The Planning Inspectorate

Appeal Decision

Site visit made on 27 August 2019

by J M Tweddle BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st November 2019

Appeal Ref: APP/G0908/W/19/3226552
Land at Pennygill Road, Flimby CA15 8TS

- 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 M Kirkbride against the decision of Allerdale Borough Council.
- The application Ref 2/2018/0471, dated 28 September 2018, was refused by notice dated 23 January 2019.
- The development proposed is described as a 'retrospective application for erection of stables'.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The site visit procedure was altered from an access required site visit as neither the appellant nor their agent were present when I arrived at the appeal site during the pre-arranged period. However, I was able to carry out an unaccompanied site visit as I was able to see all I needed from public land. The parties were subsequently informed of this.

3. The development described above has been partially carried out insofar as structures and areas of hardstanding have been developed. I am therefore proceeding on the basis that the development has, in part, already occurred.

4. At the final comments stage of the appeal the appellant provided a set of revised plans and drawings offering a reduction in development as an alternative to the appeal proposal. However, I am mindful that the appeals process should not be used to evolve a scheme to overcome the Local Planning Authority's (LPA) reasons for refusal and instead a fresh planning application should usually be made[1].

5. Whilst, in certain circumstances, a proposal can be amended through revised plans during an appeal, in line with the Wheatcroft principles[2], I can see that there are substantial differences between wat was considered by the LPA and that of the revised scheme. As such, it is my view that the appeal must be determined on the basis of the plans as originally submitted to the LPA and upon which it based its decision, and which have been subject to consultation. To do otherwise would prejudice the interests of the LPA, interested third parties and consultees, who have not been consulted on the revised scheme

[1] Annexe M of the *Procedural Guide Planning Appeals – England* advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.
[2] Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

and who may have observations to make. I have therefore proceeded to determine the appeal on the basis of the plans as originally submitted.

6. A revised version of the National Planning Policy Framework (the Framework) was published on 19 February 2019 and this post-dates the Council's refusal notice. I have had regard to the revised Framework in my decision and I am satisfied that this has not prejudiced either party.

Main Issue

7. The main issue arising from the appeal is the effect of the development on the character and appearance of the surrounding countryside.

Reasons

Background and Planning History

8. The appeal site has previously benefitted from a grant of planning permission in 2015 for a stable building[3]. This consent was not implemented and instead an alternative development comprising several structures, areas of hardstanding and a boundary wall and gates were developed at the site. Retrospective consent was then sought for the implemented scheme which was subsequently refused[4] and is now the subject of this appeal.

Character and Appearance

9. The appeal site is part of an irregular shaped field located in an area of open countryside to the east of Pennygill Road which leads north-eastwards out of the village of Flimby. The surrounding landscape is characterised by a patchwork of large open and regular shaped pasture fields, bound by mature hedgerows and set against a backdrop of occasional clusters and bands of native woodland. The land rises up from the West Cumbrian coastline to form a series of exposed ridges and valleys that rise gently towards the limestone fringes of the Lakeland Fells to the east. The result being an attractive and largely undeveloped rural landscape interrupted only occasionally by single or small clusters of dwellings and farmsteads.

10. The Council, in their submission, have provided a photo of the site conditions as they existed in 2015, prior to its recent development. This shows the site as a largely undeveloped pasture field bound by post and wire fencing and set against a woodland backdrop. As such, it is clear that the pre-development site conditions made a positive contribution to the attractive rural character of the surrounding area. This contribution being clearly visible from the Public Right of Way which runs along the length of the northern boundary of the site.

11. Together, policies S4 and S33 of the Allerdale Local Plan (Part 1), Adopted July 2014 (the ALP), seek to secure and support development of a high quality design that will protect, conserve and where possible, enhance landscape character and local distinctiveness. In particular, ALP Policy DM6 supports proposals for stables and equestrian activities where such proposals are closely related to existing groups of buildings and that such facilities respect and enhance the rural character of the local area in terms of design, scale, siting, external appearance and construction materials.

[3] LPA Ref. 2/2015/0599
[4] LPA Ref. 2/2018/0471

12. The proposal includes a cluster of three stable buildings arranged in a courtyard formation and enclosed by 2 metre high concrete panelling. An outer perimeter boundary is proposed in the form of post and wire fencing reinforced by a planted hedge. The proposal would introduce an incongruous form and scale of development that would sit uncomfortably on the hillside and in doing so would harmfully erode the rural characteristics of the area. Whilst stable buildings and equestrian facilities are not uncommon features within a rural context, I find the proposal to comprise of disproportionate sized buildings that are poorly sited within an open countryside setting, away from any other groupings of buildings, and thereby resulting in a highly visible and stark feature that is at odds with the surrounding landscape character. In this respect, its siting would not relate well to its surroundings.

13. I find the large building to the rear of the site to be of a particularly discordant scale and, along with the harsh concrete panelling and areas of hardstanding, amounting to a visually intrusive and overly dominant form of development that is harmful to the character and appearance of the surrounding countryside. Thus, the proposal would not respect or enhance the rural character of the local area or its landscape setting.

14. I appreciate that views of the site are largely screened from the east and the south by the existing woodland and the change in land level, however, the site is clearly visible from views along the public right of way from the north and west. Landscaping is proposed around the outer perimeter of the site in the form of a planted hedge that will eventually replace the existing concrete block wall. But I do not consider that this will overcome the harm that I have found due to the scale of the proposal and its prominent hillside location.

15. The appellant suggests that the proposed design and materials are in keeping with materials commonly used for agricultural buildings found throughout the countryside. I accept that the materials and design are similar to other buildings found throughout the rural area, however, in this case the inappropriate siting and scale of the development accentuates its incongruous appearance within the rural landscape.

16. Consequently, the proposal would fail to respect and enhance the rural character of the local area and would cause significant harm to the character and appearance of the surrounding countryside. Thus, the proposal would fail to deliver development of the type, or in the manner, sought by Policies S4, S33 and DM6 of the ALP.

Other matters

17. The appellant has drawn my attention to the approval of a standalone agricultural building[5] which lies to the west of Pennygill Road. In doing so the appellant contends that the approval of this building, which shares some of the design characteristics of the appeal proposal, provides a justification for the appeal to succeed. The approval of this building predates the current Framework and the current local development plan. I cannot therefore be sure of the policy context upon which this building was granted consent. In any case, I was able to see that this building is of a differing scale to that of the proposal and its locational context also differs to that of the appeal site. I do not therefore consider it to be comparable to the appeal proposal.

[5] LPA Ref. 2/2007/0052

18. The appellant has put to me that the development is required to accommodate his four horses and secure the site from vandalism and theft. Whilst I sympathise with the appellant's requirements, this does not provide a justification for the harm I have found to the rural landscape and the resulting conflict with the development plan.

19. I have had regard to the letter of support provided by the appellant's vet and the benefits of the proposal from an animal welfare perspective, however, this does not outweigh the harm I have found.

Conclusion

20. For the reasons set out above, the appeal is dismissed.

J M Tweddle

INSPECTOR