



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