



Appeal Decision

Site visit made on 25 November 2019

by **Andrew McGlone BSc MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 November 2019

Appeal Ref: APP/U2370/W/19/3234829

Blueberry Stables, Lancaster Road, Preesall FY6 0HN

- 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 Mrs McGinley against the decision of Wyre Borough Council.
 - The application Ref 18/00946/OUT, dated 27 September 2018, was refused by notice dated 7 February 2019.
 - The development proposed is outline with appearance, access and scale applied for erection of detached dwelling for the occupation of one gypsy traveller family.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with all matters reserved for future consideration, except for appearance, access and scale. Indicative plans have been submitted. These have formed part of my consideration of this appeal.
3. Shortly after the Council refused planning permission, the Wyre Local Plan (2011-2031) (WLP) was adopted. Policies within the WLP supersede the saved policies of the Wyre Borough Local Plan, 1999 (Local Plan). As a result, saved Local Plan policies SP13, SP14, EN13 and ENV15 are now no longer relevant. Instead, WLP policies now carry full weight. The main parties have had the opportunity to set out their respective cases having regard to the current development plan for Wyre. Hence, I do not consider that either party has been prejudiced by the changes to development plan policies.

Main Issues

4. The main issues are: (i) the effect of the proposed development on the character and appearance of the area; (ii) whether the proposal would comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding; and (iii) whether there are any material considerations that weigh in favour of the development.

Reasons

Character and appearance

5. The appeal site relates to a relatively flat parcel of land on the southern side of Lancaster Road near to its junction with Cart Gate. Access from the road would be through an existing gated entrance, with the access leading around, and between an existing building, granted planning permission as a stable (Ref: 14/00051/FUL), and an area of hardstanding. The appeal site is set back from

the road and is currently grassed over except for a small timber building. Open agricultural land is to the north and south, while there is a terraced row of residential properties on Cart Gate to the west. The site lies within the countryside as defined on the proposals map to the WLP.

6. WLP Policy SP4 says that the open and rural character of the countryside will be recognised for its intrinsic character and beauty. Development which adversely impacts on the open and rural character of the countryside will not be permitted unless it is demonstrated that the harm to the open and rural character is necessary to achieve substantial public benefits that outweigh the harm. The policy explains that planning permission will only be granted within countryside areas for new development that meets the requirements of the Core Development Management Policies and it is for one of the listed purposes.
7. I understand that the appellant owns breeding stallions. While the appellant says they are to be housed in the stables on site none were present at the time of my site visit. The appellant considers that this business requires an on-site presence due to the value of stallions and to provide care for them, in terms of exercising and foaling. WLP Policy SP4 permits agriculture, forestry, mineral extraction or equine related activities, and the diversification of agricultural businesses in line with WLP policies EP8 and EP10. Having regard to these policies, there is no substantive evidence before me to demonstrate that the proposed development is necessary to support the appellant's business or that this business has a sound plan demonstrating its long-term viability. As a result, the proposal would not accord with any of the listed purposes.
8. Although matters relating to layout and landscaping are reserved for future consideration, the scale and appearance of the proposed dwelling would, in the context of a largely open undeveloped stretch of land, result in a visually prominent development. Existing landscaping along the lane and Cart Gate may soften this effect, but the proposed dwelling's scale would mean that it would extend somewhat above this. I recognise that there are a handful of dwellings along Lancaster Road, but these are clustered together. The proposal would be detached from these and not respect or enhance the open rural character of the area despite the proposed use of locally sourced materials.
9. The appeal scheme would result in modest social and economic benefits through the provision of a new dwelling, spending in the local economy and as a result of the site's location, but these would not outweigh the harm to the countryside, and thus the environment that the appeal scheme would cause.
10. I conclude, on this issue, that the proposed development would have a significant effect on the character and appearance of the area. As such, the proposal would conflict with WLP policies SP4 and CDMP3; which jointly, among other things, seek development of a high standard of design that respects or enhances the rural character of the countryside.

Flooding

11. WLP Policy CDMP2 states that development will be required to demonstrate that: a) it will not be at an unacceptable risk of flooding; b) it would not lead to an increased risk of flooding elsewhere; and c) it would not adversely affect the integrity of tidal and fluvial defences or access for essential maintenance and emergency purposes. As the appeal site lies within Flood Zone 3, it must be demonstrated that the Sequential Test has been applied and there are no

reasonable available alternative sites at lower risk, considering the nature of flooding and the vulnerability of the development. This accords with Framework paragraph 155 which seeks to prevent inappropriate development in areas at risk of flooding by directing development away from areas at highest risk.

12. Framework paragraph 158 states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
13. As part of their submissions to the Council the appellant provided a Flood Risk Assessment (FRA). The Environment Agency (EA) reviewed and commented on the FRA having regard to the Planning Practice Guidance (the Guidance). This resulted in the EA raising objection to the proposed development. Notably, even if the proposal has been kept away from an existing watercourse, the appellant does not dispute the views of the Council or EA that the FRA indicates that there appears to be several sequentially preferable sites to the appeal site. No further evidence has been submitted by the appellant as part of their appeal. I have no reason to disagree with the EA's response that the appeal scheme does not satisfy the Sequential Test. Given this, I do not need to go on and consider the Exception Test.
14. I see from the photographs provided by residents that the area around the site has been prone to flood events. This only substantiates the need for robust evidence insofar as flooding and the need to steer new development away from areas at the highest risk of flooding such as the appeal site. This is particularly important as Flood Zone 3 is defined as having high probability of flooding and the proposal is for a 'more vulnerable' development.
15. I conclude, in respect of this issue that the proposal would not comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding. Hence, the proposal would not accord with WLP Policy CDMP2 and Framework paragraphs 155 and 158 and the Guidance; which jointly, among other things, seek to ensure development is safe from flooding.

Other considerations

16. Planning policies must account for different groups in the community, including travellers. The Council say that the Blackpool, Fylde and Wyre Gypsy and Traveller Accommodation Assessment Update (GTAA) shows that there is no additional need for gypsy and traveller pitches for the period between 2016 and 2031 whether or not they meet the PPTS definition or not. The GTAA, however, confirms an additional need of 19 pitches over the plan period. This is made up of the 17 unauthorised plots and an additional 2 between 2016 and 2031 from new household formation based on the demographics of the residents. I do not know where the Council are in respect of meeting this need based on the evidence before me, so I cannot therefore agree with the Council.
17. I note that the proposed dwelling would be occupied by the appellant and her family. There is no dispute between the main parties about the gypsy status of the appellant having regard to the definition set out in Planning Policy for Traveller Sites (PPTS). I agree. Even so, the PPTS applies to proposals for traveller sites as it is designed to address the specific accommodation needs of travellers. It does not apply to proposals for new houses. In any event, it would not be 'reasonable' to tie the dwelling's occupation to gypsies and travellers as

many have an aversion to living in bricks and mortar accommodation. While there is no requirement for the appellant and her family to live in a caravan provided they maintain their nomadic way of life, the planning permission would run with the land and the proposed dwelling could, aside to the appellant's intentions, be occupied by anyone.

18. Thus, the proposed accommodation would not contribute towards gypsy and traveller provision, and as such, the proposal does not attract weight in favour of it in this regard. However, the proposal would albeit modestly, contribute towards the supply and mix of housing in the Borough. Even if the Council can now demonstrate a five-year supply of deliverable housing sites, this is not a ceiling to further housing development.
19. There are no substantive details before me about what work the appellant undertakes locally, which school their children attend or which church the family attend. There are also no substantive details before me about a medical condition a family member is said to have. Local residents inform me that the appellant and the family live at an address in Stockton-on-Tees and that they have not lived in the area or attended local facilities since a Court Injunction in 2013. The appellant does not dispute this.
20. I attach limited positive weight to the continuity that having a settled base and a quality home environment can bring along with the access that can be gained to services and facilities. However, these matters equally apply to any member of the community who could effectively occupy the proposed dwelling.
21. While a planning application (Ref: 19/00800/FUL) is said to be pending a decision for the erection of a storage building for private equestrian use, I have considered the appeal scheme on its own planning merits.

Conclusion

22. I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. It does not follow from the PSED that the appeal should succeed.
23. The appeal is made for the erection of a detached dwelling and the intended occupiers accord with the PPTS definition. However, the PPTS definition is irrelevant for the purposes of the PSED. I have no evidence that the appellant and her family are persons who share a protected characteristic for the purpose of the PSED. But, even if they were, the appellant wishes to build a new dwelling at the site that could be occupied by anyone. Given that the planning system operates in the wider public interest which has legitimate aims of upholding the purposes of planning policies, the significant harm that I have identified in terms of the character and appearance of the area and flooding outweigh the personal matters raised and the modest social and economic benefits that would arise from the proposal. It is therefore proportionate and justifiable that the appeal is dismissed.
24. For these reasons set out above, I conclude that the appeal is dismissed.

Andrew McGlone

INSPECTOR