
Appeal Decision

Site visit made on 5 June 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 26 June 2017

Appeal Ref: APP/Z2315/W/17/3170899

Deerplay Inn, Burnley Road, Clough Bottom, Cliviger OL13 8RD

- 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 & Mrs A Cockroft against the decision of Burnley Borough Council.
 - The application Ref APP/2017/0001, dated 30 December 2016, was refused by notice dated 2 March 2017.
 - The development proposed is an agricultural building.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of this appeal are:
 - whether the proposal is consistent with the objectives of local and national planning policies relating to development in rural areas, and;
 - the effect on the character and appearance of the area.

Reasons

Development in rural areas

3. The appeal site consists of approximately 1.4 hectares of land that surrounds the Deerplay Inn, a locally listed building, which has an extant planning permission for conversion to four dwellings. The site is enclosed by dry stone walls along the Burnley Road frontage, its eastern boundary and the western boundary which adjoins a neighbouring field and a public footpath, with fencing providing some additional internal subdivision. The surrounding landscape consists of moorland and field pasture with intermittent farm buildings.
 4. The building would be approximately 24.4m by 10.7m and 5.5m in height, with green profiled sheet cladding walls and a side gable roof with grey fibre cement sheets and translucent polycarbonate rooflights. The building would be located on the western edge of a narrow section of enclosed field, close to a field gate into a neighbouring field that is outside of the appellant's ownership.
 5. The site is within open countryside. Saved Policy GP2 of the Burnley Local Plan Second Review (LP), adopted April 2006, limits development in rural areas to, amongst other things, agriculture, forestry and outdoor recreation uses not requiring large buildings. The policy also requires that all new development will have to be in scale and keeping with the surrounding landscape and be
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consistent with other policies of the LP. Saved Policy E29 of the LP permits new development for agriculture when it does not have a detrimental effect on the surrounding landscape; it would not have an unacceptable impact on the amenity of neighbouring properties and in the case of new built development it relates well to existing farm buildings. In addition, it states that the Council will use planning conditions to ensure that new development is removed once the agricultural use has ceased.

6. The National Planning Policy Framework (the Framework) in supporting economic growth in rural areas in order to create jobs and prosperity, amongst other things, seeks to support the sustainable growth and expansion of all types of business and enterprise in rural areas, including through well designed new buildings. It also seeks to promote the development and diversification of agricultural and other land based rural businesses. In doing so, to my mind provided that the use of the building would be for agricultural purposes, which in itself is a test of reasonable necessity, in principle there is no limitation on the size or scale of such a building. In reaching that view, I have taken account of the findings of a previous Inspector relating to an appeal decision¹ in a District nearby which was drawn to my attention.
7. Saved Policies GP2 and E29 of the LP accord with the Framework is so far as it seeks that the intrinsic character and appearance of the countryside is recognised. However, there is no specific guidance in Saved Policy GP2 of the LP which defines large buildings and such a restriction is not consistent with the Framework. In my view, provided that the building would be used for agricultural purposes, whether the size and scale of the building is appropriate in terms of Saved Policies GP2 and E29 of the LP and the Framework requires site specific consideration in terms of character and appearance.
8. The appellant advises that the building would be needed for storage of agricultural machinery and hay associated with improvement of the land, together with livestock use. There are no other buildings available within the site and it is suggested that seasonal hay storage and livestock housing would take up much of this building, with space for the storage of a tractor and other equipment. The Council have raised concerns in terms of justification for the building, including the constraints upon improvement of the land for cultivating hay crops. Nevertheless, I am satisfied that the building has been designed for agricultural purposes. Furthermore, the proposed management of the land and the activities indicated could support the agricultural use of the building.
9. As the conversion of the Deerplay Inn has yet to completed, I give little weight to the prospective purchase of one of the units by a farmer and any prospect that they would manage the land on the appellant's behalf. In that respect, based on the limited evidence before me, there are uncertainties in terms of agricultural activity which would take place and the economic viability of any enterprise following investment in the building, equipment and improvements to the land. Nevertheless, if the appeal were to be allowed, I am satisfied that the use of the building for agricultural purposes could be appropriately safeguarded by a condition requiring its removal were such uses to cease, as required by Saved Policy E29 of the LP. Such an approach would be consistent with the Framework objective of seeking to promote the development, growth and diversification of agricultural and other land based rural businesses.

¹ APP/T4210/W/16/3151468 - 02 September 2016

10. Having regard to all of the above, I conclude that the principle of the development would not conflict with Saved Policies GP2 and E29 of the LP or the Framework in terms of their objectives relating to development in rural areas. However, to conclude on the compliance of the proposal with the development plan and the Framework as a whole it is also necessary to address the associated criteria relating to matters of character and appearance.

Character and appearance

11. The site has undulating topography with a progressive downward slope in a broadly north and east direction from the southern corner of the site which adjoins Burnley Road. However, due to the alignment of Burnley Road and the downward slope of land to the east of the Deerplay Inn, parts of the site are higher than the road from some perspectives. Due to the upland location, the landscape is largely open aside from field boundaries with few trees.
12. The building would be set back from Burnley Road at the rear of the Deerplay Inn and at a reduced land level when approaching along the road from the west. It would be positioned at a right angle to the road to align close to the existing dry stone wall boundary and would be designed for agricultural purposes and constructed from materials typical of such buildings. The building would be visible from various vantage points along the road, but its scale and siting from those perspectives would not be particularly prominent within the moorland landscape or out of place in a locality where intermittent farm buildings are a common feature. The proposal would sit comfortably within the landscape when approaching along Burnley Road from the west with a comparable size, scale and appearance to existing agricultural buildings which are more visually prominent on the opposite side of the road nearby. Furthermore, when approaching from the east, the building would be viewed together with the Deerplay Inn and against the backdrop of an existing group of agricultural buildings located further to the west on higher ground.
13. Notwithstanding the above, the proposed building would be a dominant feature when viewed from the public right of way which runs adjacent to the western boundary of the site. Users of the public right of way are sensitive receptors to change and the development would increase the sense of enclosure of built form when walking to and from open countryside to the north. From those perspectives, the building would also obscure some wider views of the moorland landscape. The presence of agricultural buildings is a common feature within the rural landscape and the proposal would be comparatively smaller than buildings permitted by the GPDO² on larger holdings. However, in the particular circumstances of the proposal, the scale, height and massing of the building would be visually intrusive due to its very close proximity to the public right of way. Consequently, the presence of the building in that location would harmfully affect the outlook across the open countryside and moorland landscape with a significant adverse effect upon the amenity for users of the public right of way. Other measures, such as the use of certain materials or the addition of landscaping would not mitigate the harmful effect.
14. The proposal would retain adequate physical and visual separation to the locally listed Deerplay Inn to ensure no adverse impact upon its architectural and historic significance or its immediate setting. However, the absence of concern in that respect is a neutral factor.

² Sch 2, Part 6, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015

15. I conclude that the proposal would have a harmful effect on the character and appearance of the area. The proposal, therefore, would conflict with Saved Policies GP2 and E29 of the LP in so far as they seek to ensure development does not have a detrimental effect on the surrounding landscape by reason of size, scale, height, materials, design, landform or landscaping. The policies align with the Framework in so far as it seeks recognition of the intrinsic character and appearance of the countryside.

Other Matters

16. If the extant planning permission for the conversion of the Deerplay Inn to residential properties were to take place in accordance with the approved plan, it would involve subdivision of part of the existing site with additional boundary treatments. The resultant change to the site would include obstruction of access to the side of the Deerplay Inn onto the land where the building is proposed to be sited. However, I am satisfied that an alternative means of access to the land from within the site using the established access from Burnley Road would be feasible. Consequently, such matters could be dealt with via a condition requiring the submission and agreement of access details, if the appeal were to be allowed.
17. The proposal would not harm the living conditions of future residents of the Deerplay Inn, as there would be adequate separation distance between that property and the building to prevent any unacceptable noise or disturbance. In that regard, I note that the appellant's evidence indicates an intention to keep livestock within the building at certain times of year which would have the potential to generate increased noise. However, in the particular circumstances of the site, including the existing presence of livestock kept in an adjoining field and the limited size of the building, I do not consider that the extent of any increase in noise would have an unacceptable impact upon the occupiers of neighbouring properties.
18. It is acknowledged that the storage of equipment and livestock within a building with natural surveillance provided by the Deerplay Inn would have some security benefits. However, such benefits do not outweigh the harm identified, given the possibility of alternative locations for a building within the site which would be less visually intrusive upon views from the public right of way.

Conclusion

19. I have found that the proposal would not have a harmful effect in terms of the principle of an agricultural building relative to the objectives of local and national policies relating to development in rural areas. In that regard, there would be potential benefits of the development including to the rural economy. However, the identified harm to the character and appearance of the area would be significant and overriding and reflects conflict with the development plan and the Framework when taken as a whole.
20. For the reasons given above and taking all other matters into consideration, I conclude that this appeal should be dismissed.

Gareth Wildgoose

INSPECTOR