



Appeal Decision

Site visit made on 21 June 2022

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2022

Appeal Ref: APP/U2370/W/21/3286970

Land Adjacent Inglewood, Cabus Nook Lane, Cabus, Preston, Lancashire PR3 1AA

- 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 Kevin Taylor against the decision of Wyre Borough Council.
 - The application Ref 21/00948/FUL, dated 20 July 2021, was refused by notice dated 29 October 2021.
 - The development proposed is new single dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. A screening direction was issued under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). In exercise of the powers conferred by Regulations 14(1) and 7(5) of the EIA Regulations, the Secretary of State directed that the development is not EIA development.

Main Issues

3. The main issues are i) 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 the development; and ii) the accessibility of the proposal to local services and facilities.

Reasons

Location

4. The appeal site relates to a parcel of agricultural land, free from any built form and is located on the northern side of Cabus Nook Lane. It is outside of the defined settlement boundary and therefore within the open countryside.
5. Policy SP1 of the Wyre Local Plan (2011-2031), 2019 (WLP) sets out the Council's overall planning strategy for the Borough and directs new built development to take place within settlement boundaries, unless it is specifically supported by another policy. New development is required to be of appropriate type and scale to the character of the settlement unless specifically supported by other policies. Outside settlements with defined boundaries the amount of new built development will be strictly limited.

6. WLP Policy SP4 aims to protect and recognises the intrinsic character and beauty of the open and rural countryside. It does not permit development which adversely impacts unless the harm is necessary to achieve substantial public benefits that outweigh the harm. It sets out that development within countryside areas will only be granted if it is for certain purposes. It is consistent with the aims of the National Planning Policy Framework (the Framework).
7. s70(2) of the TCPA 1990¹ and s38(6) of the Planning and Compulsory Act 2004, requires that the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The Framework, at paragraph 12 advises that where a planning application conflicts with an up-to date development plan, permission should not usually be granted, but if there is a departure, this should only be if material considerations in a particular case indicate that the plan should not be followed.
8. The proposal would be for the erection of one new market dwelling within the open countryside. Therefore, consideration needs to be given to whether it introduces an appropriate form of development in the countryside, when considered against the exceptions / purposes in Policy SP4(2) and whether it would change the character and appearance, thus impacting adversely on the intrinsic character and beauty, Policy SP4(1). In the context of the policy, it does not introduce an and/ or approach, to each of the criterion or strands, nor does it state there is only one explicit objective of the whole of Policy SP4.
9. I acknowledge, that there is detailed planning history at the appeal site which indicates that outline planning permission was granted² in 2017 for the wider area for two dwellings 'Plot 1 and Plot 2', and this incorporates the appeal site. A reserved matters approval has been obtained for 'Plot 1'³ and this development has commenced. Thus, leaving 'Plot 2' the appeal site, not in accordance with the original outline permission, due to factors and procedural issues, including that it is time expired for reserved matters.
10. Therefore, coming to the first criteria of Policy SP4(1), the development to 'plot 1' has commenced, and as I observed at the time of the site visit this would now reduce any existing gap or visual break between the appeal site and Inglewood. It is not uncommon that where there is no built form within the countryside it would inevitably change the character of that particular area.
11. However, the proposal would be seen in context to existing linear form of development, surrounded by existing residential built form where garden areas notably extend further north than the red line of the appeal site. The topography of the site, in that it slopes upwards from the roadway and that the dwelling would be at a lower land level results in limited long-range views of the site in the wider area of the open countryside.
12. There is a mix and match of property types adjacent, being of bungalows and two-storey dwellings and a varying degree of style and materials. Therefore, I do not consider that the design, appearance or siting of the dwelling, particularly as a hybrid dormer bungalow would adversely impact on the open and rural character and appearance of this part of the countryside or be

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

² 17/00435/OUT

³ 20/00302/REM

visually detrimental to the immediate or wider street scene. It would not be in conflict with the criteria which is set out in SP4(1).

