



Appeal Decision

Site visit made on 1 March 2022

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2022

Appeal Ref: APP/N2345/W/21/3284622

Land to the west of Moorside Barn, Moorside Lane, Preston PR4 0TB

- 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 and Mrs B and R Wilson against the decision of Preston City Council.
 - The application Ref 06/2021/0911, dated 16 June 2021, was refused by notice dated 12 August 2021.
 - The development proposed is erection of three detached dwellings, including new access.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether, the appeal proposal would constitute an acceptable form of development with particular regard to the provisions of local and national policy in respect of the location of development.

Reasons

3. The appeal site relates to a parcel of land situated to the southern side of Moorside Lane. Moorside Barn lies to the east and the former Wesleyan Methodist Chapel (converted) to the west with vast amounts of open countryside to the north and south. The land is relatively flat and is identified as being low grade agricultural land. It is free from any built form and has a public right of way through the middle of the site. The frontage of the site is bounded by mature hedging that abuts the footway and is enclosed by post and rail fencing.
4. Policy 1 of the Central Lancashire Core Strategy, 2012 (CS) seeks to focus growth and investment on well-located brownfield sites, identified strategic locations and other main urban areas, whilst protecting suburban and rural areas. The policy sets out the hierarchical sequence (a-f) for locating development. The bottom requirement (f) sets out that in other places – smaller villages, development will typically be small scale and limited to appropriate infilling, conversions and proposals to meet local need.
5. Policy 31 of the CS protects the best and most versatile agricultural land (Grades 1, 2 and 3a) in consideration of agricultural and other forms of development to avoid irreversible damage to, and instead achieve the full potential, of the soil.

6. Policy EN1 of the Preston Local Plan 2012-26, 2015 (LP) limits development in the open countryside for the purposes of agriculture or forestry or other appropriate rural use, the re-use/re-habitation of existing buildings, and infilling within groups of buildings in smaller rural settlements (criterion c). The policy also permits development that accords with CS Policies HS4, rural exception housing or HS5, agricultural workers dwellings. The aims of the policy, by restricting development in the countryside to these exceptions, helps to maintain the open and rural character of the open countryside. The policy is supported by the Central Lancashire Rural Development Supplementary Planning Document (SPD).
7. The appeal site is a vacant piece of agricultural land some 1km north of the settlement of Woodplumpton. There is no disagreement between the parties that it lies within the historical hamlet of Moor Side, and that the land is of grade 3b, outside the scope of CS Policy 31. However, it is not a brownfield site, within an identified strategic location within a key service centre or within a main urban area. Therefore, it falls within the designated open countryside and to the bottom of the hierarchy of CS Policy 1(f).
8. The proposal would be for the erection of three detached dwellings and associated access. It would not involve the re-use of an existing building, be for the purposes of agriculture or forestry or form a rural exception site. As such, the proposal would need to be assessed against the criterion of CS Policy 1(f) and LP Policy EN1(c).
9. The term infilling is not defined in the National Planning Policy Framework (the Framework) or within the CS / LP. The Council have directed me to an appeal decision¹, where the Inspector in that case stated, *'infilling normally refers to a plot in an otherwise built frontage'* and *'it is an accepted definition that reflects common usage of 'infill' as relating to the filling of a gap, a hole or hollow'*. It also references to the description which is from the Glossary of the Planning Portal, *'The development of a relatively small gap between existing buildings'*. Whilst these definitions could be a useful starting point, it is not adopted policy, guidance or referred to within the Framework.
10. Nonetheless, I have, in any case reached my own conclusions on the appeal proposal on the basis of the evidence before me, and the term infilling is essentially a question of fact and planning judgement for the decision maker, and responsive to local circumstances.
11. Moorside Lane is characterised and surrounded by the vast amounts of open fields. It consists of sparse residential development on both sides of the road, defined by small groups of buildings separated by substantial gaps. The settlement pattern is infrequent with low density forms rather than properties forming a row or linear development. This adds to the spacious character of the immediate and wider countryside and there is no continuous built-up frontage including dwellings and their associated buildings or farm buildings along Moorside Lane. I also note that the appellant has referred to the area of Moor Side having the identity of a small, loosely joined up, rural hamlet.
12. The neighbouring dwellings, between the appeal site, of the former chapel now converted and Moorside Barn are a considerable distance from each other taken from east to west. This results in an excessive wide and open fronted

¹ APP/F2360/W/20/3265110

gap between existing dwellings, and the appeal site. There is also a private trackway between Moorside Barn and the appeal site and no built development directly opposite. A further sizeable gap exists between the former chapel and Moorside Cottage to the west and a sub-station separates development to the east.

