



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: 02 August 2022

Appeal Ref: APP/A2335/W/22/3291972

Land east of Bay Horse Lane, Bay Horse, Lancaster LA2 0HR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs A Spence against the decision of Lancaster City Council.
 - The application Ref 21/00465/OUT, dated 13 April 2021, was refused by notice dated 11 October 2021.
 - The development proposed is erection of one dwelling with associated access.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was submitted in outline. The application form indicates that approval was sought for access with the matters of appearance, landscaping, layout and scale reserved for future approval. Indicative plans have been provided, including elevations, floor plans, site layout, landscaping and the planning statement gives an indication of the appearance. I shall deal with the appeal on this basis.

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 development; and ii) the effect of the proposal on the character and appearance of the area.

Reasons

Location

4. The appeal site relates to a parcel of flat agricultural land situated adjacent to Bay Horse Lane. This is towards the southern edge of the District, bordering Wye, and within open countryside. It is located some 380m/400m from the A6 that links Preston and Lancaster, the M6 motorway and West Coast mainline railway are nearby. The site is bounded by hedgerows and vegetation with industrial buildings towards the east.
5. Policy SP1 of A Local Plan for Lancaster District 2011-2031, Part One: Strategic Policies and Land Allocations, 2020 (SPLADPD), advises that the Council will take a positive approach to development proposals reflecting the presumption in favour of sustainable development contained within the National Planning Policy Framework (the Framework).

6. SPLADPD Policy SP2 sets out the settlement hierarchy for the district. The policy supports proposals in the hierarchy provided they are of a nature and scale proportionate to the role and function of that settlement or where they are specifically identified within the plan to meet the strategic growth of a district. Category 3. 'Sustainable Rural Settlements' are identified to provide the focus of growth for Lancaster outside the main urban areas, whilst category 4. 'Rural Villages' will accommodate development that meets evidenced local needs only.
7. Policy DM4 of A Local Plan for Lancaster District 2011-2031, Part Two: Review of the Development Management DPD, 2020 (DMDPD) sets out that the Council will support proposals for residential development outside of the main urban areas where they reflect sustainable patterns of development and accord with the settlement hierarchy in Policy SP2 of the SPLADPD.
8. DMDPD Policy DM60 seeks amongst other matters to ensure proposals that generate motorised vehicle journeys are located where sustainable travel patterns can be achieved. It requires proposals to minimise the need to travel by private car and maximise the opportunities for the use of walking, cycling and public transport. Proposals will be supported that make best use of existing public transport services, and where there is convenient access for walking or cycling to local amenities, including education, employment and community facilities.
9. The appeal site is not within an identified strategic location as a regional centre, key service centre, or market town set out in the settlement hierarchy of the SPLADPD. The nearest rural sustainable settlement is identified as Galgate some 2.6km north of the appeal site, and the rural village of Forton which is outside of the district being some 1.2km away. Therefore, the site falls within the open countryside, and the proposed development would be a considerable distance away from those. As the site is not within a sustainable rural settlement and I have no evidence it would meet local needs, the proposal would fail to meet the policy criteria as new market housing in the open countryside.
10. Other than a public house, its location means it would be remote from any local services, facilities including shops to meet essential day to day needs of future occupiers, and any access to a broad range of jobs. There would be little economic benefit from the adjacent industrial use, as I have no substantive evidence to suggest that this business serves the general public or provides essential services for day to day living of future occupants.
11. The appellant acknowledges the distance and considers that future occupiers would not need to travel long distances by car and access could be achieved to local facilities by bus, cycle and foot. Nonetheless, future occupants of the development would be largely reliant on the private motor car to access services and facilities.
12. Moreover, the site is not served by public transport, and as I observed on my site visit the road is narrow in part for passing vehicles and there were larger vehicles using this roadway. It has limited street lighting and is devoid of any suitable pedestrian footways, and I have limited evidence that verges are maintained throughout the year. This would likely result in treacherous conditions for any future occupiers navigating the roads by foot or cycling

- during the winter months or adverse weather fronts whether this be in a straight line or not.
13. There are no immediate bus stops along Bay Horse Lane, or acceptable walking distances with existing road constraints to access public transport, services and facilities in the nearby settlements or villages. On this basis, the proposed development would not enhance or maintain the vitality of the rural community and would lead to the use of unsustainable travel modes and likely to heavily rely on the private car
 14. I acknowledge that the development would be located within a cluster, where there are existing properties along Bay Horse Lane. Having had regard to the High Court judgement¹ regarding paragraph 80 of the Framework, this physical location would not result in a new isolated home in the countryside that the Framework seeks to avoid. Thus, there would be no conflict with paragraph 80 of the Framework in this regard. Nevertheless, there would still be minor negative environmental and social effects arising from the location in terms of the use of natural resources and the accessibility of local services.
 15. The appellant has drawn my attention to nearby residential developments where the Council has granted permission. I do not have the full details of each of these referred schemes. Although, there may be some similarities with the appeal proposal, it should not be seen as setting a precedent. Furthermore, it would appear that those schemes were considered under different housing and land policies, including one which falls within the borough of Wyre.
 16. Moreover, just because other developments have been approved within the open countryside. This does not justify the approval of further development, and those relevant policies do not restrict development as they clearly permit proposals where they meet those exceptions in terms of the hierarchy.
 17. In coming to my conclusion, I have had regard to the previous appeal decision² at the site. I have no reason to disagree with the Inspectors findings in that case as there are many similarities to the proposal and its location. I acknowledge that the appellant has sought to engage to address those concerns. However, that Inspector found that the appeal site is not in a suitable location for new residential development.
 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 contrary to Policies SP1, SP2 of the SPLADPD and Policies DM4 and DM60 of the DMDPD, as I have set out above.

Character and appearance

19. The appeal site forms part of an undeveloped agricultural field which extends away from Bay Horse Lane. Although the detailed layout and appearance is subsequently reserved. The illustrative plans indicate that the proposal would be a substantial sized plot with a large detached dwelling set back from the highway with a double garage and driveway.

¹ Braintree District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 2743 (Admin)

² APP/A2335/W/19/3239464

20. The immediate area is characterised by single or small groups of buildings with intervening areas of agricultural land between them. The property immediate to the south sits almost along the roadway with the industrial buildings to the north being of a modern and utilitarian appearance. The public house and dwellings vary in terms of their ages and styles surrounded by undeveloped land and gaps, with many again sited fronting Bay Horse Lane. I acknowledge that the appellant has sought to reduce the number of dwellings and that this would alter the gap between the property to the south, removing a continuous row along the main road.
21. Nonetheless, it would still be adjacent to the industrial workshops and increase the built form on this part of the road where development is sporadic to a degree. As such it would not be in the same visual frame, particularly as buildings do not erode open areas of the agricultural fields. The cumulative impact of recent development along Bay Horse Lane significantly adds to the importance of this gap. Therefore, the proposed dwelling would still result in the loss of an important characteristic gap, including encroaching significantly into the countryside, which is currently free from built form. This would reduce openness to the detriment of the character and appearance of a visually important part of the countryside along this part of Bay Horse Lane which positively separates development from the northeast to the southwest.
22. For the reasons given above, I conclude that the proposed development would be harmful to the character and appearance of the area. It would be contrary to Policies DM29 and DM46 of the DMDPD, taken together amongst other matters requires new development to make a positive contribution to the surrounding landscape, contribute to the identity and character of the area and landscapes, with consideration given to both the individual and cumulative impacts of a proposal.
23. It would also be contrary to the Framework, Chapter 12 achieving well-designed places and Chapter 15 conserving and enhancing the natural environment, particularly in respect of being sympathetic to the local character and recognising the intrinsic character and beauty of the countryside.

Other Matters

24. Although the proposed development would not cause any harm to living conditions, highway safety, biodiversity, drainage and flood risk, lack of objection from public consultation and be of sustainable construction materials and have electric charging points. These considerations are neutral weighing neither for nor against the proposal.
25. The appellant raises concerns over the Council's handling of the application. It appears to me that the Council have explained their approach within the delegated report and appeal submissions, and to the extent of weight given. Furthermore, it appears this was in accordance with the planning practice guidance³ (PPG) and that the scope of what can constitute a material consideration is very wide. In any event, I have dealt with the appeal on the evidence and proposal I have before me.

³ Paragraph: 008 Reference ID: 21b-008-20140306 Revision date: 06 03 2014; Paragraph: 009 Reference ID: 21b-009-20140306 Revision date 06 03 2014

Planning Balance and Conclusion

26. I recognise the appeal proposal would have benefits with regard to the supply of housing in the Borough, the contribution both construction opportunities and any future occupiers would make to the local economy. However, these benefits would be limited due to the quantum of development proposed and do not outweigh the policy conflicts and harm I have identified. Even if, there were a shortfall in 5-year supply on the scale suggested by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.
27. The proposed development would be contrary to the development plan and the Framework, 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.
28. For the reasons given above, I conclude that the appeal should be dismissed.

K A Taylor

INSPECTOR