



Appeal Decision

Site visit made on 10 December 2019

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 17th December 2019

Appeal Ref: APP/B2355/W/19/3238126

Lee Farm, Stubblee Lane, Bacup OL13 0DD

- 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 Mr John Thorpe against the decision of Rossendale Borough Council.
 - The application Ref 2019/0337, dated 05 August 2019, was refused by notice dated 26 September 2019.
 - The development proposed is the erection of 1No bungalow.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application subject of the appeal is a resubmission of an earlier application (ref 2019/0226) for the erection of a bungalow, which was granted permission subject to a condition restricting occupancy to an agricultural worker. The appeal scheme is for an open market dwelling without any occupancy restrictions.
3. The application was made in outline, with access and layout to be considered at this stage and with all other matters reserved for future consideration.

Main Issues

4. The main issues are:
 - i) Whether the appeal site is in a suitable location for new residential development, with regard to local and national planning policy for the delivery of housing; and
 - ii) The effect of the proposed development on the character and appearance of the area.

Reasons

Whether the appeal site is a suitable location for new residential development

5. The appeal site is in the countryside on a hillside above the settlement of Bacup. It is accessed from the valley below via long and steeply sloping tracks and lanes which serve scattered residential properties, including the nearby Lee Farmhouse and barn, and which also provide access to the Lee Quarry mountain bike trail.

6. Policy 1 of 'From East to West Making Rossendale the Best Core Strategy Development Plan Document: The Way Forward (2011-2026)' Adopted November 2011 (the LP) sets out that development should be located within the urban boundary unless there is a need for it to be located in the countryside. This is consistent with policies in the National Planning Policy Framework (the Framework) which promote sustainable development in rural areas, including by requiring housing to be located where it will enhance or maintain the vitality of rural communities and avoiding the creation of isolated dwellings in the countryside except in certain circumstances.
7. In this case, the appeal site is several hundred metres beyond the urban settlement boundary. The proposal is not required for a rural worker and there is no identified rural need for a new dwelling in the countryside in this location. Moreover, although there are some shops and services and access to public transport located over half a kilometre away on the A681 Newchurch Road, the centre of Bacup is approximately 2km from the site. Future occupiers would therefore need to travel to meet their basic daily needs.
8. For much of its length, the access track from Newchurch Road is steep and roughly surfaced with numerous potholes. It is narrow and unlit and there is no footway, although at the time of my visit I saw that it is used recreationally by dog walkers. The site is also accessible from New Line via Stubblelee Lane. However, by virtue of their width, length, incline and condition, the access routes could not be considered to be a short or convenient walk. Future occupiers would not make regular journeys to the town centre, or even to the closest shops and bus services, on foot. Moreover, the access routes would not be conducive to regular bicycle journeys for the purposes of commuting to work or school or accessing services from this location.
9. Therefore, future occupiers would be heavily reliant on private car journeys. The proposal would not encourage sustainable forms of transport and the need to travel would not be minimised in this location. Furthermore, it would not contribute to sustainable development in rural areas through supporting local services in a village nearby as promoted by the Framework.
10. Therefore, by reason of its distance and physical and functional isolation from the nearest settlement, the appeal site is not a suitable location for new residential development. The proposal would conflict with Policies 1 and 9 of the LP which require, among other things, that development should be located in accessible urban locations which minimise the need to travel and that it should prioritise sustainable forms of transport. It would also conflict with policies in the Framework, including those that relate to the social aspects of sustainable development, rural housing, the promotion of sustainable forms of transport and climate change mitigation.
11. My attention has been drawn to the High Court Judgement¹ relating to the interpretation of paragraph 55, as was (now number 79) of the NPPF. In this case, there are a limited number of dwellings nearby and the appeal proposal would not be spatially isolated. It would not therefore result in the creation of an isolated home in the countryside, which the Framework seeks to avoid. Nevertheless, the scheme would be remote by virtue of its distance from services and facilities and its reliance on private car journeys.

¹ Braintree District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 2743 (Admin)

Character and appearance

12. The appeal site is an area of agricultural land on a hillside below the moorland plateau. It is in an elevated position above the nearby 18th century Grade II listed building Lee Farmhouse and the adjacent barn, which are in residential use. It is separated from the listed building by the access track and parking area and a modern agricultural building. There are also sheep pens and a caravan with associated domestic paraphernalia adjacent to the site. The wider area is characteristic of moorland fringe landscapes beyond the urban boundary, where lower-lying enclosed farmland gives way to open rough grazing land with scattered traditional farmsteads.
13. The application was made in outline and no further information has been submitted with the appeal to illustrate the scheme. However, the construction of a domestic dwelling in this location would undoubtedly constitute encroachment of residential development into the open countryside. The contemporary single storey dwelling would not relate well to the adjacent agricultural building or to the nearby historic farmhouse and barn, which are in any case a traditional and characteristic form of rural development. In stark contrast, the proposed dwelling with associated parking and garden areas would be a conspicuously modern and domestic form of development that would not make a positive contribution to local distinctiveness.
14. Notwithstanding the relatively isolated rural location, by virtue of its elevated position, the appeal scheme would be clearly visible from the surrounding area including lanes and tracks, rights of way and mountain bike trails. Consequently, it would be discordant and visually obtrusive in the context of the surrounding open, exposed and rural landscape.
15. Therefore, the proposed development would result in significant harm to the rural character and appearance of the countryside. It would conflict with the development plan, including Policies 1, 18, 23 and 24 of the LP. These require, among other things, that development protects the countryside and enhances landscape character, contributing positively to local identity and being compatible with the surrounding context. It would also conflict with the policies in the Framework that require development to be sympathetic to local character, including the surrounding built environment and landscape setting, and to contribute and enhance the natural and local environment.

Other Considerations

16. There is a fallback position at this site, by virtue of the earlier outline planning permission for a single storey dwelling, the occupancy of which is restricted by planning condition to a rural worker. The evidence before me indicates that the earlier scheme was justified in part based on an agricultural need. Therefore, it met the policy exception for development in the countryside. However, the appellant has sought to clarify that there is no rural need for a dwelling in this location. On that basis, a new market dwelling in a rural location substantially beyond the urban boundary would clearly conflict with the housing and sustainable development aims of the development plan.
17. The appellant considers that the Council's refusal of the application is inconsistent with the earlier grant of planning permission for substantially the same scheme. My attention has been drawn to relevant case law that

addresses consistency in decision making². In essence, this sets out that where cases are indistinguishable, the earlier decision is likely to be a material consideration. Conversely, where cases are distinguishable, then the earlier decision is unlikely to be material by reference to consistency although it may be material in some other way.

18. In this case, the earlier application was presented to committee with a recommendation from officers to refuse due to the unsuitability of the location. Notwithstanding, it was approved contrary to the professional advice received, on the basis of information suggesting the dwelling was required in the interests of livestock and animal welfare. However, the appellant has stated that there are no special circumstances relating to agricultural need and the proposal is for a market dwelling. Consequently, I find no inconsistency in decision making between the officer's recommendations in relation to a market dwelling in an unsuitable rural location outside of the urban boundary and the Council's earlier approval of a rural worker's dwelling based on an identified agricultural need.
19. The proposed dwelling would be located approximately 30m from the Grade II listed building, Lee Farmhouse. Section 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the building and its setting. In this case, the listed building is set within its own grounds which would not be affected by the proposal. Furthermore, it is separated from the appeal site by a modern agricultural building. Therefore, taking into account the separation and the surrounding context, the proposal would not result in harm to the setting of the listed building.
20. The Council is unable to demonstrate a 5 year housing supply (5YHLS). However, a single dwelling would make a minimal contribution to the supply of housing. There would be limited economic benefits, most of which would be realised in the short-term during the construction phase. There would be minimal social benefits from one dwelling in this location. Conversely, the scheme would conflict with the Council's locational strategy and it would result in significant harm to the rural character and appearance of the countryside. I therefore consider that the adverse impacts of the proposal would significantly and demonstrably outweigh the limited benefits of the scheme when assessed against the policies in the Framework as a whole. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

21. I have concluded that the scheme would conflict with the development plan and there are no other considerations that outweigh the conflict. For this reason, the appeal is dismissed.

Sarah Manchester

INSPECTOR

² *Pertemps Investments Ltd v SSCLG and Solihull Metropolitan Borough Council* [2015] EWHC 2308 (Admin)