



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: 04 August 2022

Appeal Ref: APP/U2370/W/22/3291079

Cabus Nook Farm , Cabus Nook Lane, Cabus, Preston 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 Raby against the decision of Wyre Borough Council.
 - The application Ref 20/01291/FUL, dated 15 December 2020, was refused by notice dated 23 July 2021.
 - The development proposed is change of use of land to allow siting of 4 holiday chalets (caravans) and 6 camping pods, with access and parking.
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Decision

1. The appeal is dismissed.

Procedural Issues

2. The Council have advised that the 'Publication version of the Wyre Local Plan Partial Review 2011-2031' (WLPR31) has been submitted for independent examination later in 2022. As such, in accordance with paragraph 48 of the National Planning Policy Framework (the Framework), and given its stage of plan preparation, the WLPR31 has only limited weight.
3. Since the determination of the planning application, the Council have adopted a guidance document relating to Policy EP9¹ of the Wyre Local Plan (2011-2031), 2019 (LP), and forms part of their evidence. The appellant has seen this document and it is referred to within their submission. Therefore, I do not consider that any party would be prejudiced if I take this document into account in consideration of the appeal.
4. I observed at the time of the site visit there were touring caravans on the appeal site. The appellant has referred to the site being a long-established touring site, and has included evidence with the appeal relating to this. Notwithstanding, the appeal submissions the proposal before me is not to establish the lawful use of the land, and is not within my jurisdiction within a s78 appeal. Moreover, from the site history a planning application² was not granted for a lawful development certificate for existing use of land for siting of touring caravans (sui-generis). The proposal is for the change of use of land to facilitate the siting of 4 holiday chalets (caravans) and 6 camping pods, including operational development. I have dealt with the appeal on this basis.

¹ Wyre Council, Policy EP9 Holiday Accommodation Guidance for Applicants (version 1.0), September 2021

² 20/00139/LAWE

Main Issues

5. The main issues are i) whether the proposal would constitute an acceptable form of development with particular regard to the provisions of local and national policy in respect of the location and accessibility of the development; and ii) the viability of the business.

Reasons

Location and accessibility

6. The appeal site is an agricultural field located on the western side of Cabus Nook Lane. Access to the site is via an existing gate that slopes downwards onto the field from a private access road. The site is bounded by existing hedgerows and trees and the Lancaster canal and towpath are directly to the west. The proposal would allow the change of use of the land for the siting of 4 caravans identified as chalets and 6 camping pods with a circular access track in the centre of the site with parking, and associated commercial paraphernalia.
7. LP Policy SP1 sets out the planning strategy and spatial approach for the Borough. It directs new development to within settlement boundaries, unless development elsewhere in designated countryside areas is supported by other policies in the LP. Outside of settlements new built development will be strictly limited, but gives support for individual opportunities which help to diversify the rural economy or support tourism where appropriate in scale.
8. This is further supported by Policy SP2 which promotes sustainable development, in line with the Framework. Development should be sustainable and contribute to the continuation or creation of sustainable communities in terms of its location and accessibility. In order to deliver sustainable communities, it requires proposals to ensure accessible places and minimise the need to travel by car. Policy CDMP6, accessibility and transport, requires amongst other matters proposals demonstrate measures are included to encourage access on foot, by bicycle and public transport and reduce car reliance; and where appropriate, access by public transport is catered for, or by ensuring that safe and convenient access exists to the nearest facility.
9. The appeal site is located outside of any settlement boundary and is within the countryside. It, therefore, falls to be considered under the relevant LP policies above and including SP4, which recognises the open and rural character of the countryside for its intrinsic character and beauty. The policy grants new development where it is for the purposes of holiday accommodation in line with Policy EP9, and the expansion of business in rural areas in accordance with Policy EP8. These policies are consistent with the aims of the Framework.
10. The appellant considers that the appeal site is geographically well placed, close to the A6 corridor, and I acknowledge the sustainability plan. Each of the chalets and camping pods would have basic cooking facilities for self-catering stays. However, tourists and visitors to the facility would need to provide their own basic and essential items and this would likely involve the need to travel to shops, services, facilities and attractions. There would be no facilities, other than cleaning or maintenance of the accommodation and no shops or provision of basic items on the site for purchase.