13. Nevertheless, when assessed against the criteria in Policy SP4(2) which only grants new development meeting the requirements and for the said purposes. A new market dwelling (C3) would not fall within any of those purposes or exceptions listed. Moreover, it would appear to me that the appellant acknowledges this is the case but that it would not offend against the objectives of that policy or other local plan policies. I do not consider that SP4(2) is overly restricted, as it allows for new residential development where it meets the purposes, and the overall aims are to restrict and protect the countryside from inappropriate forms of development.
14. The appellant's evidence relies heavily on planning history of the site, and that the proposal should be considered in the context of the previous consent. The evidence is clear, and having regard to 'Appendix F' of the appellant's statement of case, and relevant cited caselaw that planning permission has lapsed at the appeal site. Therefore, it cannot be considered there is a 'genuine fallback', as there is not a theoretical possibility or real prospect that the development could take place.
15. Since the permission in 2017, circumstances have changed, and it appears that permission would not be granted on the same terms, including that the development plan and policies have changed, by way of adoption of the WLP. The Council are now able to demonstrate a 5-year housing land supply, unlike in 2017 and have acknowledged Saved Policy SP13 was deemed to be out of date at that time. The proposal before me now is for 'full planning permission', unlike the previous approval of 'outline permission'.
16. I accept that the approval of reserved matters was granted for 'Plot 1' more recently. Nonetheless, an application for approval of reserved matters is not an application for planning permission and there is no scope to reconsider matters which were dealt with at the outline stage. The weight attached to a material consideration, is a matter of planning judgement. However, a decision is made on the basis of the development plan and national policy which are in place at the time of the decision, rather than at the time of the event or an earlier stage. Therefore, I have given these considerations little weight.
17. I acknowledge that the appellant bought the land in good faith, and paid full residential value however these are not planning considerations. Moreover, where a proposed development is in conflict with the development plan, it cannot benefit from the presumption in favour of sustainable development. The WLP is consistent with the approach in the Framework, in respect of the countryside and I have no reason to conclude that Policy SP1 or SP4 is therefore, out of date.
18. 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 in conflict with Policy SP1 and SP4 of the WLP, as a whole, as I have already set out.

Accessibility

19. Although, the appeal site is not within a defined settlement boundary, it is located towards the northern end of Cabus Nook Lane and a relatively short distance to 'Preston Lancaster Road' (A6). The nearest settlements are Scorton some 1.5km away and Forton some 2km away. There is an absence of formal footways linking the site with the wider area along Cabus Nook Lane, with the highway being limited of street lighting.
20. There is a bus stop further along Preston Lancaster Road, which operates during the daytime and includes Saturday and Sundays, serving Garstang, Preston, Lancaster and further areas. There are smaller facilities nearby on the Preston Lancaster Road including a garage with a Spa shop and a café/restaurant, which would not be unduly difficult to navigate too by foot or cycle. There also appears to be other facilities sporadically placed between each settlement, even if these have changed since 2017, and I acknowledge the appellant's accessibility comparison to the appeal site.
21. Given the location, the opportunities to use sustainable modes of transport are restricted. However, I consider most journeys to and from the appeal site for either employment, education or to reach essential services and facilities would be made by private motor vehicles, whether to the nearby villages or settlements. However, these journeys to reach facilities and services within the nearby settlements of Scorton or Forton would not be unduly long, and each offers a range of facilities including shops, leisure/community services and schools. I am mindful that paragraph 105 of the Framework explains that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
22. Furthermore, from the evidence before me, the Council had previously acknowledged that the location of the appeal site was sustainable and not isolated for the purposes of access to services and facilities. Moreover, it is unlikely that one dwelling would lead to excessive vehicle movements, the highways officer did not raise any safety concerns, and there is no specific guidance in regard to required distances set out within policy.
23. The appeal site is not in an excessive location away from settlements, and it would enable reasonable and satisfactory access to local shops, schools and other amenities with modest car reliance. On this basis, I conclude that the appeal site would be acceptable in terms of location accessibility to local services and facilities and would accord with WLP Policies SP2 and CDMP4, in locational accessibility terms.

Other Matters

24. My attention has been drawn to an appeal decision⁴ at Wallace Lane and a larger housing development at Hollins Lane. I do not have the precise details of each of these. Although, there may be some similarities with the appeal proposal, the Hollins Lane development should not be seen as setting a precedent. Nonetheless, it would appear that the site was allocated for housing and the proposals were for a much larger scheme of 60 dwellings. I do not consider the Wallace Lane decision site is comparable in terms of the exact location and accessibility of services. In any event, I have considered the

⁴ APP/U2370/W/20/3253480

appeal proposal on the evidence before me, and the individual circumstances of the case.

25. The appeal site is located within approx. 5km of the Winmarleigh Moss Site of Special Scientific Interest (SSSI), Cockerham Marsh SSSI, and the Bowland Fells Special Protection Area (SPA) and SSSI. It falls within the SSSI Impact Zone, accordingly, referring to paragraph 180 of the Framework. The Council have set out that the proposal would not likely lead to significant effects on designated sites to warrant them to prepare a habitat regulations assessment.
26. The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on (a) European site(s) (either alone or in combination with other plans or projects), the competent authority must, before any grant of planning permission, make an appropriate assessment (AA) of the project's implications in view of the relevant conservation objectives. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to undertake an AA, or consider this matter further. For the avoidance of doubt, even if I had done so and identified no adverse effect, it would not have affected my overall conclusions on this appeal.
27. Although, there are no concerns in regard to climate change, biodiversity, landscaping, flooding, highway safety, residential amenity and suitably worded conditions would make the proposal acceptable in those terms. These do not outweigh the issues I have raised.
28. I recognise the appeal proposal would have benefits with regard to the supply of housing in the Borough, and the contribution both construction opportunities and any future occupiers would make to the rural local economy. However, these benefits would be limited due to the scale of the proposal and do not outweigh the policy conflicts I have identified.

Conclusion

29. The proposed development would be contrary to the development plan 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.
30. For the reasons given above, I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR