



Appeal Decision

Site Visit made on 23 November 2021

by Mark Caine BSc (Hons) MTPL MRTPI LSRA

an Inspector appointed by the Secretary of State

Decision date: 25 January 2022

Appeal Ref: APP/U2370/W/21/3277209

Rose Cottage, New Lane, Eagland Hill, Pilling PR3 6BA

- 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 Julie Higham against the decision of Wyre Borough Council.
 - The application Ref 21/00041/FUL, dated 12 January 2021, was refused by notice dated 9 March 2021.
 - The development proposed is described as 'Erection of two holiday cottages. Set below the level of the highway.'
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Decision

1. The appeal is dismissed.

Procedural Matter

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.

Main Issues

3. The main issues are:
 - Whether the location of the site would be acceptable for holiday accommodation, having particular regard to the provisions of the development plan and the effect of the proposed development on the character and appearance of the area.
 - Whether the proposed development would be in an accessible location with regard to local services and facilities.
 - The effect of the proposed development on the Pilling Moss Biological Heritage Site, with particular regard to the presence of pink footed geese.

Reasons

Location and Character and Appearance

4. The appeal relates to a large agricultural field that is largely contained by mature hedgerows and is accessed via a metal field gate. Due to the topography of the area this and other adjoining fields sit at a lower level than the adjacent New Lane highway. Although there are some houses nearby, the surrounding area is rural, comprising open fields and agricultural land.

5. Policy SP1 of the Wyre Local Plan (2011 – 2031) (February 2019) (LP) 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 LP Policy SP4.
6. It is uncontested that the appeal site is located outside of a settlement boundary as defined in the Policies Map of the LP. For the purpose of the LP the appeal site is therefore located within a designated 'Countryside Area'.
7. In this regard, LP Policy SP4 identifies holiday accommodation in line with LP Policy EP9, as an appropriate form of development in the countryside. This is providing that it does not adversely impact on the open and rural character of the countryside unless it is demonstrated that the harm to this character is necessary to achieve substantial public benefits that outweigh the harm.
8. LP Policy EP9 supports the creation of new holiday accommodation sites provided that the totality of development is of appropriate scale and appearance to the landscape; any new buildings and supporting infrastructure are necessary; and that the proposal is supported by a sound business plan demonstrating long term viability.
9. I appreciate that the residential properties in the surrounding area vary in scale and design, and that the proposed buildings would be sited in an area where a substantially smaller polytunnel is currently located. The appellant has also put forward that the proposal would be constructed to a high standard of design with quality materials. Nonetheless, the introduction of two cottages, the associated hard surfacing for car parking, and the long access track onto this expansive open land would increase the built form and density of development across the site. This urbanisation and resultant loss of openness would be detrimental to the intrinsic value and character of the rural landscape and countryside in this location.
10. Whilst there are mature hedgerows along New Lane, and the appeal site sits at a lower level than this highway, the proposed cottages would be of substantial size and scale, with large footprints, tall central chimney features, and ridge heights of approximately 5.3 metres and 6.4 metres respectively. As a result of these factors, they would be readily apparent above this vegetation and from a number of vantage points, including along New Lane and nearby public footpaths. Similarly, even though new planting is proposed, this would take a significant period of time to establish, and would not constitute permanent screening, particularly in the winter months when the trees would not be in leaf.
11. The appellant has put forward that the proposal would be designed to deliver spacious luxury buildings that would provide access to all, initially bringing employment opportunities during the construction of the buildings and to manage and maintain them in the future. It would also provide facilities to holiday makers who would spend and contribute to the local economy and source local products to be used in welcome baskets for these guests. The appellant's aspirations to form strategic alliances with local attractions and leisure facilities are also noted. However, as the proposed development is only for two cottages, any benefits in these respects would be somewhat limited.

As such they do not constitute substantial public benefits that are necessary to outweigh the harm to the character of the countryside that I have identified. It has consequently not been demonstrated that the proposed buildings are necessary in this location.

12. I therefore find that the location of the site would not be acceptable for holiday accommodation, having particular regard to the provisions of the development plan and the effect of the proposed development on the character and appearance of the area. It would thereby conflict with LP Policies SP4 and EP9 and would not accord with the objectives of the Framework that require development to recognise the intrinsic character and beauty of the countryside.

Accessibility

13. I could not locate any local services or community facilities such as shops, a post office, health centre or school on my site visit. It is undisputed that the nearest settlement, which contains a reasonable range of services and facilities is Pilling, which is approximately 2.6 miles away. The appellant also accepts that there is no bus route serving the location. Given the lack of public transport in the area, access to Pilling would have to involve utilising narrow unlit rural roads which in the vicinity of the appeal site have no pavements, or using unlit public footpaths via expansive agricultural fields.
14. Despite being utilised for holiday purposes, and in an area where birdwatching, fishing, equestrian and walking activities could take place, the proposal would comprise self-catering accommodation. Travel to the nearest settlement would therefore still be necessary for activities such as obtaining essential supplies and potentially undertaking activities that visitors to an area might reasonably be expected to take part in. These include eating and drinking out, shopping, and visiting local attractions.
15. The distances involved and the nature of the roads and footpaths would therefore be likely to deter pedestrians, wheelchair users and cyclists, particularly after dark and in bad weather. As a result, there would be a strong likelihood that most future occupiers of the proposed cottages would be dependent on the private car to access the majority of the services in the area and further afield. Whilst food deliveries may be available they would not overcome the remoteness of the site in terms of the ability of future holiday makers being able to access local shops or community facilities, for example.
16. I therefore find that the proposed development would not be in an accessible location with regard to local services and facilities. It would therefore conflict with the requirements of LP Policies SP1, SP2 and CDMP6 with regards to the development strategy, ensuring accessible places and minimising the need to travel by car. It would also fail to actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling; as advised in paragraph 105 of the Framework.

