



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: 22 March 2022

Appeal Ref: APP/T2350/W/21/3284903

Higher Beck Farm, Green Moor Lane, Ribchester, Lancashire PR3 2YR

- 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 Nigel Layton-Hill against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2021/0056, dated 28 June 2021, was refused by notice dated 1 October 2021.
 - The development proposed is the erection of donkey shelter, polytunnel and pergola.
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Decision

1. The appeal is dismissed insofar as it related to the polytunnel. The appeal is allowed insofar as it related to the erection of donkey shelter and pergola at Higher Beck Farm, Green Moor Lane, Ribchester, Lancashire PR3 2YR in accordance with the terms of the application, Ref 3/2021/0056, dated 28 June 2021, and the plans submitted with it, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) Insofar as relevant to that part of the development permitted, the development shall be carried out in accordance with the following approved plans: Site Location Plan; Site Block Plan 010-342 33 Rev B; 010-342 30 Rev A; 010-342 31.
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. 010-342 30 Rev A and the pergola constructed in timber.
 - 4) Details of any external lighting / floodlights in connection with the donkey shelter hereby approved, shall be submitted to and approved in writing by the local planning authority before the use of the building permitted takes place. Development shall be carried out in accordance with the approved details.

Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

3. As I observed at the time of the site visit, there is an existing polytunnel in situ on land fronting the dwellinghouse. The evidence before me, indicates that the appellant intends to relocate this polytunnel to the proposed location as shown on the submitted plans. However, the site block plan identifies the structure as a 'new polytunnel'.
4. Nevertheless, the matter of whether the existing polytunnel is unauthorised in its current location or is harmful to the location and the living conditions of neighbouring occupiers is outside of the scope of this s78 appeal. Neither is the proposal to retain the polytunnel in its current location or any associated equipment. As such, this would be a future matter for the Council, who have any necessary enforcement powers. I have therefore dealt with the appeal on this basis, and in any case the proposal I have before me.

Main Issue

5. The main issue is the effect of the proposed polytunnel on the character and appearance of the surrounding area, with regard to the location of the site in the open countryside.

Reasons

6. The appeal site relates to land adjacent to a detached dwelling located outside of the settlement of Ribchester, therefore it is within the designated open countryside. The proposed polytunnel would be sited on an area of undeveloped land to the south-east of the property. This appears, and from site observations to be outside of the existing residential curtilage of the property.
7. The polytunnel would be used to grow fruit and vegetables which would be for consumption by the appellant and their family. Whilst the edible produce may be grown and consumed by the landowners and family, s336(1) of the 1990 Act¹ (the Act) interprets agricultural as including horticulture, fruit growing and seed growing. Under s55(2)(e) of the Act, the use of any land for the purposes of agriculture and the use for any purposes of any building occupied together with the land so used, shall not be taken to involve development of the land. I have had regard to the judgement² the appellant has brought to my attention. In regard to appeal cases, I have not been provided with any evidence of these schemes referred to.
8. Nonetheless, although, there may have been previous disputes between the parties, from the evidence it appears the main parties accept that the proposed polytunnel is not a curtilage building or structure. Furthermore, the proposal before me is not for the lawful use of the land or a change of use, and it appears to me the Council's contentions in this case, are on the basis of the visual impact the proposed polytunnel would have on the surrounding countryside landscape.
9. The proposed polytunnel would be of a substantial size and the surrounding landscape is undulating and towards the south the land falls away. This results in the landscape being prominent and the appeal site being clearly viewed from several surrounding vantage points. This was particularly evident from the lower areas of the footpaths, albeit currently closed in part, Wood's Brow and

¹ The Town and Country Planning Act 1990 (as amended)

² Crowborough Parish Council v SSE and Walden District Council 182A/79 1980

neighbouring residential curtilages of both Green Farm and Cage Mill. The existing vegetation and planting would do little to protect these views and the detrimental visual impact from the siting of the structure in the proposed location.

10. Therefore, given the scale, design and stark polythene material of the polytunnel it would appear as a prominent incongruous structure, detracting from the undeveloped and open nature of this part of the rural landscape. This would result in the proposed polytunnel being significantly harmful to the character and appearance of the immediate and wider area.
11. Furthermore, given the proposed location and distance of the polytunnel from the property it would also be likely that it would require some lighting to facilitate its use during the darker nights and autumn / winter evenings. This would exacerbate its unacceptable appearance within the landscape and make the structure more prominent within the surrounding countryside. I also accept to a degree with the Council that this could potentially set a precedent to the immediate area where the rising topography of the landscape changes.
12. The appellant has referred to alternative locations for the siting of the polytunnel. Nonetheless, I have not been provided with an amended scheme or plans before me for consideration whether the Council's preferred location would be acceptable. This would be a future matter for the appellant and the Council, and if any future planning application was forthcoming any necessary consultations would take place at that time.
13. For the reasons given above, I conclude that the proposed polytunnel would cause harm to the character and appearance of the area, having regard to its open countryside location. It would conflict with Policy EN2, DMG1 and DMG2 of the Ribble Valley Borough Council Core Strategy 2008-2028, 2014. These policies taken together, amongst other things, require a high standard of design, be sympathetic to land uses and expect development to be in keeping with the character of the landscape, reflecting local distinctiveness, vernacular style, scale, and building materials.

Other Matters

14. The proposal also includes the erection of a donkey shelter and pergola attached to the dwelling. These would be modest in size, with the pergola being relatively lightweight and subservient to the host dwelling. The donkey shelter is detached from the existing buildings at the site, constructed with natural materials. It would be located against the backdrop of existing trees and vegetation, thus it would not be seen as a prominent building and when viewed from the surrounding area be in context to nearby existing built form. Moreover, it is not unusual to see such buildings / stables within open countryside locations.
15. I therefore find no harm to the character and appearance of the surrounding area in respect of these elements of the proposal, and I note the Council raised no objection in this regard either. The appellant requests that a split decision be considered, and the Council have indicated they would not be opposed to this. As the donkey shelter and pergola are both physically and functionally clearly severable from the polytunnel, I consider a split decision would be a logical outcome.

16. I note that Local residents and the Parish Council have raised additional concerns about the proposals including noise, biodiversity, trees and health & safety with animals. Planning permission would not override any legal rights of access to the footpaths, and the stopping up or diversion of any footpath is not within my jurisdiction. Moreover, the Council did not raise these points as reasons for refusal and I have no substantive evidence to support those concerns.

Conditions

17. The Council has indicated the conditions that it considers would be appropriate. I have considered these in light of the Planning Practice Guidance (PPG). For clarity, precision and to ensure compliance with the PPG, I have undertaken some minor editing and rationalisation.
18. A condition specifying the time limit and approved plans is necessary as this provides certainty. I have imposed a condition specifying materials, and in order to safeguard the character and appearance of the area. I have not imposed the suggested conditions relating to the polytunnel as these are not relevant.
19. I have not imposed the suggested condition on removing permitted development rights for lighting at the appeal site. This would not meet the tests of being reasonable or enforceable as it would relate to anywhere within the red line of the site. However, it is necessary in the interests of protecting living conditions of nearby occupiers and the character and appearance of the area to impose a condition that any lighting associated with the donkey shelter shall be agreed with the Council.
20. I have not imposed the condition relating to ancillary use and have noted comments about past breaches of planning control. However, concerns about what could occur in the future do not amount to a reason to attach a planning condition in relation to the development currently proposed. If such development / use occurred without the necessary planning permission the Council would be able to consider taking enforcement action at that point in time.

Conclusion

21. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan.
22. For the reasons given above, I conclude that the appeal should be allowed insofar as it relates to the erection of donkey stable and pergola but dismissed insofar as it relates to the polytunnel.

KA Taylor

INSPECTOR