

Appeal Decision

Hearing held on 9 February 2017

Site visit made on 9 February 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 March 2017

Appeal Ref: APP/H0738/W/16/3158924

Carrs Angling Lakes, Letch Lane, Carlton, Stockton-on-Tees TS21 1EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Frank Andrew against Stockton-on-Tees Borough Council.
 - The application Ref 16/1095/OUT, is dated 22 April 2016.
 - The development proposed is an outline application for a fishery worker's dwelling and machinery store.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The proposal seeks outline planning permission, with all matters of detail reserved for future consideration. I have treated the drawings submitted showing an indicative site layout, building design and the position of the proposed access position on Letch Lane as illustrative.
 3. The Council's approach to the acceptability of development outside of development limits is set out in Saved Policy EN13 of the Stockton-on-Tees Local Plan 1997 (Local Plan). This policy, amongst other things, restricts development in such locations to that necessary for farming or forestry operations or contributes to the diversification of the rural economy provided that it does not harm the character or appearance of the countryside. This policy predates the advice provided in paragraph 55 of the National Planning Policy Framework (the Framework) which seeks to avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside.
 4. Although Saved Policy EN13 predates the Framework, I consider that its provisions in seeking to protect the character and appearance of the countryside from development that is otherwise necessary for rural activities remains relevant and broadly consistent with the Framework. It therefore can be afforded significant weight.
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Main Issues

5. The Council has stated that had it been in a position to determine the application it would have refused planning permission for two reasons which the main issues below reflect. These are:
 - Whether there is an essential functional need for a fishery workers' dwelling and whether this would accord with national and local planning policies for development in the countryside.
 - The effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Essential functional need

6. The appeal site is located in the open countryside, outside of the development limits of Carlton. It comprises an area of low lying grassland located to the west of the four ponds comprising the Carrs Angling Lakes and to the east of Letch Lane, from where access is suggested via the existing access to the fishery. The fishery business is well established and comprises of approximately 96 fishing pegs with the opportunity to create an addition lake to be used for angling of specimen fish.
7. The fishery has been managed since 2005 by the appellant who resides at High Meadow Farm, located to the west of the appeal site. The appellant is seeking to retire with the management of the fishery being passed to his son who does not currently reside within a reasonable travelling distance of the site. The appellant suggests that the management and long term development of the business requires a permanent on-site presence for which a workers dwelling, in the form of a modest dormer bungalow together with a machinery store building which would be for the storage of a variety of equipment used in the management of the fishery. It is suggested that the proposed on-site presence is necessary in order to prevent crime, including the theft of fish, control predatory birds, manage flood risk which could lead to stock loss and deal with unforeseen circumstances relating to the health of the fish stock.
8. The fishery has operated as part of the appellant's farm business and as such has not been subject to separate accounts. Capital costs have been absorbed by the farm business. The Business Plan submitted at the Hearing suggests that as a separate entity the projected profit for the fishery for 2016/17 would be approximately £18,000 with the potential to progressively increase profit over the next 5 years if a full time worker were able to reside at the site. On the basis of the employment of one full time worker being remunerated at the minimum wage level of approximately £15,000 per annum, the appellant suggests that there is sufficient profit within the business to support a full time worker and provide enough finance to employ any necessary additional casual labour, as and when required.
9. The Business Plan does not demonstrate how the capital costs of the proposed dwelling and machinery store building would be funded. Although it was suggested that these costs would be financed through a combination of family support from the farm business and a mortgage, this does raise some doubt as to whether the business can support a full time worker. However, the submitted evidence demonstrates that currently the business can support a full

time worker and has the ability to expand. Taking these factors into account and given the family business support that has been provided in the past, I am satisfied that the business has a sound financial basis that can support a full time worker.

