
Appeal Decision

Hearing Held on 12 August 2020

Site visit made on 12 August 2020

by G Rollings BA (Hons) MAUD MRTPI

An Inspector appointed by the Secretary of State

Decision date: 08 October 2020

Appeal Ref: APP/A2335/W/19/3241287

Blackthorne Cottage, Castle View, Capernwray, LA6 1AZ

- 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 D Mason (Positive Steps Therapeutic Childcare) against the decision of Lancaster City Council.
 - The application Ref 19/01034/CU, dated 9 August 2019, was refused by notice dated 16 October 2019.
 - The development proposed is a change of use from a dwelling to a care home for up to three children.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Just prior to the Hearing, the Council adopted an updated version of its Local Plan, which supersedes previous documents and policies. I am satisfied that the parties have had an appropriate opportunity to respond to the changes, and shall make no further reference to the superseded policies.

Main Issues

3. The main issues are:
 - Whether there is an essential need for the dwelling to accommodate a rural worker; and
 - Whether the proposed development would be appropriately located, with particular regard to its proximity to services.

Reasons

Rural worker accommodation

4. The dwelling was originally permitted as accommodation for an essential rural worker, with the Council later allowing it to be connected with an equestrian school close to the site. The school is no longer operational, with cessation accounts lodged in 2017. However, a statutory declaration by the landowner states that the dwelling has not been used to house a rural worker for more than ten years, and has instead been occupied by persons who have not been employed in any equestrian, agricultural or forestry employment.

5. The dwelling was originally allowed, together with its later amended status, subject to an occupancy condition. The condition would be removed from the dwelling's occupancy through a new change of use, and therefore the criteria relating to removal of conditions relating to occupancy in Local Plan¹ Policy DM10, specifically XII and XIII, are engaged. The appellant has supplied evidence to demonstrate that there is no longer a long-term need for the dwelling connected with a rural use, based on the non-operational status of the equestrian school, and the aforementioned unrelated ten-year occupancy of the dwelling. However, no marketing of the site for alternative rural worker accommodation has been undertaken.
6. I have considered the arguments that the equestrian school has not been operational for some time. The sparse financial accounts for the school offers some support to the consideration that its operations were limited, and there is no rental of the cottage in the accounts. However, this is countered by the fact that there was, until recently, signage at the street entrance to the property advertising the school's operations. I also observed school signage still present on a stable building close to the cottage. The Companies House record for the most recent school use indicates the incorporation and dissolution of an equestrian school in 2015 and 2018 respectively. There is no other evidence to suggest that a school is operational, but I saw all the facilities are in place that suggested that such a use did operate close to the cottage at a recent time, and that such a use could reasonably commence or resume.
7. In considering the merit of a statutory declaration, it is not an Inspector's role dealing solely with an application for planning permission to conduct an exercise as to lawful use. Nonetheless, the accounts indicate the dwelling as being the registered address of the school. I heard from the appellant that this was a formality rather than any indication of occupation. In any event, while I do not doubt the accuracy of the declaration, the opaque and contradictory nature of the evidence does not completely convince me that there has been no link between the cottage and a rural land use.
8. Returning to Policy DM10, the absence of marketing for any further rural use-linked occupation of the cottage means that I have not been able to assess the prospects of any alternatives. Considered in conjunction with the evidence, it follows that I cannot be satisfied that there is no need for a worker's dwelling in this location, regardless of its current or recent occupation status. For me to accept that rural worker accommodation is no longer needed, I must be clear that there is no longer a functional link between the dwelling and the surrounding land. Although I heard from the appellant that a pragmatic viewpoint would suggest that unlikely that such a link would be a reality in the future, there is not sufficient evidence for me at this time to deviate from the Policy, which aims to prevent new and potentially intrusive development in the countryside.
9. Accordingly, I therefore conclude that there remains an essential need for the dwelling to accommodate a rural worker, and that the proposal conflicts with Local Plan Policy DM10, which is consistent with the *National Planning Policy Framework* (2019) (the Framework).

¹ A Local Plan for Lancaster District 2011-2031 Part Two: Review of the Development Management DPD (July 2020).

Location of the development

10. The parties agree that the dwelling is not isolated, in that it is close to other dwellings. What is contested is the need for the proposed accommodation in this particular location. The Local Plan sets a simple hierarchy for development, with Policy DM60 requiring development to be located where sustainable travel patterns can be achieved, unless significant impacts can be addressed through the preparation of a travel plan. A travel plan has not been provided in this instance. Additionally, a criterion of Local Plan Policy DM8 requires accommodation for vulnerable groups to be located where the proposal is well located to shops, public transport and the like.
11. The closest village with a range of shops and services is Over Kellet, which is about 2 miles from the site, with an increased range further away in Carnforth. The nearest bus services leave from stops about ten minutes' walk away, but there are only two services per day in each direction and no other stops within a reasonable distance, although there are also school services in the vicinity. The distance between the site and a decent range of shops and services is significant, and it is likely that residents and staff of the proposed facility would need to access the site by private vehicles. As such, with reference to Local Plan Policies DM8 and DM60, I cannot consider the site to be a sustainable development location.
12. Whilst I acknowledge that development could support the local services that I have identified above, this does not negate my concerns over the sustainability of the location. I therefore conclude that the proposed development would not be appropriately located with regard to its proximity to services. It would conflict with Local Plan Policies DM8 and DM60, which together seek to provide care facilities in appropriate locations and minimise the need for travel by car, amongst other considerations, and which are generally consistent with the Framework.

Other issues

13. Other matters were discussed at the Hearing, such as the regulatory framework under which the proposed facility would need to operate, the manner in which the facility would be operated, and the benefits of the rural surroundings to those in care. Additionally, I have no doubt regarding the positive intentions of the appellant and the need for care facilities of this nature within the wider district. However, these considerations are not sufficient for justify a departure from the development plan for the area.
14. I also heard evidence from the parties regarding the enforceability of the occupancy status of the dwelling, but consider that this is a matter outside the scope of this appeal.

Conclusion

15. For the reasons given above I conclude that the appeal should be dismissed.

G Rollings

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

David Mason

Appellant

Steven Hartley BA (Hons), MRTPI, MRICS

Agent

FOR THE LOCAL PLANNING AUTHORITY:

Mr Andrew Clement MPlan

Planning assistant