13. Taking these factors together, although there is no specific length set out in the policy, I consider given the excessive distance of the appeal site between dwellings it could not be characterised as being appropriate infilling. Neither would it constitute a relatively 'small gap' between existing buildings or due to the sporadic nature of development the site would lie within a group of buildings with neighbouring dwellings fronting onto Moorside Lane, as it does not form a row of existing buildings, which are viewed collectively. It would therefore not meet the policy criteria.
14. In coming to my decision, I have had regard to the judgements², and those other residential developments where the Council has granted permission that have been drawn to my attention by the appellant. Whilst I accept there may be some similarities with those nearby schemes and the proposal being within the open countryside and for residential development, they should not be seen as setting a precedent.
15. Nevertheless, it would appear that these are not directly comparable in regard to gaps being significantly smaller, the characteristics, position of building clusters and permission types were different. Furthermore, from the evidence it appears that the Council assessed each individual site for development. In any case, I must consider the appeal on its own merits.
16. Moreover, just because other developments have been approved within the open countryside. This does not justify the approval of further development, and those relevant policies do not restrict development as they clearly permit proposals where they meet those exceptions.
17. For the reasons given above, I conclude that the appeal proposal would not constitute an acceptable form of development with particular regard to its countryside location. It would be contrary to the locational development strategy and rural aims of Policy 1 of the CS and Policy EN1 of the LP, as I have already set out.

Other Matters

18. The appellant has provided copies of correspondence with the Council relating to pre-planning advice³. I note the appellants' comments and frustration with the response and that the Council acknowledge this to be regretful, but I have given this limited weight. The response indicates that the Council's pre-planning advice scheme, is informal advice as set out in the disclosure on the first page, does not include any site visit and was given without prejudice.
19. Furthermore, it appears to me that this was in accordance with the planning practice guidance⁴ (PPG), and pre-application advice provided cannot pre-empt the democratic decision-making process or a particular outcome, in the event

² N Wiltshire DC v SSE (1993) 65 P. & C.R. 137, R(oao Matthew Davison) v Elmbridge District Council [2019] EWHC 1409 (Admin)

³ PA/2020/0116

⁴ Paragraph: 001 Reference ID: 20-001-20190315, Revision date: 15 03 2019; Paragraph: 003 Reference ID: 20-003-20140306, Revision date: 06 03 2014; 004 Reference ID: 20-004-20180222; Revision date: 22 02 2018

that formal planning application is made. In any event, I have dealt with the appeal on the proposals I have before me.

20. Local residents have raised other concerns relating to highway safety, surface water and drainage, and utilities. However, these were not reasons for refusal on the Council's decision notice and I have no substantive evidence to support these concerns. Ownership issues are a private matter between the relevant parties and not within my jurisdiction, and planning permission does not override any legal rights of access.
21. Although the proposed development would not cause any harm to living conditions, highway safety, biodiversity, have an acceptable design and be of a sustainable construction. These considerations are neutral weighing neither for nor against the proposal.

Conclusion

22. There is no dispute between the main parties that the Council cannot demonstrate a 5-year supply of housing, neither is CS Policy 4 cited as a reason for refusal. In these circumstances, paragraph 11d) of the Framework is not engaged. I recognise the appeal proposal would have benefits with regard to the supply of housing in the Borough, the maintenance of the footpath and the contribution both construction opportunities and any future occupiers would make to the local economy. However, these benefits would be limited due to the quantum of development proposed and do not outweigh the policy conflicts I have identified.
23. The proposed development would be contrary to the development plan and the Framework, taken as a whole. There are no other material considerations that would indicate that the proposed development should be determined other than in accordance with the development plan.
24. For the reasons given above, I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR