



Appeal Decision

Site visit made on 7 June 2022

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th June 2022

Appeal Ref: APP/B2355/W/21/3289328

Land to NW of Hedges Barn, Burnley Road, Bacup

- 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 S Moores against the decision of Rossendale Borough Council.
 - The application Ref 2021/0596, dated 20 September 2021, was refused by notice dated 15 December 2021.
 - The development proposed is an agricultural building.
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Decision

1. The appeal is allowed and planning permission is granted for an agricultural building at land to NW of Hedges Barn, Burnley Road, Bacup in accordance with the terms of the application, Ref 2021/0596, dated 20 September 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Council's decision refers to the Core Strategy Development Plan Document. This has been superseded by the Rossendale Local Plan 2019 to 2036 (the Local Plan) adopted in 2021. The Council's officer report referred to the Local Plan as emerging at the time. The Council referred to the Local Plan in its statement, which the appellant has seen. I have referred to the Local Plan in my findings.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site comprises an area of open countryside to the north west of Bacup. Some regrading of the land within the site has taken place to provide a level area and it is laid with stone hardcore. At the time of my site visit, a caravan was located at the site. The site is accessed via a narrow track. There are a number of Public Rights of Way (PRoW) close to the site and in the wider area.
5. The Landscape Strategy for Lancashire (the Landscape Strategy) identifies the site as falling within the Rossendale Hills Character Area. The Landscape Strategy states that the distinctive character of these exposed uplands is derived from a long history of settlement and exploitation of the mineral wealth of the moors. A number of distinctive characteristics are identified including an undulating landscape with a network of gritstone walls that enclose virtually

the whole of the upland area, and a landscape dotted with a network of small, remote farms, many of which are now abandoned and in ruins as farming has retreated downslope. The dense network of footpaths is identified as a particular cultural feature.

6. These characteristics are apparent at the site and surrounding area which is a rolling landscape with stone walls, footpaths, and a number of scattered buildings apparent in the wider area.
7. While the settlement of Bacup and other scattered buildings are visible from the site, given its location on the more upper slopes and within an open field, the site has a somewhat undeveloped and rural countryside character. The building would be located on a relatively exposed slope that can be seen in both close and longer distance views from the surrounding area.
8. The proposal would change the appearance of the site through the introduction of the building and the associated earthworks and vehicle parking area. However, while it would not form part of an existing farm building group, it would nonetheless be a building type and form which is characteristic of the agricultural use of the wider area. The proposed materials would not be inconsistent with those used in the locality, nor would its overall scale. As such, the proposed development would not represent an unexpected or alien feature.
9. The proposed building and associated hardcore area would be visible from stretches of the closest PRoWs, notably FP162 and FP155. Users of PRoWs have a high sensitivity to a change in view. However, views of the proposed development would be from relatively limited lengths of these PRoWs and from several vantage points, in particular from FP162, the building would be read against the background of rising ground which would help to soften its impact.
10. From several vantage points along the more northerly stretches of these PRoWs, views of the proposed building and associated area would generally be from an elevated position, and so it would not appear as an intrusive form of development, nor would it block open views of the wider countryside. Furthermore, given the proposed location of the building within the site, and the sloping topography, it would mostly be partial views of the building that would be apparent from such vantage points. Views of the proposed building would be more obscured from FP161 as a consequence of the undulating topography.
11. Views of the proposed development from other PRoWs would be from longer distances and mainly against the backdrop of the hillside, and combined with the materials proposed, would allow it to assimilate with the countryside setting which is characterised by a scattering of buildings.
12. On this basis, the proposed development would not appear unduly dominant or incongruous within the wider area, nor would it undermine its landscape character. I therefore conclude that the proposal would not harm the character or appearance of the area. Consequently, it would accord with the requirements of Policies ENV1 and ENV3 of the Local Plan regarding character and appearance and landscape character. It would also accord with the objectives for conserving and enhancing the natural environment in chapter 15 of the National Planning Policy Framework (the Framework).

Other Matters

13. There is no clear evidence before me to suggest that the proposed development would cause an unacceptable risk of flooding to adjacent land or harm to biodiversity interests. I note that the Environment Agency had no objections to the proposal, nor did the Council's ecological consultee subject to conditions, and the Local Lead Flood Authority had no comments to make.
14. Reference has been made to the construction of a road and the use of the caravan at the site for residential use. However, these do not form part of the proposed development that is before me to consider. Any future application for a residential use at the site would be considered on its own merits at that time, which may include highway safety, foul drainage and waste management considerations. I note that the Highway Authority raised no objections to the development that is proposed.
15. There may be some noise generated during the construction phase that could affect nearby residents. However, given the nature and scale of the proposed development and the temporary nature of construction works, it would not cause unacceptable harm.
16. Damage caused to property during construction would be a private matter between the parties involved. As planning is concerned with land use in the public interest, the protection of the value of a neighbouring property is not generally a determining factor.
17. I note that these issues did not form part of the Council's case at appeal. Therefore, while I acknowledge those points, they are nevertheless insufficient to outweigh or alter my reasoning regarding the overall acceptability of the scheme.
18. I note the comments made about the lack of notification on the planning application. However, in determining this appeal, I am only able to have regard to the planning merits of the case.

Conditions

19. I have considered the conditions suggested by the Council, having regard to the six tests set out in the Framework, and have amended the wording of certain conditions in that light (without altering their fundamental aims).
20. As well as the standard time condition, and for certainty, one is required to ensure that the development is carried out in accordance with the approved plans.
21. Certain conditions are required prior to commencement of development to ensure that the relevant works are acceptable at an appropriate stage. To mitigate risks associated with previous coal mining activity, a condition is necessary to require a scheme of intrusive investigations to be carried out on site to establish the risks posed to the development by past coal mining activity and that any remediation works, or mitigation have been implemented. The submission of a reasonable avoidance measures method statement in relation to badgers for the construction period is necessary in the interests of biodiversity.

22. To mitigate risks associated with coal mining activity, it is necessary to require a statement confirming that the site is safe and stable for the development, including confirmation of the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation.
23. In the interests of biodiversity, a scheme to secure biodiversity net gain is necessary.

Conclusion

24. For the reasons given above, the proposed development would accord with the development plan taken as a whole and there are no material considerations that indicate that it should be determined other than in accordance with it. I therefore conclude that the appeal should be allowed.

F Wilkinson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; Proposed Plans, Cross Section and Elevations - LC-09-03-20-B.
- 3) No development shall commence until a Reasonable Avoidance Measures Method Statement for badgers covering the construction period has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period for the development.
- 4) No development shall commence until:
 - a. a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity; and
 - b. any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development hereby permitted.
- 5) Before any part of the development hereby permitted is brought into use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the development shall be submitted to and approved in writing by the Local Planning Authority. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.
- 6) Above ground construction shall not be commenced until a scheme for the provision of biodiversity net gain measures on the site, including a timetable for implementation, has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out thereafter in accordance with the approved scheme for the lifetime of the development.