10. The evidence submitted with the application demonstrates that the fishery has been subject to a number of reported crimes that primarily relate to vandalism, anti-social behaviour and damage to fencing and signage. Although there has been no reported crime relating to fish theft the appellant suggests that there has been evidence of netting of fish but it was not possible to identify whether any fish had been stolen and as such there was no basis for an insurance claim. Consequently, it was considered unnecessary to report the evidence of netting as a crime to the Police.
11. My attention was drawn to 'Operation Traverse' which is a multi-agency operation involving the Angling Trust, the Environment Agency and the Police in response to increasing theft of fish stocks through organised crime. The appellant identified that a 20lb Carp specimen has a value of over £1,000 and that theft would result in a large replacement cost but more importantly stock loss would have a significant major impact on the viability of the business. Evidence was submitted of the Lockwood Beck Fishery at Saltburn which had to close due to fish theft.
12. Whilst there is no recorded crime relating to fish theft at the fishery I recognise susceptibility of the business to this. The appellant indicates that the access for crimes occurring at the fishery is predominantly from the agricultural land to the east of the ponds and from the public footpath to the north. Given the location of the proposed dwelling to the west of the ponds and close to the road access point off Letch Lane, I agree with the Council that it would not be positioned close to the area where the access for criminal activity may occur. Moreover, given the distance from the ponds and the intervening vegetation the opportunity for surveillance over the fishery would be limited.
13. The appellant agreed that CCTV cameras could be affordably installed and would provide some benefit to detecting crime. Although the appellant considers that CCTV would not deter crime I do not consider this to be the case. The Crime Reduction Officer suggests that measures to prevent easy access to the fishery, monitored CCTV and lighting of access points should be considered. Such measures would, in my view, provide a visible deterrent to crime.
14. Whilst the security of the site is an accepted concern, I consider that the measures suggested by the Crime Reduction Officer could reasonably be employed. Moreover, given the relative remoteness of the proposed dwelling from the access areas for the perpetration of crime I do not consider that it would provide any clear surveillance of the fishery.
15. Considerable evidence was submitted with the application regarding the risks to fish stock posed by predatory birds, particularly at dawn and dusk. I agree with the appellant that physical measures to deter birds such as nets and wires would not be conducive to the operation of a fishery and that a human presence would be the most suitable form of deterrent. However, I am not persuaded this needs to be achieved by having a worker living on-site.

16. It would not be unreasonable for a worker living within a reasonable travelling distance of the site to undertake patrols to deter predatory birds as part of their varied working hours which were explained at the Hearing. There is primarily an operational need for predatory bird patrols to occur in the summer. In addition, as the fishery is open at 06.00 to 21.00 in the summer, there would be a human presence provided by the users of the fishery for time periods close to dusk and dawn.
17. Both main parties agree that flooding during periods of extraordinary rainfall have occurred at the fishery. However, these appear to be relatively rare occurrences associated with extreme weather events. The last incident was during the heavy rain of late December 2015 and was associated with the overflowing of Billingham Beck. I have no evidence of any incidents prior to this. Flooding requires the fish to be removed and stored in ponds not affected by flood.
18. I recognise the need to pro-actively respond to a flood incidence. However, the evidence suggests that flooding of the ponds is an infrequent event. In addition, it is associated with extreme prolonged rainfall and, as such, has some degree of predictability. Consequently, the management of the risk can to some extent be pre-planned and managed by a person living within a reasonable travel distance of the site.
19. The appellant identified the need to monitor oxygen levels in the ponds and the need to provide oxygenating pumps, if necessary, which are hired for a few days. However, there was no evidence to suggest that such monitoring could not be undertaken by remote technology or that it could not be undertaken as part of the routine operations of the fishery, as is currently the case. The appellant's concerns relate to the security of the pumps if they were needed to be in use overnight. However, no evidence was provided of any previous theft of pumps or that their use is needed on a regular basis.
20. The Council has identified that there are residential properties available for sale in Carlton within a reasonable walking distance of the ponds. Some of these properties, particularly those on Chapel Gardens and Thorpe Lane, could provide a better opportunity for surveillance over the fishery than the proposed dwelling due to the elevated nature of the village. The Council identified that there were 19 properties available for sale in Carlton during November 2016 with prices ranging from £145,000 to £525,000.
21. My attention was drawn to two dwellings that have been recently granted planning permissions in the yard of the appellant's farm at High Meadow Farm. At my site visit I observed that the construction of these properties is substantially complete. Whilst I recognise that one could have been occupied by the fishery worker the appellant indicated that these properties were to be occupied by his two daughters and therefore would not be available to be occupied as a fishery workers dwelling .
22. Whilst I accept that there is no opportunity for accommodation at the existing farm, there are properties available in Carlton which are within a reasonable walking distance of the fishery and are reasonably priced. As such, there is suitable and alternative accommodation available in close proximity of the fishery.

23. Taking the above factors into account, alone and in combination, I do not consider that it would be essential for the proper functioning of the fishery for a worker to be readily available at all times. Although, I accept it would be more convenient for a worker to live on-site, this would reflect a personal preference, not related to an essential functional need of the business.
24. The appellant also suggests that the proposed development would contribute to the diversification of the rural economy. However, the fishery has been in operation since 2005 and as such has made a contribution to the rural economy since that time. Given my findings that the proposed dwelling would not be related to an essential functional need of the business, I consider that the proposal would make a neutral contribution to the diversification of the rural economy.
25. Consequently, the proposal would constitute an isolated home in the countryside for which there are no special circumstances sufficient to justify such development. The proposal would therefore not accord with Saved Policy EN13 of the Stockton-on-Tees Local Plan (1997) and paragraph 55 of the Framework.

Character and appearance

26. The appeal site is located in a low lying valley feature with the village of Carlton to the north and a ridge forming part of Letch Lane to the south. It forms part of a large area of flat open grassland extending to the east. Owing to its low lying position and proximity to Letch Lane, it is quite visible in views from the road in the approach to, and exit from, Carlton. On the western side of Letch Lane is the Willow Bridge Agricultural Depot which is also located outside of the development limits of the Carlton and restricts views of the countryside to the west. Consequently, the open appearance of the countryside to the east of Letch Lane makes an important contribution to the rural character of the area in views from the road.
27. The Stockton-on-Tees Landscape Character Assessment carried out in 2010 identifies the site as lying within the Thorpe and Billingham Beck Character Area and is identified as Landscape Unit 109. This identifies that the area within Unit 109 has a high landscape and visual value and low landscape capacity for development with a recommendation that no development occurs within the area.
28. I recognise that the indicative drawings show that the proposed buildings would have a relatively low height and would be positioned close to an existing hedge that forms the fishery boundary with the road. This would help to mitigate views of the proposed development from Letch lane as it passes the appeal site. I also accept that this hedge could be thickened to further mitigate such views.
29. However, the proposed buildings would be quite visible in views from the village of Carlton, the approach to it, the footpath to the north and the wider countryside to the east. In such views the buildings would appear as isolated structures, having no relationship to the settlement pattern of the village. The proposed buildings would appear as prominent, incongruous and isolated features that would erode the open character of this part of the countryside and would significantly affect the contribution that the site makes to the landscape value of Unit 109.

30. I have also taken into account the impact of the development of the Solar Farm located to the east of the appeal site. Although, occupying a relatively large area the solar panels are relatively low structures and the Council explained that the site is subject to considerable landscape mitigation measures. The Solar Farm is not readily visible from Letch Lane and the landscape to the east retains a rural appearance. By contrast, the proposed buildings would be prominent structures that would urbanise this area of open countryside. Therefore, the presence of the solar panels does not justify further development in the countryside.
31. For the above reasons, the proposed development would unacceptably harm the character and appearance of the surrounding area. Accordingly, the proposed development would not accord with Policies CS3 and CS10 of the Stockton-on Tees Core Strategy Development Plan Document 2010 and Saved Policy EN13 of the Local Plan. These policies, amongst other things, require that new development should protect the landscape, respond positively to local character and set out that development that contributes to rural diversification should not harm the character or appearance of the countryside.

Other matters

32. Both main parties agree that the Council cannot demonstrate a five year supply of housing and that the appeal site is within a sustainable location. The Framework states that if a five year supply of housing cannot be demonstrated, the Council's policies for the supply of housing are out of date and proposals should be considered in the context of the presumption in favour of sustainable development. The modest contribution that the proposed dwelling would make to housing supply carries moderate weight in favour of the proposal.

Planning Balance and Overall Conclusion

33. The proposed development would make a neutral contribution to the diversification of the rural economy. The provision of the additional dwelling that would be created does carry moderate weight in favour of the proposal. However, I consider that the adverse impacts that would result to the character and appearance of the area and the insufficient justification of the need for a rural workers dwelling in the countryside would significantly and demonstrably outweigh the benefit of a new unit of residential accommodation.
34. Whilst the proposed development may be located in a sustainable location in terms of access to local services and facilities, the harm that would be caused to the character and appearance of the surrounding area would not meet the requirements of the environmental role of sustainable development as set out in paragraph 7 of the Framework. Consequently, I conclude that the scheme runs contrary to the development plan when taken as a whole and does not represent sustainable development as set out within the Framework.
35. For the above reasons, and taking into account all other matters raised, I conclude that the appeal should be dismissed and planning permission refused.

Stephen Normington

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Stephen Barker MRTPI	Prism Planning Ltd
Mr Frank Andrew	Appellant
Mr Thomas Andrew BA	Appellant's son

FOR THE LOCAL PLANNING AUTHORITY

Mrs Elaine Atkinson MA	Senior Planning Officer
Mr Richard Bagnall BA, DipLA	Landscape Design Officer

ADDITIONAL DOCUMENTS SUBMITTED PRIOR TO THE HEARING BY THE APPELLANT

Document A	Letter dated 18 January 2017 and accompanying photographs showing flooding at the appeal site
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ADDITIONAL DOCUMENTS SUBMITTED PRIOR TO THE HEARING BY THE COUNCIL

Document B	Planning conditions proposed by the Council
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DOCUMENTS SUBMITTED AT THE HEARING

Document 1	The Carrs Angling Lakes Business Plan
Document 2	Letter from Mr Gordon Byers, Lockwood Beck Fishery dated 19 January 2017
Document 3	Photograph showing removed perimeter fencing panel at Willow Bridge Agricultural Machinery
Document 4	Photographs showing flooding to Surbiton Road
Document 5	Extract from Stockton-on-Tees Landscape Character Assessment relating to Thorpe and Billingham Beck Valley Character Area
Document 6	Assessment Sheet Unit 109 from Stockton-on-Tees Landscape Character Assessment
Document 7	Aerial photograph of land in the vicinity of Carrs Angling Lakes
Document 8	Location plans showing the position of two dwellings under construction at High Meadow Farm