



Appeal Decision

Site visit made on 3 December 2021

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2022

Appeal Ref: APP/Q2371/W/21/3278653

Height Side Farm, Todmorden Road, Bacup OL13 9UG

- 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 Jack Heap against the decision of Lancashire County Council.
 - The application Ref LCC/2021/0008, dated 11 February 2021, was refused by notice dated 16 June 2021.
 - The development proposed is erection of new building and formation of hardstanding area for use as a site for the sorting and recycling of skip waste.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the interests of brevity, I have taken the description from the decision notice and the appeal form. In doing so I have removed words that are not acts of development.
3. Rossendale Borough Council adopted a new local plan on 15 December 2021, the Rossendale Local Plan 2019-2036 (the RLP), which was after the submission of the appeal. I have therefore determined the appeal in accordance with the most up-to-date policies, on which the main parties have had the opportunity to comment.

Main Issues

4. The main issues are:
 - whether the appeal site is a suitable location for the proposed development having regard to the development plan and the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposed development on the users of the access road, a public right of way.

Reasons

Location

5. The appeal site lies outside of any urban boundary as defined by the RLP. It forms part of an existing farmstead that is surrounded by agricultural fields within an attractive upland landscape with an overwhelmingly rural character. The site comprises of a cluster of agricultural buildings arranged around a yard with access via a track from Todmorden Road. This track, which is a public

right of way, is steep, rising up towards the farm which is elevated significantly above the level of the road. As a result of the topography, only the buildings closest to the road are visible from it, with the rest of the site disappearing below the crest of the hillside.

6. The majority of the farmstead is however easily visible in views looking across from the Old Todmorden Road, a narrow hardsurfaced lane that is also a public right of way. The site is also likely to be visible in wider landscape views from the opposite side of the valley.
7. It is proposed to construct a new building immediately adjacent to an existing large modern building. The building would have a dual pitched roof and be constructed of similar materials to the adjacent building. A shallow pitch roofed welfare office would be attached to the side of the building. The proposal would allow recyclable materials to be separated from skips originating from households, construction sites and industrial or commercial development. Material would be emptied onto the floor of the building where it would be sorted into bays by hand and using agricultural machinery.
8. Policy CS7 of the Lancashire Minerals and Waste Core Strategy seeks to maximise re-use, recycling and composting, including for industrial and commercial waste and construction/demolition wastes. Policy WM3 of the Lancashire Minerals and Waste Local Plan (2013) (the LMWLP) supports the delivery of local built waste management facilities in specific locations. These do not include the appeal site. Policy DM2 supports new waste development providing all material, social, economic or environmental impacts that would cause demonstrable harm can be eliminated or reduced to acceptable levels.
9. Policy EMP1 of the newly adopted RLP provides general support for new employment land provision in order to meet employment land targets. In order to enhance and protect the countryside, Policy SD2 of the RLP only supports new development outside the urban boundaries where development specifically needs to be located within a countryside location and the development enhances the rural character of the area.
10. I have not been provided with any evidence that demonstrates an operational need for the proposed development to be carried out at a countryside location. Waste from households, construction sites and industrial or commercial development, would clearly mainly arise from urban areas. Furthermore, there is no indication that significant levels of waste that would be processed would be generated by the agricultural industry or other business based in the countryside. Whilst the appellant states that their own research indicates that there are no available sites for the development in the Bacup area, this has not been supported by any evidence. To my mind, on the basis of the evidence provided, the proposed use could equally be carried out in an industrial unit within an urban area.
11. Nonetheless, the proposal is proposed as farm diversification, which is supported by Policy LT6 of the RLP. This is subject to a number of criteria, including where the development's scale and nature is appropriate for the location and where it would not have an unacceptable impact on residential amenity, landscape character, or the enjoyment of the countryside.
12. The proposed buildings would be visible from the Old Todmorden Road as well as from sections of the public right of way along the access track. The appellant

states that there would be just two skip lorries which would be stored outside alongside the existing building. Skips not being sorted would be stored outside also. The skips and vehicles would, in all likelihood be at least partially visible from public rights of way. Indeed, skips were clearly visible within the yard on my site visit.

13. The stored skips and lorries alongside the proposed industrial style buildings would urbanise the appearance of the farmstead. Alongside the noise arising from vehicle movements associated with the sorting of waste, this would give the area an industrial character that would be unexpected in this location and at odds with the rural character of the area. This would be readily experienced from the Old Todmorden Road and would be detrimental to the public's enjoyment of the countryside.
14. Given that the building would be fully open to the front, and that the skips would be stored outside, it is reasonable to assume that some material could be blown from either the entrance to the building or the skips. Whilst I accept that the appellant would seek to prevent this, the exposed and elevated position of the site would, to my mind, make this unavoidable and lightweight material would inevitably be blown from the site. This would intensify the harm I have identified above.
15. Whilst the appellant states that just two skip lorries would be used, if the business were to become successful there would likely be a demand for an increase in vehicles and skips which in turn would exacerbate the harm identified above. Furthermore, the number of lorries or skips at the site would be difficult to limit through planning conditions and nonetheless, such limitations could place unnecessary burdens on the business. Alongside my above assessment, this serves to reinforce my concern that this is not a suitable location for the proposed development having regard to Policy LT6 and the proposal would not enhance the rural character of the area as required through Policy RD2.
16. I appreciate the financial challenges experienced by farming and the potential implications of forthcoming pressures and changes to which the appellant has referred. However, there is no robust evidence before me as to the current financial standing of the enterprise, nor any forecast effect of the scheme (or any alternative). Nonetheless, there would be economic benefits to the proposal in terms of supporting the farm business and providing another revenue stream. There would also be wider economic benefits of the proposal through providing additional local employment. I have also had regard to the potential for the proposal to contribute to government targets to reduce landfill waste. However, collectively these benefits would not overcome the conflict with Policy RD2 and Policy LT6 and the harm to the character and appearance of the area.
17. I note the appellant has agreed to plant trees to help screen the proposed use, however, I have not been provided with a landscaping scheme. I am also mindful that any planting would take some time to establish, particularly given the exposed upland location. It would be unlikely that any realistic screening benefits would be realised for some time, if at all, during which time the proposed development would remain visible.
18. For the above reasons, the appeal site would not represent a suitable location for the proposed development having regard to the development plan and

would result in harm to the character and appearance of the area. The proposal would therefore conflict with Policies RD2 and LT6 of the RDL and Policies WM3 and DM2 of the LMWLP.

Public Right of Way

19. The Council and some third party responses raise concern that the proposal would cause conflict with users of the public right of way running along the access to the site. Whilst I accept that this is reasonably narrow and would not allow two way traffic for much of its length, it is to my mind a suitable width to allow a skip lorry to pass by any pedestrians using the public right of way. Furthermore, the rough surface and steep slope is likely to reduce vehicle speeds allowing pedestrians sufficient time to respond to any approaching vehicle.
20. Given that the access is already in uncontrolled use by heavy farm machinery, I am not convinced that its use by two skip lorries would be likely to result in a significant reduction in safety or the enjoyment of users of the public right of way. In this regard I note that there are no objections from the Highway Authority.
21. Paragraph 100 of the National Planning Policy Framework (the Framework) states that planning decisions should protect and enhance public rights of way. For the above reasons I am satisfied that the proposal would be consistent with this requirement. Any enhancement of the public right of way could be achieved through a planning condition on any approval.
22. The proposal would therefore not have a harmful effect on the safety or enjoyment of users of the public right of way and as such would comply with Policy DM2 of the LMWLP in this regard. It is also consistent with the Framework on this basis, as stated. The Council cites conflict with Policy WM3 of the LMWLP but it is of limited relevance to the main issue and does not add anything that is not covered by the aforementioned policy.

Other Matters

23. The appellant has highlighted problems with flytipping in the local area and cites the lack of appropriate facilities as a potential reason for this. However, for the reasons outlined above, I am of the view that this is not a suitable location for such facilities having regard to the development plan.
24. Reference has also been made to another local waste management facility that is located within the countryside, however I have not been provided with specific details of this and I therefore cannot be certain it represents a parallel with the appeal proposal. Nonetheless I have assessed the appeal on its own merits on the basis of the evidence before me.

Conclusion

25. For the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR