereby maintaining a spacious relationship with Creg-ny-Baa and other properties in the vicinity. In this context the urbanising effect of the development would not have a materially adverse effect on the countryside or the character and appearance of the area.
16. For these reasons, the proposal would not conflict with Policies SP4 and CDMP3 of the Local Plan which require, among other things, that development respects the open rural character and makes a positive contribution to the area. It would also accord with policies in the Framework that require development to recognise the intrinsic character and beauty of the countryside.

Living conditions

17. I recognise that the intervening distances between the front elevations of the appeal building and the neighbouring properties on the opposite side of the road would fall short of those advised within the Council's Supplementary Planning Guidance entitled 'Spacing Guidance for New Housing Layouts' (SPG).
18. Nonetheless, the proposal is of a modest scale and the full height windows within the projecting pitched roof elements only serve the ground floor rooms. As such there would be no raised vantage points, and the height of these windows would be mainly to afford future residents additional light. I am also mindful that the proposed roof lights serve a non habitable landing area and that the retained hedgerows would also provide additional screening. These factors would ensure that no undue loss of privacy for the residents of neighbouring properties would occur.
19. I therefore find that the proposal would not cause harm to the living conditions of the residents of neighbouring properties, with particular regard to privacy. As such no conflict would arise with Policy CDMP3 of the Local Plan. Amongst other things, this seeks to ensure that development does not have an unacceptably adverse impact on the amenity of occupants and users of surrounding or nearby properties.

Other Matters

20. The appeal proposal would provide some economic, environmental and social benefits. It would generate some economic activity during the construction of the house and provide a home to occupiers who would spend and contribute to the local economy. However, as the proposal is for a single dwelling any benefits in these respects are somewhat limited. The proposed development would also make a contextually very small contribution to housing supply which, according to the uncontested view of the Council, appears to be in excess of the five years required by the Framework.
21. The appellant considers the proposal to constitute an efficient use of previously developed land, in compliance with criterion e) of Local Plan Policy SP2. I have also been made aware that the site lies outside of any areas of landscape designation, is not within a conservation area or an area subject to an Article 4 Direction and that the proposal does not involve a listed building. Within its delegated officer report the Council also acknowledges that the development would have an acceptable impact with regards to parking, flood risk, ecology and trees, subject to the imposition of relevant planning conditions. Nonetheless, the absence of harm in these respects, would be neutral factors, that do not weigh in favour of the proposal.
22. In reaching my findings I have also had regard to a previous planning permission at the site for a residential chalet which was granted in 2013 (Ref: 13/00263/FUL). I have been made aware that the decision notice for this permission contains no restrictive planning conditions in respect of the use of the building for tourism and have also noted the Council's previous assessment in respect of whether the site is in an isolated location and the promotion of sustainable transport.
23. It is not within my remit to formally determine whether development has begun under planning permission Ref:13/00263/FUL as claimed by the appellant within the context of an appeal under section 78 of the Town and Country Planning Act 1990 (the Act). However, I shall consider the evidence so far as it is material to this appeal. If the appellant wishes to ascertain whether the development is lawful, they may make an application under section 191 of the Act, and any such application would be unaffected by my determination of this appeal.
24. To this end, the appellant argues that this permission has been implemented through the digging of foundation excavations and has submitted a site inspection report from Approved Inspectors Limited to support this view. However, the excavations were not apparent on my site visit, and no photographs or any other evidence has been provided to support this claim. In the absence of any conclusive evidence on this matter I am therefore unable to conclude that development has lawfully commenced and that this permission is extant. Even if I was to accept the appellant's argument on this matter, it is likely that the number of journeys and trips reliant on the use of the car for the occupiers of a smaller sized 2 bedroom chalet would be lower than those of a family that would occupy the proposed 3 bedroom dwelling. It would therefore not have a materially more harmful effect than the proposal. As such these factors significantly limit the weight that I can afford to the previous permission as a fallback position.

25. This planning permission also pre-dates the adoption of the current development plan. The circumstances of a lapsed planning permission granted under a different policy regime therefore carries little weight and does not outweigh the conflict with the adopted development plan.

Conclusion

26. While I have found that there would be no adverse effect on the living conditions of the residents of neighbouring properties and the character and appearance of the area, and that the proposal would bring benefits of limited weight as identified above under Other Matters, these considerations would not outweigh the significant harm that I have identified in respect of the proposal's location and lack of accessibility to local services and facilities.

