



Appeal Decision

Site visit made on 1 February 2022

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2022

Appeal Ref: APP/X1355/W/21/3286175

Howden Dene Garage, Pemberton Road, Consett DH8 9BA

- 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 Kieron McClean against the decision of Durham County Council.
 - The application Ref DM/21/01107/FPA, dated 29 March 2021, was refused by notice dated 14 September 2021.
 - The development proposed is described on the application form as 'erection of livestock building, retention of static caravan as site welfare facilities and storage container for ancillary storage'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has described the development as 'change of use of land to agriculture and erection of livestock building for pig bed and breakfast'. I note that the appellant has also utilised this description on their appeal form. I consider that this revision provides a succinct and accurate description of the proposal and I have therefore determined the appeal on this basis.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area; and
 - whether the appeal site is a suitable location for the proposed development having regard to its situation within the open countryside and its accessibility by sustainable modes of transport.

Reasons

Character and Appearance

4. The appeal site is situated just off Pemberton Road and is largely surrounded by relatively open land. The site itself is bounded on all sides by reasonably tall mature trees. There is also fencing approximately 2 metres in height that runs around the perimeter of the site. This fencing is a mixture of mesh wire and closed boarded timber slats. There is also a public right of way (PROW) that runs past the site. Indeed, on my site visit I observed a walker using this route.

5. The Council's officer report states that there is an area of high landscape value nearby which the PROW runs through. It also states that the Council's Landscape Officer highlighted that in relation to its scale and design that the proposal would be of an appearance broadly sympathetic to, and in keeping with, the rural character and appearance of the surrounding area.
6. I also note that the original application included the proposed retention of a static caravan and steel containers that were on the site. However, the scheme was subsequently revised to exclude these elements and that this is the proposal that is before me. In addition, I consider that the mature trees bounding the site would provide sufficient screening of the proposal even during winter months. As a result, based on the evidence, I see no reason to disagree with the Council that the proposal would not have an adverse visual impact on the character and appearance of the area in this regard.
7. The Council's primary concern however is the impact of the proposal on the area's intrinsic rural character resulting from an intensification of activity at the appeal site which they say would cause 'some harm' due to vehicle deliveries and movements within the site.
8. The appellant states that while there would be some intensification of activity at the site deliveries would not be frequent enough to cause such harm. Indeed the evidence states that the appellant would walk to the site twice per day to care for the pigs and that the animals would only be transported to and from the site at the beginning and end of each cycle. It is also stated that movements within the site would be limited to activities related to pig farming.
9. The proposal is for an agricultural use in a countryside location. According to the evidence the proposed building would measure approximately 15m by 8m and would accommodate around 95 pigs per cycle with a typical unit of this sort accommodating somewhere between 400 and 600 pigs. Consequently, the proposal would not be a large intensive rural enterprise and would instead to my mind represent a relatively modest one. As a result, I consider that the proposal would not have an unacceptable adverse impact on the intrinsic rural character of the area.
10. I therefore conclude that the proposed development would not materially harm the character and appearance of the area and that it would meet the relevant requirements of policies 10, 29 and 39 of the CDP in this regard.

Whether a suitable location – open countryside

11. Both main parties agree that the appeal site is situated within the open countryside. Policy 10 of the adopted County Durham Plan (CDP) supports development in the countryside comprising the establishment of a new agricultural or other rural land-based enterprise which clearly demonstrates an essential and functional need for that specific location and where it can be clearly demonstrated that it has the prospect of being financially sound and will remain so.
12. The appellant has stated that there are several farms nearby that are willing to trade with them and that a pig supplier has also agreed to trade with them at the volumes required, which they argue demonstrates a functional need for the proposal in this location. However, other than the summarised contents of an email no substantive evidence has been submitted to support this.

13. Regarding the proposed business being financially sound the appellant states that it would be run on a straw for muck basis to mitigate the impact of volatile prices thereby protecting the viability of the enterprise. They also state that the only costs they would be responsible for would be buildings and upkeep; straw; water; and labour. In addition, they estimate that the maximum cost for water would be approximately £0.60 per pig when on a mains connection and that several tankers on site would also collect rainwater which would cut costs. In conclusion they state that this means that labour would be the only ongoing cost and that this would be provided by the appellant.
14. However, no substantive evidence such as financial accounts or a business plan has been submitted to support this. As a result, I have no clear idea of how much labour would be needed to run the proposed business or how much this would cost or whether the appellant could meet this labour demand alone. Furthermore, it is also not clear to me how much profit the proposed business would make and whether it would be financially viable in the long term.
15. Consequently, the evidence before me suggests that the proposal does not clearly demonstrate an essential and functional need for its specific location at the appeal site nor does it clearly demonstrated that it has the prospect of being financially sound and that it will remain so.

Whether a suitable location – modes of transport

16. Policy 10 of the CDP states that new development in the countryside must not be solely reliant upon unsustainable modes of transport. It also advises that new development in countryside locations that is not well served by public transport must exploit any opportunities to make a location more sustainable including improving the scope for access on foot, by cycle or by public transport.
17. The appeal site is in a countryside location on Pemberton Road which is a main route to the built-up area of Consett, which according to the appellant's statement is approximately 300 metres away. The appellant also states that there are several public footpaths or PROWs that are close to the appeal site and that it can be accessed on foot, by bicycle or by taxi.
18. However, even so, I have no substantive evidence before me to show that the site could be accessed via public transport such as a bus. Furthermore, notwithstanding the fact that there are several PROWs near the site, from the maps contained within the appellant's statement these do not appear to all be interconnected with walkers having to cross Pemberton Road which is a busy highway that is not paved or lit. Furthermore, the alternate walking route from the site to the built-up part of Consett along the road would also not be an appealing prospect for either walkers or cyclists particularly during hours of darkness and during winter months. Consequently, I consider it unlikely that visitors or workers travelling to or from the appeal site would do so by any other mode other than a private car or other motorised vehicle.
19. Accordingly, taking into account all of the factors discussed above, and being mindful of paragraph 105 of the Framework, I conclude that the appeal site is not a suitable location for the proposed development having regard to its situation within the open countryside and its accessibility by sustainable modes of transport. As a result, it would fail to meet the relevant requirements of policy 10 of the CDP.

Other Matters

20. I note that no objections to the proposal have been submitted by interested parties. However, this is not of sufficient weight to overcome or outweigh the harm the proposal would cause in conflict with the adopted development plan for the area.
21. Paragraph 84 b) of the National Planning Policy Framework supports the development of agricultural and other land-based rural businesses and I acknowledge that the proposed development would potentially be such a rural enterprise. However, given that the economic viability of the proposal has not been clearly demonstrated I afford this consideration limited weight.

Planning Balance and Conclusion

22. I note that the development would not harm the character and appearance of the area. However, the proposed development would be contrary to the adopted development plan as a whole and the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies contained within it. Furthermore, there are no material considerations indicating a decision otherwise than in accordance with the development plan. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR