The Planning Inspectorate

Appeal Decision

Site visit made on 29 October 2019

by Sarah Manchester BSc MSc PhD MIEnvSc

an Inspector appointed by the Secretary of State

Decision date: 13th November 2019

Appeal Ref: APP/B2355/W/19/3235281
Venemous Clough Stables, New Line, Bacup OL13 9RX

- 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 L Radcliffe against the decision of Rossendale Borough Council.
- The application Ref 2019/0132, dated 25 March 2019, was refused by notice dated 27 June 2019.
- The development proposed is part retention of existing agricultural track and installation of new menage and car parking.

Decision

1. The appeal is dismissed.

Procedural Matters

2. At the time of my visit, I saw that excavations to level the appeal site had been carried out already and that some stone material had been deposited to create the track. An enforcement notice issued by the Council is the subject of a separate appeal (ref APP/B2355/C/19/3226310). The appeal scheme before me has not been completed and I have therefore determined the appeal on the basis of the plans that were considered by the Council and what I saw on the site.

3. The Council's second reason for refusal relates to the submission of insufficient information about historic coal mining activity in the area and whether the proposed development could be safely implemented. In her evidence, the appellant refers to a coal mining risk assessment report which aims to address the concerns of the Council. However, while she did seek to submit this report, it was not accepted as it was beyond the deadline for the submission of appeal documents and no adequate reason for the late submission was provided. Therefore, it does not form part of the evidence before me and I have not taken it into account in my determination of the appeal.

Main Issues

4. The main issues are:

   i) The effects of the proposed development on the character and appearance of the countryside; and

   ii) Whether the proposed development would be at unacceptable risk as a result of the coal mining legacy of the area.

Reasons

Character and appearance

5. The appeal site is part of a field in an elevated position on the side of a hill above New Line road. It is in the countryside and it is separated from residential development below by the vegetated cutting of a former railway line which is now in use as a cycleway and footpath. The site is accessed from New Line via the existing steep track that serves Venemous Clough Stables.

6. The appeal site is not readily visible from New Line. However, by virtue of the prominent hillside position, the excavations to create a level development platform for the menage in particular can be seen from elsewhere in the area. In this respect, the proposed development would be visible from locations on the other side of New Line, including the footway which links New Line to the A671 and from properties and other locations in the area, including Cockerell Drive.

7. Equestrian uses such as stables are commonly found in countryside locations. However, the menage would be more than 70m from the stables. It would not therefore be visually or physically well-related to the stables, which are in any case relatively unobtrusive. The extensive excavated area and cutting into the slope of the hill is clearly not a natural feature and it does not respect the form or appearance of the undeveloped rural hillside. Consequently, the completed menage would be visually obtrusive and incongruous in the context of the undeveloped countryside and Greenlands setting.

8. The proposed track would be relatively narrow for much of its length and it would be close to the edge of the field. However, at the end nearest to the stables, it would be wider and cut into the hillside to create 6 parking spaces with associated manoeuvring areas. The parking and turning area would further encroach into the countryside and it would not be closely related to either the menage or the stables. The parking spaces would have an urban appearance which, together with the parking of a large number of domestic vehicles, would be out of keeping with the surrounding countryside. Individually and cumulatively, the various elements of the proposal would therefore be conspicuous and discordant in this location.

9. Moorland fringe landscapes such as this are characterised by extensive areas of undeveloped farmed land and scattered rural farmsteads. I accept that there may also be industrial and commercial uses at the urban/ rural interface. However, historic developments elsewhere in the area, or recent development that accords with the development plan, are not directly comparable to the appeal scheme. They do not provide a justification for a proposal that would fail to respect or enhance local landscape distinctiveness.

10. Therefore, the proposal would result in significant harm to the rural character and appearance of the countryside. It would conflict with the development plan, including Policies 1, 17, 18, 23 and 24 of 'From East to West Making Rossendale the Best Core Strategy Development Plan Document: The Way Forward (2011-2026)' Adopted November 2011 (the CS). These require, among other things, that development enhances and protects the landscape, countryside and Greenlands, respects local character and distinctiveness and maintains the relationship between urban areas and the countryside.

The coal mining legacy risks

11. The appeal site is located in a Development High Risk Area, where coal mining risks at shallow depths would be likely to affect new development. In areas such as this, a Coal Mining Risk Assessment (CMRA) prepared by a competent person is necessary to identify the specific risks and mitigation necessary to demonstrate that the proposed development can be safely implemented. Notwithstanding, the planning application was not supported by a CMRA and the Coal Authority advised that in the absence of an assessment of the risks to the development, there was insufficient information to determine the application.

12. I appreciate that the appellant attempted to submit a CMRA report directly to the Coal Authority during the time that the application was being considered. However, it was not submitted to the Council for consideration. Moreover, while the appellant's evidence indicates that it was submitted with the appeal, as set out above, it does not form part of the evidence before me.

13. The evidence that is before me indicates that further investigations into the risk are required and that mitigation measures would be necessary. However, I cannot be certain that the risks to the development have been satisfactorily established by a competent person, that the necessary further investigations or mitigation strategy would be appropriate and proportionate to the risks, or that it would address the concerns of the Coal Authority.

14. Therefore, it has not been demonstrated that the proposed development would not be at unacceptable risk from the coal mining legacy in the area. It would conflict with the development plan, including Policy 24 of the CS which requires, among other things, that proposals adequately address issues of land instability and where appropriate incorporate remediation scheme to the satisfaction of the relevant agency.

Other matters

15. I appreciate that the menage would enable horses to be exercised, including during periods when field conditions may be unsuitable. However, there is no substantive evidence before me that the existing arrangements have resulted in animal welfare issues or accidents. Moreover, it has not been demonstrated that there are no alternative proposals that would deliver substantially the same benefit without conflict with the development plan.

16. My attention has been drawn to policies in the National Planning Policy Framework that support sustainable rural development. However, Paragraph 83 of the Framework relates to sustainable leisure developments which respect the character of the countryside. The proposal would not therefore accord with this part of the Framework, given the harm that I have found.

Conclusion

17. For the reasons set out above, the appeal should therefore be dismissed.

Sarah Manchester

INSPECTOR