Pilling Moss Biological Heritage Site

17. The appeal site is also located within the Pilling Moss Biological Heritage Site (BHS) which the appellant's Ecological Appraisal (EA) states has been designated for its ornithological importance as a winter feeding ground for flocks of pink-footed geese and whooper swans. The EA also confirms that the habitat on the site represents that found within Pilling Moss, which it states

provides moderate potential for feeding wildfowl, and that a small proportion of this will be lost for the construction of the proposed buildings.

18. It is uncontested by both main parties that pink footed geese are sensitive to public disturbance. The EA stipulates that the likelihood of a large number of such geese and swans using the site is reduced by regular human disturbance and the presence of nearby power lines. The appellant has also referred to RSPB research in respect of the likelihood of pink-footed geese feeding in fields that are close to roads.
19. However, I do not have this RSPB research before me. The EA also appears to significantly rely on a data search and a desk study of the site, as well as records from third parties, to establish the presence of protected species on the site and its surroundings, as indicated in Figure 12. Nonetheless, this data and information has not been included with the EA to substantiate its recommendations, which limits the weight that I can give to it as a material consideration. Furthermore, it appears that only one site visit and site survey was carried out, back in November 2019, where geese were heard flying overhead. This is also something that I heard on my site visit. I therefore cannot be certain that the EA provides an up-to-date and fully representative picture of the presence of pink footed geese on the site or in the surroundings.
20. Moreover, the EA recommends precautionary mitigation through the provision of landscaping which it states will be seed bearing and provide food for birds in the winter. However, I am mindful of the Greater Manchester Ecology Unit's (GMEU) concerns about this landscaping not being specifically beneficial to the species of birds for which the BHS has been designated. This has not been disputed by the appellant and I have no substantive reason to disagree. Therefore, notwithstanding the credentials of the Ecological Consultancy, a planning condition requiring the development to be carried out in accordance with the EA would not provide sufficient mitigation for the loss of habitat and disturbance to pink footed geese.
21. In reaching this view, I acknowledge that the peak holiday season would be during the summer months, when these geese are not likely to be present. A suitably worded planning condition to ensure that construction works would only take place between April and September, would reduce disturbance to them during the construction process. Nonetheless, there is little before me to suggest that the cottages would not be available and occupied in the winter months. As such these measures would also not negate the harm in respect of the public disturbance, caused by the comings and goings and general activity of holiday makers, to these birds.
22. Insufficient evidence has therefore been advanced to enable me to find that there would not be material harm caused to the natural environment of the Pilling Moss Biological Heritage Site, with particular regard to the presence of pink footed geese. As such the proposed development conflicts with LP Policies SP2 and CDMP4, which seek, amongst other matters to protect habitats, species and ecological networks. Furthermore, paragraph 180 of the Framework states that local planning authorities should refuse planning permission if significant harm to biodiversity from a development cannot be avoided, adequately mitigated or as a last resort, compensated for. I have found this to be the case in this instance.

Other Matters

23. The Lancashire County Council Highways and Transport Section (LCC) has not objected to the proposal. I am mindful of their comments in respect of the road layout limiting vehicle speeds and the lack of recorded collisions in the vicinity of the site for the past five years. I have also had regard to an email from the LCC to the appellant in respect of planned road repair works in the area and equestrian facilities in the vicinity that use horse boxes and are accessed via New Lane or Bradshaw Lane.
24. Furthermore, there was a previous planning permission on the appeal site for stables and a sand paddock (05/00924/FUL) which would have also required the use of these roads in connection with this equestrian use. However, these matters relate to highway and pedestrian safety, which did not appear to be contentious in the appeal. They would therefore not overcome my concerns in respect of the remoteness of the site and lack of accessibility to local facilities and services by means other than a private motor vehicle.
25. The GMEU also raised no objections in respect of the impact of the proposal on Great Crested Newts subject to planning conditions to ensure that the measures in the EA are implemented. The lack of harm in these respects would therefore be neutral factors, that do not weigh in favour of the proposal.
26. My attention has been drawn to a number of appeal decisions¹ that relate to the character of the countryside, accessibility to services and facilities, and European protected species. Whilst I have had regard to both main parties' points on these cases, I can confirm that these have not been decisive in my assessment of this appeal as I have determined it based on its own merits.
27. I also note that subsequent to the date of the Council's decision, it has produced additional guidance for applicants in respect of interpreting and implementing LP Policies EP9 and SP2. I am aware of the appellant's view that this should be given limited weight. However, in light of my reasoning above this would not alter my findings on the main issues of this appeal.
28. All of the matters above therefore do not overcome or outweigh the significant harm that I have identified in respect of the main issues of this case. As a result, the appeal scheme would not be sustainable development for which the presumption in favour applies.

Conclusion

29. For the reasons given above, having taken account of the development plan as a whole, along with all other relevant material considerations including the provisions of the Framework, the appeal should therefore be dismissed.

Mark Caine

INSPECTOR

¹ APP/U2370/W/21/3273598, APP/U2370/W/20/3256711, APP/M2325/W/16/3164834, APP/U2370/W/20/3251061, APP/D1265/W/20/3250955, APP/Q1153/W/20/3245715