



Appeal Decision

Site visit made on 26 May 2020

by A A Phillips BA(Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 June 2020

Appeal Ref: APP/A2335/C/19/3229784

Land on east side of Moss Lane, Silverdale, Carnforth

Land at Hawes Villa, Moss Lane, Silverdale, Carnforth

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Ms Fiona Lawton against an enforcement notice issued by Lancaster City Council.
- The enforcement notice was issued on 25 April 2019.
- The breach of planning control as alleged in the notice is the material change of use of the Green Land for agriculture to a camp site. The material change of use of Blue Land from an agricultural building to a kitchen with a toilet and shower room to facilitate the use detailed above.
- The requirements of the notice are:
 - i. Stop using any part of the Blue Land as a kitchen, shower room or toilet.
 - ii. Remove the bathroom and kitchen facilities from the Blue Land and any other materials associated with their use.
 - iii. Reinstate the Blue Land to its former condition.
 - iv. Stop using any part of the Green Land as a camp site.
 - v. Remove the two yurts and associated covered porches and raised deck areas, the hot tub, the outdoor seating areas, the composting toilet and the paving slabs from the land and any other materials associated with the camp site.
 - vi. Reinstate the Green Land to its former condition.
- The period for compliance with the requirements is 90 days.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (f) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is dismissed and the enforcement notice is upheld subject to a correction and variations.

Preliminary Matter

1. Paragraph 2.2 refers to Moss Land where it should clearly read Moss Lane. This can be corrected without causing injustice.

The appeal on ground (a)

2. The ground of appeal is that planning permission should be granted. The main issues are:
 - i. Whether the principle of visitor accommodation is acceptable;
 - ii. The effect on the landscape character and scenic beauty of the Arnsdale and Silverdale Area of Outstanding Natural Beauty (the AONB), including how the landscape is experienced from the local public rights of way network;

- iii. The effect on the special interests of the designated environmental landscape and special features of the Morecambe Bay Pavements Special Area of Conservation (SAC), the Haweswater Special Site of Scientific Interest (SSSI) adjacent to a NNR, a SSSI Impact Risk Zone, the Trowbarrow Quarry and the Rough Limestone Pavement Order (LPO), the Trowbarrow Quarry and the Trough Plantation Biological Heritage Site (BHS) and the Gait Barrows National Nature Reserve (NNR) with particular reference to drainage.

Principle

3. The appeal site comprises two different parts; the building adjacent to Hawes Villa and the other an area of land to the south of Moss Lane. The site is in the AONB and NNR and partly within and adjacent to other environmental designated areas including a SAC, SSSI and SSSI Risk Zone. To the east of the appeal site is the Trowbarrow Quarry LPO and a BHS. A public right of way runs through the site and to the west of the site.
4. Policy DM13 of the Local Plan for Lancaster 2011-2031 Development Management DPD Adopted December 2014 (the DPD) relates specifically to visitor accommodation and states that proposals for accommodation other than hotel accommodation will be acceptable in particular circumstances. The yurts the subject of the current appeal are not caravans, chalets or log cabins and therefore the criteria set out in DM13 are relevant. The policy directs such development to existing built up areas or smaller scale settlements where there is a level of basic service provision, preferably on previously developed land, allocated sites, involves the conversion or re-use of a suitable existing rural building or provides accommodation to meet the needs of a particular existing visitor facility or attraction. Although the facilities building re-uses an existing building, the remainder of the development uses undeveloped land comprising an agricultural field for the development of new buildings which falls short of the requirements of the policy.
5. Policy DM14 relates to caravan sites, chalets and log cabins, but it is clear that it also covers other purpose built visitor accommodation and the yurts can reasonably fall within this category. In order to be acceptable such accommodation must meet a set of criteria, the first of which gives priority to the re-use of previously developed sites and where the site is greenfield it should be demonstrated that no alternative suitable brownfield sites exist in the locality. The appellant contends that the yurts have been developed to support farming activities and therefore could not have been developed elsewhere and the only option was to develop the greenfield site. However, it has not been demonstrated no alternative, brownfield site exists in the locality and therefore, in spite of the appellant's contentions with respect to the greenfield site, the development is unacceptable in principle according to the criteria set out in Policy DM14.
6. Policy AS11 of the Arnside and Silverdale AONB Development Plan Document (DPD) Adopted Version 28 March 2019 (the AONB DPD) also relates to camping, caravan and visitor accommodation and states that new building development providing self-catering accommodation and holiday lets will not be supported in the AONB. The appellant contends that the yurts are low-impact visitor accommodation which cannot be considered to be permanent buildings. However, the development the subject of this appeal is not part of an existing