27. For the reasons given above, there are no material considerations that warrant taking a decision otherwise than in accordance with the development plan when taken as a whole. Therefore, I conclude that the appeal should be dismissed.

Mark Caine

INSPECTOR

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Appeal Decision

Site visit made on 22 June 2021

by Thomas Hatfield BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th September 2021

Appeal Ref: APP/U2370/W/21/3271325

Helms Deep, Long Lane, Barnacre, Garstang, Lancashire, PR3 1RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Susan Gutierrez-Inostroza against the decision of Wyre Borough Council.
 - The application Ref 20/00067/FULMAJ, dated 21 January 2020, was refused by notice dated 25 September 2020.
 - The development proposed is change of use of land to be used for natural human burial ground (sui generis) and agriculture.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development given above is taken from the appeal form and the Council's Decision Notice, rather than the planning application form, as it provides a more concise description of the proposal.
3. A revised version of the National Planning Policy Framework ('the Framework') has been published since the appeal was lodged. Both main parties were given the opportunity to comment on any relevant implications for the appeal. I have had regard to the responses and the Framework in reaching my decision.

Main Issues

4. The main issues are:
 - (a) The effect of the development on groundwater quality;
 - (b) Whether the development would accord with planning policy for development in the countryside areas;
 - (c) Whether the site is in a suitable location for the development with regard to its accessibility by walking, cycling, and public transport; and
 - (d) The effect of the development on the rural character of the area.

Reasons

Groundwater quality

5. Environment Agency guidance has been published on cemeteries and burials, which aims to prevent groundwater pollution. This sets out a number of criteria, including that all graves must have at least 1 metre clearance between

- the base of the grave and the top of the water table, and be deep enough so that at least 1 metre of soil will cover the top of the coffin.
6. A Hydrogeological Assessment (Enviro Solution, 28 June 2021) has been submitted in support of the development. This states that excavations undertaken on neighbouring land in 2013 did not encounter ground water, and the water table was found to be approximately 10 metres below the surface. However, the Environment Agency has expressed concern that these excavations represent just one point within a wider area of land that varies topographically and may not be indicative of the ground conditions within the appeal site. In this regard, no trial pits have been dug within the site itself. Moreover, the assumption that the water table will only be located in the bedrock is questionable, and perched water tables or a shallower water table may exist within the superficial deposits. In these circumstances, I consider that the submitted Hydrogeological Assessment is insufficient to demonstrate that the proposal is of low risk in relation to groundwater.
 7. A Phase 1 Environmental Site Assessment Report (Enviro Solution, 20 November 2019) has also been submitted in support of the appeal proposal. However, the Environment Agency state that this report does not demonstrate that the site is suitable for burial. In particular, it is directed towards contaminated land rather than to the water environment and is not informed by any excavations or trial pits within the site.
 8. The Environment Agency's comments at application stage did not object to the development, but instead requested that conditions be attached to any permission. However, I do not consider that this matter is capable of being dealt with by condition. In this regard, were any subsequent hydrology report to find that the water table in fact rises close to the surface, then it could render the permission unimplementable or put the operator at risk of prosecution for pollution events.
 9. Separately, Environment Agency guidance states that a burial site must be at least 10 metres from any field drain, including dry ditches. Whilst there is a drainage ditch just within this distance, an appropriate buffer could be secured by condition. However, that does not alter my other concerns regarding the development, as set out above.
 10. For the above reasons, I conclude that insufficient evidence has been submitted to demonstrate that the development would not prejudice groundwater quality. It would therefore be contrary to Policy CDMP4 of the Wyre Local Plan (2019), which seeks to ensure that development close to water courses or bodies does not reduce water quality. It would also be at odds with the Framework in this regard, which requires that new development does not result in unacceptable levels of water pollution.

Planning policy for development in the open countryside

11. Policy SP1 of the Wyre Local Plan (2019) seeks to direct new development to within identified settlement boundaries unless it is supported by other Local Plan policies. In this regard, Policy SP4 identifies a list of development types that are considered appropriate in the countryside. One of these is "*the expansion of business in rural areas in accordance with policy EP8 (Rural Economy)*". This latter policy is also supportive of the expansion of existing businesses in the countryside areas.

12. Details of woodland creation grants have been submitted in support of the contention that an existing business operates from the site. However, it is unclear from the information before me whether these were secured with a view to using the site as a commercial forestry business. In this regard, the sworn affidavits and site planning history imply that this woodland was always intended to be used as part of a memorial / burial / funeral services business. However, the previous permission (Ref 13/00309/FULMAJ) has expired, and the site does not have permission for that use of the land, or for facilities that would allow members of the public to visit. It is therefore unclear whether an existing memorial business operates from the site at present.
13. Notwithstanding this, the extent of open land required to create a large woodland burial ground such as this is likely to require a site outside of existing settlement boundaries. In this regard, I note that the other woodland burial sites that have been highlighted in the region are in similarly rural locations. Moreover, paragraph 149 b) of the Framework states that cemeteries and burial grounds are not inappropriate development in the Green Belt, so long as the proposed facilities preserve openness. In this regard, there is no guarantee that a Green Belt location would be more sustainably located given the extent of Green Belt land across the wider catchment area. Whilst the Council has drawn my attention to Poulton New Cemetery, the woodland burials offered there comprise only a relatively small part of a much larger Council-run facility. It is therefore not directly comparable to the current appeal proposal.
14. For the above reasons, I conclude that the development would be at odds with Policies SP1, SP4 and EP8 of the Wyre Local Plan (2019) in relation to development in the countryside areas. However, in the circumstances of this case, I consider this to be an appropriate location for the development, and I therefore attach only limited weight to this conflict. There would also be no significant conflict with the provisions of the Framework in this regard.

Accessibility

15. The appeal site is located in open countryside around 2 miles to the east of Garstang. There are no public transport connections in the immediate vicinity, and many of the pedestrian or cycle routes from Garstang are along narrow rural routes that have a significant incline. In this regard, the site has relatively poor accessibility by means other than the private car.
16. The development would be accessed mainly by people attending burial ceremonies and those visiting graves. However, these ceremonies would be relatively infrequent, and I note that it is envisaged that burials would take place around once a month. Moreover, given that this type of use is likely to require a rural location, a less accessible site is to be expected to some extent. I further note that the Council did not raise this concern in its approval of a similar permission at this site in 2013 (Ref 13/00309/FULMAJ).
17. For the above reasons, I conclude that the site is in a suitable location for the development with regard to its accessibility by walking, cycling, and public transport. Whilst there would be some conflict with Policy SP2 of the Wyre Local Plan, for the reasons given above I consider this to be an appropriate location for the development.

Rural character

18. The development would introduce a relatively small parking area that could accommodate around 15 vehicles. This would be located towards the north eastern corner of the site next to Long Lane.
19. Long Lane is a narrow country route that is lined by trees and hedgerows in this location. This existing vegetation provides a significant degree of screening along the northern edge of the site, and heavily restricts visibility of the parking area in longer views along Long Lane. In addition, an existing hedge along the eastern edge of the proposed car park would provide some screening in views of the site from along Strickers Lane. These views are in any case limited by the presence of a roadside hedgerow. The car parking area would also be visible from along the footpath towards the southern edge of the site. However, these views are more distant in nature. Moreover, the car park is only likely to be in heavy use on occasions when a burial ceremony is taking place, and its visual impact at other times would be minimal. In this regard, it is proposed to surface the car park and access track with a material that would allow grass to grow through. Whilst existing trees and hedgerows would provide more limited screening in winter, I do not consider that any significant visual harm would arise, including to the setting of the nearby Forest of Bowland Area of Outstanding Natural Beauty.
20. For the above reasons, I conclude that the development would not significantly harm the rural character of the area. It would therefore accord with the relevant sections of Policies SP4 and CDMP3 of the Wyre Local Plan (2019). These policies seek to ensure, amongst other things, that new development does not adversely harm the open rural character of the countryside and is appropriate to the local context. It would also accord with the Framework in this regard, which requires that development is sympathetic to local character and history, including the surrounding landscape setting.

Conclusion

21. As set out above, insufficient evidence has been submitted to demonstrate that the development would not prejudice groundwater quality. It would be contrary to the development plan in this regard. Whilst the development would assist in meeting demand for environmentally friendly burials and would be likely to generate biodiversity benefits through additional planting, that does not alter my view that the appeal should be dismissed.

Thomas Hatfield

INSPECTOR