



Appeal Decision

Site visit made on 19 January 2022

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2022

Appeal Ref: APP/B2355/W/21/3282615

**7 Law Head Farm, Higher Greens, Blackwood Road, Stacksteads, Bacup
OL13 0JS**

- 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 Garner against the decision of Rossendale Borough Council.
 - The application Ref 2021/0195, dated 29 March 2021, was refused by notice dated 6 September 2021.
 - The development proposed is: 'menage, agricultural building, glamping pods and associated amenity block'.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs were made by Mr and Mrs Garner against Rossendale Borough Council and by Rossendale Borough Council against Mr and Mrs Garner. These are the subject of separate decisions.

Preliminary Matters

3. Since the appeal was lodged the Rossendale Local Plan 2019-2036 (adopted 15 December 2021) (the RLP) has been adopted and it is against those policies that I have determined the appeal.
4. As part of the appeal submission the appellants have provided a plan showing two additional parking spaces and a bin store building, whilst the amenity building has been relocated slightly further south to allow for 5m easement clearance of the water main, which has also been indicated on the plan. These address the Council's concerns related to parking provision, effect on a water main, and refuse storage and collection. However, given the lack of formal consultation I have concluded that it could be prejudicial to the interests of interested parties to take these drawings into account. I have therefore determined the appeal on the basis of the plans on which the Council made its decision.

Main Issues

5. The main issues are:
 - whether or not the appeal site is suitable for the proposed use taking account of ground conditions and any risks arising from land contamination;

- the effect of the proposal on highway safety including parking;
- the effect of the proposal on the character and appearance of the area;
- whether adequate provision for refuse collection is made; and
- the effect of the proposal on a water main.

Reasons

Land Contamination

6. The National Planning Policy Framework (the Framework) paragraph 185 sets out that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
7. The Planning Practice Guidance (PPG)¹ guides that: 'If there is a reason to believe contamination could be an issue, applicants should provide proportionate but sufficient site investigation information (a risk assessment) prepared by a competent person to determine the existence or otherwise of contamination, its nature and extent, the risks it may pose and to whom/what (the 'receptors') so that these risks can be assessed and satisfactorily reduced to an acceptable level.'
8. The PPG² clearly indicates that, in such cases where the site is potentially affected by contamination, only once the risk assessment has been carried out and the risk from contamination has been found to be acceptable, should the development proceed to a decision subject to conditions.
9. The appeal site is a former quarry and landfill site, whilst an active landfill site lies within 250m of it. The site is also within a Radon Class 4 area and a drinking water protected area. There is therefore clear potential that the land comprising the appeal site could be affected by contamination. The end use of the appeal site for glamping pods where visitors will be staying overnight is also particularly sensitive, given the potential for the effect on the health and living conditions of these receptors.
10. The appellants have provided very little detail with regard to contaminated land. No risk assessment has been provided and therefore I cannot be certain that the proposed use is appropriate for its location taking into account the likely effects on future occupiers. This accords with the views of the Council's Environmental Protection Officer.
11. Whilst the appellants have referred me to instances of the Council requiring risk assessments by planning condition, I do not have full details of the circumstances that led to such an approach, including the potential for those sites to be affected by contamination. I therefore cannot be sure that they represent a direct parallel to the appeal proposal. In any case, I have determined the appeal on its own merits.

¹ Paragraph: 007 Reference ID: 33-007-20190722

² Paragraph: 013 Reference ID: 33-013-20190722

12. For the above reasons I conclude that it has not been demonstrated that the appeal site would be suitable for the proposed use taking account of ground conditions and any risks arising from land contamination. The proposal would therefore conflict with Policy ENV6 of the RLP which seeks, amongst other things, to ensure that there is no unacceptable risk to human health within the site or in the surrounding area from land affected by contamination. The proposal would also conflict with Framework paragraph 185, described above.

Highway Safety

13. The appeal site is accessed via a narrow single-track lane, which is also a Public Right of Way (PROW) that is likely to be used by walkers and horse riders. Traffic levels along this access lane are low. As there would be just five glamping pods, I am satisfied that the traffic generated would not be significant. Given the narrowness of the access and its surface, vehicle speeds would, in all likelihood, be low allowing pedestrians and horse riders sufficient time to respond to any approaching vehicle. Conflicts between vehicles and other users of the PROW would therefore be unlikely.
14. Concern has been expressed by the Council and local residents with regard to the difficulty in collecting refuse and the potential implications of large refuse collection vehicles accessing the narrow access road. Suitable storage of refuse is likely to be required close to this road. However, refuse collection would be likely to take place for a few minutes on a weekly basis. Indeed, such vehicles likely already collect refuse from neighbouring residential properties. Taking into account the low levels of traffic, I am satisfied that this would be unlikely to significantly harm highway or pedestrian safety.
15. Nonetheless, the proposed plans show the provision of five car parking spaces on the site which would amount to one space per glamping pod. Two of the pods are two bedroom units that could easily accommodate two families or groups of people that had travelled in separate cars. In such circumstances, visitors may be unable to find space to park which could lead to vehicles parking on the narrow access road and potentially blocking or limiting access, which could adversely affect highway safety. The comments of the Highway Authority reinforce my concerns in this regard.
16. On the basis of the proposed plans, it is unclear whether there is sufficient space for two additional parking spaces without obstructing the PROW. Whilst the amended drawing provided at appeal suggests that this could be provided, I cannot be sure that this would not give rise to other harms. In the absence of this information it would not be appropriate to impose a condition requiring two additional spaces to be provided.
17. I have been directed to a recent permission for five camping pods (2021/0449) with five parking spaces. However, on the basis of what is before me I am unable to conclude that that scheme is directly comparable with the appeal proposal. I note however that the Highway Authority considered that the parking provided was appropriate taking into account the size of the units.
18. I therefore conclude that the proposal would adversely affect highway safety through inadequate parking provision and the proposal would therefore conflict with the aims of Policy TR4 of the RLP which seeks to ensure new development is provided with adequate levels of parking.

Character and Appearance

19. The appeal site comprises part of a group of fields located within countryside on the edge of a settlement. The immediate landscape is predominantly open with isolated groups of buildings, including dwellings, directly east and west of the site, positioned sporadically. This contributes to the rural character of the area. Various PROWs run near and through the site. This includes the access to the site which separates the northern and southern parts of the site. This is lined by several small single storey buildings and stables. These form a cluster of buildings that are visible alongside the dwelling on the approach along this access road and through the fields from the PROWs to the north.
20. The fields to the north side of the access, including the appeal site, are enclosed by a post and rail fence but open in character. The south-eastern corner of the appeal site has been hardsurfaced and is in use as an informal parking area but nevertheless retains its open character. A PROW runs along the opposite side of the eastern boundary of the site which slopes down towards Blackwood Road. The southern part of the appeal site on the opposite side of the access road consists of a paddock enclosed by a mixture of stone walls and fences with a reasonably tall informal hedge forming the site's eastern boundary with the adjacent field. The paddock slopes up from the access road.
21. It is proposed to construct a new agricultural building, aligned east-west to the north of the existing access and alongside a hardsurfaced informal parking area. It would be sited close to the access road which would ensure that it would not intrude significantly into the open field. Due to the sloping topography of the site, the building would be constructed at a lower level than the access road. This would reduce its bulk and prominence in views from the PROWs to the south including the access road.
22. In views from the PROWs to the north and east, it would be seen as part of the existing cluster of development along the access road. In longer range views, this group would be seen against the backdrop of the rising land to the south. Longer distance views along the access road to the site would be restricted by intervening buildings, trees and topography however any such views gained would be seen in the context of the aforementioned building group. Similarly, views from properties to the north along Blackwood Road would be limited being separated from the site by a substantial belt of trees. The use of dark stained timber boarding would additionally help to assimilate the building into its setting.
23. Users of the PROW would need to pass between the agricultural building and the proposed menage. However, the relative levels of the PROW and the development would ensure that the agricultural building's overall height would be similar to that of the adjacent cluster. Moreover, although the agricultural building would have a larger footprint than its neighbours, it would not appear excessively out of scale with its surroundings. Furthermore, isolated groups of buildings are a feature of the surrounding landscape character. As such, owing to its siting close to an access road and alongside an existing cluster of buildings, with a similar orientation, it would not appear incongruous and would not adversely affect the open character of the surrounding area.
24. Although the appeal site slopes, the gradient is gentle. The pods could be installed with minimal excavation. Furthermore, if the glamping pods were set

into the existing slope, as is likely to be necessary, this would ensure a more organic appearance to the site and would help to assimilate them within their setting. Indeed, in views from the surrounding PROWs including from longer distances, the glamping pods would be seen either against the rising ground and boundary treatments, including the aforementioned informal hedge or as part of the existing cluster of development. Their dark stained timber external walls and roofs would help to minimise their prominence in these views.

25. The Council has raised a concern that the footpath running close to the boundary of the south of the pod site could require a retaining wall. However, the proposed topographical drawings show no excavation or works within this area. Given the distance from the edge of the pods to the footpath and the aforementioned topography I am therefore satisfied that the pods could be installed without requiring a retaining wall for the PROW.
26. Car parking for the pods would be provided partly on the area of the existing hardstanding adjacent to the proposed agricultural building. This area is currently being used for vehicle parking although the Council has no record of any permission for this. The scheme would require hard standing for seven cars. Given the open nature of this part of the appeal site, parked cars would be visible at a distance on the approach from the PROW leading from Blackwood Road.
27. Whilst recognising parking would be a transient use, I am satisfied that this would be appropriately sited adjacent to the edge of the access road and would not intrude significantly into the open field. It would also be well sited in relation to the proposed agricultural building which it would be seen alongside. This would obscure views of parked cars from the west. Views of the cars could be further mitigated by suitable landscape planting around the parking area in the form of a hedge, reflecting those nearby, which could be secured via a planning condition. This would help to prevent any urbanising effect.
28. I accept that in views from the PROWs in the vicinity that the proposed agricultural building, amenity block, glamping pods and parking area would be seen together. These buildings would be well sited in relation to the access, existing buildings and one another. This would minimise the intrusion into open countryside and avoid a harmful effect on the landscape. Furthermore, I note that the landscape here is subject to no formal protection in respect of its character. Had I been minded to approve the scheme, details of the surfacing material for the paths serving the glamping pods could be secured by condition to help minimise the effect on the landscape.
29. The storage of refuse arising from the development is likely to be required close to the access road and hence would be visible from the surrounding PROW. However, any structure incorporating waste storage would be seen in the context of the surrounding development. An appropriate design of structure allowing for the undercover storage of waste could be secured by a planning condition were I to allow the appeal.
30. For the above reasons I conclude that the proposal would have an acceptable effect on the character and appearance of the area. It would therefore comply with Policy LT4 of the RLP which advocates a positive approach to new visitor accommodation and supports camping sites within countryside locations subject to avoiding harm to landscape character or visual amenity. There would also be compliance with Policies SS, SD1 and SD2 of the RLP which seek to

safeguard the countryside from inappropriate development. The proposal would also comply with RLP Policies ENV1 and ENV3 which seek to safeguard landscape character and preserve character and appearance. The proposal would also comply with paragraph 174 of the Framework which requires planning decisions to protect and enhance valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.

Refuse

31. As self-catering accommodation, the glamping pods, when occupied, are likely to generate a considerable amount of refuse which will likely need to be stored in a location accessible to those collecting the refuse. Having regard to my above conclusions with regard to character and appearance and highway safety, I am satisfied those details of suitable provision for the management, storage and collection of waste could be secured by a planning condition.

Water Main

32. A water main runs through the site. Its precise location is unclear however, and it is not shown on the drawings submitted with the application. As such the Council is concerned that the proposal could potentially cause harm or disturbance to the water main.
33. It would have been beneficial to the appellant to have taken into account the position of the water main and any easements before producing any drawings as this would avoid having to amend the proposal at a later date. However, in the absence of this information I am satisfied that this issue could be adequately dealt with through the building regulations in consultation with the relevant utility company. This would ensure that the proposal would not adversely affect the water main and would comply with the provisions of the Framework in this regard.

Other Matter

34. An objection has been raised by Rossendale Bridleways Association who has applied for a Definitive Map Modification Order (DMMO) as they consider that a PROW exists along the edge of the glamping pod site. Had I been minded to allow the appeal, I would have sought clarification on this matter. However, as I am dismissing for other reasons there is no need for me to have done so.

Conclusion

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

Paul Martinson

INSPECTOR