established camping or caravan site. The yurts may be relatively low impact, but are not within the developed, screened footprint of an existing site and enhance the landscape character and scenic beauty of the AONB. The policy clearly seeks to specifically prevent new built development for holiday letting and therefore the development is in conflict with the overall objectives of AS11.

7. Policy DM7 of the DPD supports economic development in rural areas where it is demonstrated that they improve the sustainability of rural communities by bringing local economic, environmental and community benefits and assisting in diversifying the rural economy. Greenfield development is supported where it is demonstrated that no alternative suitable sites exist and the benefits outweigh the impacts. Policy DM9 relates to the diversification of the rural economy, stating that proposals will be supported which seek to diversify the rural economy. Policy AS09 of the AONB DPD supports economic development of an appropriate scale including economic diversification.
8. The development is rural economic development partly on a greenfield site and partly on previously developed land, but as previously discussed it has not been satisfactorily demonstrated that there are no suitable alternatives for the development in local settlements, within existing buildings or on previously developed land. It has not been demonstrated how the development benefits the appellant, economically, nor how the local community benefits. The appellant contends that the development is part of an agricultural diversification scheme, but there is insufficient evidence of how the income from the tourism uses are required to supplement the appellant's income from farming activities. As such it has failed to be demonstrated that the development meets the overall objectives of Policies DM7 and DM9.
9. Policy DM8 supports the re-use and conversion of rural buildings outside rural settlements where a number of criteria are met. The policy is supportive of part of the development the subject of this appeal but does not relate to the yurts.
10. Therefore, although part of the development may have some policy support, the proposal is contrary to policies which seek to restrict the location of visitor accommodation, rural economic activity and rural diversification schemes. Therefore, I find that in this case the principle of visitor accommodation is not acceptable and conflicts with policies DM13, DM14, AS11, DM7 and DM9 of the DPD and Policies AS09 and AS11 of the AONB DPD.

Landscape Character and Scenic Beauty

11. Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues. The scale and extent of development within these designated areas should be limited. Policy DM28 of the DPD relates to development and landscape impact and seeks to protect the landscape, whilst Policy AS02 supports development that will conserve and enhance the landscape of the area and AS04 seeks to protect the natural environment of the AONB. Policy SC5 of the DPD seeks to ensure that high quality design is achieved in all development and reflects and enhances the positive characteristics of the surroundings. In addition DM21 protects public rights of way.

12. The development which is dispersed across a field and woodland area is not of a high standard which protects or enhances the local landscape. There are trees surrounding the yurts and their associated infrastructure which provide some screening during the summer months when the trees are in leaf, but the development is visible from some nearby public vantage points, including the local rights of way network. The development has a harmful effect on how the high quality landscape is experienced visually, particularly from public rights of way.
13. The yurts site is somewhat detached from Hawes Villa and as such it is unrelated to existing development in the locality and is therefore considered to be poor quality development in an area of open countryside. That being the case it cannot be considered to be of a design which is acceptable in the locality nor one which conserves or enhances the landscape. The appellant contends that the yurts have been designed to minimise the potential long term physical impacts of the site, but that does not mitigate the ongoing harmful visual impact.
14. Therefore, although I do not consider the development to be large scale, on this issue I conclude that the development has a harmful effect on the landscape character and scenic beauty of the AONB, including how the landscape is experienced from the local public rights of way network. As such it conflicts with Policies SC5, DM21 and DM28 of the DPD, Policies AS02 and AS04 of the AONB DPD and the Framework.

Special interests of the designated environmental landscape and special features

15. Policy DM37 of the DPD relates to the protection and enhancement of biodiversity, seeking to ensure that impacts on biodiversity are minimised and where possible there is a net gain in biodiversity. Given the sensitive location of the appeal site, the appellant has engaged with various relevant ecological bodies, including Natural England. The latest correspondence from Natural England based on the appellant's document entitled Hawes Villa Yurts Environmental Information Document, suggests that they are satisfied that, subject to suitable mitigation measures, the development will not increase the risk of disturbance to wildlife at the NNR.
16. However the Council's evidence has established that Natural England remain concerned that the appellant's documentation does not address concerns about the effects of the development on designated sites, particularly regarding the effects on water quality and drainage and to date a Habitats Regulations Assessment has not been undertaken.
17. With particular reference to drainage, Policy DM39 seeks to ensure that adequate and appropriate drainage is provide for all developments. Policy AS12 of the AONB DPD recognises that problems related to the lack of mains sewerage systems and the use of septic tanks are relevant across the AONB and are particularly prominent in the Silverdale area where no properties are connected to mains sewers or surface water drainage. The appellants have submitted a Waste Management Statement but it is insufficient to demonstrate that the development can successfully operate without adverse impacts on the water quality and biodiversity species of the site and the adjacent designated sites.

18. Without sufficient evidence the proposal fails to adequately meet the requirements of the development plan and the Habitats and Species Regulations 2010 and is likely to have a harmful effect on the special interests of the designated environmental landscape and special features of the Morecambe Bay Pavements Special Area of Conservation (SAC), the Haweswater Special Site of Scientific Interest (SSSI) adjacent to a NNR, a SSSI Impact Risk Zone, the Trowbarrow Quarry and the Rough Limestone Pavement Order (LPO), the Trowbarrow Quarry and the Trough Plantation Biological Heritage Site (BHS) and the Gait Barrows National Nature Reserve (NNR) with particular reference to drainage. As such it contravenes the requirements of Policies DM37 and DM39 of the DPD.

The appeal on ground (f)

19. The ground of appeal is that the steps required by the notice to be taken exceed what is necessary to achieve its purpose. The purpose of an enforcement notice are set out in Section 173 of the Act and are to remedy the breach of planning control (s173(4)(a) or to remedy injury to amenity. With respect to the Green Land the notice requires the cessation of the use as a camp site, the removal of the yurts and associated infrastructure and reinstatement of the land to its former condition. Leaving any part of the development in place would not achieve that purpose.
20. The Notice also requires cessation of the use of the Blue Land as a kitchen, shower room and toilet, removal of those facilities and reinstatement of the land to its former condition. The appellant contends that it prior to its conversion the building was in a state of disrepair and it is illogical to return it to that state. Although the Council has sought to clarify that in order to comply with the requirements all the facilities should be removed rather than it being returned to a state of disrepair, that is not clear from the Notice. The unauthorised development could be remedied without requirement 5 iii to reinstate the Blue Land to its former condition. Therefore, that particular requirement can be deleted from the Notice without causing injustice to either party. To this limited extent the appeal on ground (f) succeeds.
21. The appellant states that the wider site is used as a working farm and caravan site and that it would be reasonable to leave the kitchen and toilet facilities to serve those uses. However, such facilities are in excess of those that are reasonably required to serve the needs of a working farm and a caravan site which I understand to operate under a 28 day permitted exemption. Therefore requirements 5 i and 5 ii achieve the overall purpose of the Notice.

Formal Decision

22. The enforcement notice is corrected by:

- a) the deletion from paragraph 2.2 of the words "Moss Land" and the substitution therefor of the words "Moss Lane" as the land to which the Notice relates

and varied by:

- b) the deletion from paragraph 5 of the words "iii. Reinstate the blue land to its former condition";
- c) .the deletion of paragraph number 5 iv and its substitution therefor of 5 iii;

- d) the deletion of paragraph number 5 v and its substitution therefor of 5 iv;
and
 - e) the deletion of paragraph number 5 vi and its substitution therefor of 5 v.
23. Subject to this correction and variations the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

A A Phillips

INSPECTOR