11. There are no nearby shops or services to the appeal site with a Spar Petrol Station / café being approx. 0.7 miles away. The town of Garstang is some 2.6 miles away and the village of Scorton some 1.5 miles away. Cabus Nook Lane is a rural road subject to national speed limits with no pedestrian footways and is unlit. The sustainability plan indicates routes but it would involve crossing the A6 which is still a considerable distance away for any of the shops or services, and accessing a long bridle path and public right of way to get to the village of Scorton.
12. Given the location, it provides very little opportunity to access the site via any alternative sustainable travel mode. I accept that the canal towpath would offer pedestrian and cycle access to the surrounding area. Nonetheless, there is limited evidence of where this would lead too. Whilst there are bus stops on the A6 this would still be difficult for visitors to navigate due to the poor road conditions along the private road and Cabus Nook Lane.
13. This would be particularly evident for those with families of young children, or elderly relatives staying at the facility and during the winter months or adverse weather fronts. Therefore, future occupants of the site would be largely reliant on the private motor car to access shops, services and facilities, including restaurants and visitor attractions. The appeal site would be in an inaccessible location for tourist/leisure accommodation to promote sustainable rural tourism.
14. The appellant has drawn my attention to the previous refused application³ on the site and nearby developments where the Council has granted permission. In terms of the previous scheme, this was refused, and the Council conclude in the report that it would not represent sustainable rural tourism or leisure development. Although, the nearby schemes may have similarities with the appeal proposal, they do not share the same location accessibility or amount of accommodation, neither should they be seen as setting a precedent. Moreover, just because other developments have been approved within the countryside, this does not justify the appeal proposal.
15. For the reasons given, I conclude that the proposal would not be an acceptable form of development with particular regard to its location and accessibility. It would be contrary to Policies SP1, SP2, EP8, EP9 and CDMP6 of the LP, as I have already set out above, and that amongst other matters these policies aim to promote sustainable rural tourism, help diversify the rural economy and holiday accommodation; ensures accessible places and minimise the need to travel by car.
16. It would also be in conflict with paragraphs 8 and 104 of the Framework, with regard to achieving sustainable development and promoting sustainable transport, and opportunities to promote walking, cycling and public transport.

Viability

17. LP Policy EP9 recognises that tourism is an important element of the local economy and includes new short stay touring caravan and camping sites. These will be permitted provided they satisfy criteria which includes new sites incorporating build accommodation, will need to be supported by a sound business plan demonstrating long term viability; and proposals for extensions

³ 19/00163/FUL

to sites outside settlement boundaries need to be supported by a viability assessment of the existing and proposed business.

18. The appellant has submitted a viability assessment (VA) which sets out a business plan. This identifies that the scheme is a replacement touring caravan facility and will provide additional funding for Cabus Nook Farm. The proposal would provide accommodation for visitors and would be for short term rentals.
19. The market data is taken from 2018 and competitive analysis sets out several broad assumptions. The VA confirms data has been taken from 'visit Lancashire's website' and identifies several nearby sites. Although there may be some similarities with the proposal being for tourist accommodation, the evidence has not been independently verified or is directly comparable in terms of the proposed accommodation or site services. Furthermore, it appears that prices per night are either on the assumption of a typical rate or as a starting rate, therefore it is not definitive how the appellant has come to their own rental rates and income generation. It is also unclear how the appellant has come to the occupancy rates percentages, even with a estimated cautious approach.
20. The VA includes an operation plan, including hiring of staff for cleaning, maintenance, bookings and it sets out the cleaning schedules and how the bookings would be taken. The financing of the proposal would not include a mortgage or loan and would be self-funded by the appellant. However, there is no substantive evidence of funding or how costs would actually be met and the ongoing maintenance and running of the site. Particularly in 'year 1' identifies a substantial loss of profit, which a profit would not be partially recuperated until 'year 5'. The VA lacks a detailed breakdown of such costs, itemisation, comparison of costs between the chalets and pods, staff wages or where the existing staff are coming from.
21. Furthermore, the appellants evidence relies heavily on an established touring caravan business at the site which has run for 30 years. Although, I have no evidence to suggest that this is a lawful use of the site. Even if, it had been established as being the lawful use there are no comparisons with any existing touring caravan business, and that this is/has been successful. Therefore, it would appear that this would be a new tourism accommodation site of which the business plan does not demonstrate long term viability, and the proposal would not meet criteria c) of Policy EP9.
22. Moreover, I do not have any substantive evidence that the proposal would form part of a farm diversification scheme or an existing agricultural enterprise and groundworks business. Neither does the evidence point to the existing farm income and that this would be boosted by any functional link with the proposal. There is no evidence of associated employment benefits that would be generated as the application form indicates no employment and the planning statement sets out that the existing owners of the site would manage and maintain the land.
23. The appellant has referred to the LP EP9 guidance for applicants document, this sets out that it provides guidance to support the reading and understanding of Policy EP9. It does not introduce new policies but as noted in paragraph 1.4, it provides information on how the Council approaches the application or implementation of the policy. It also sets out at paragraph 3.10, that a business plan should clearly set out all the information a planning officer would

need to reach a view on the viability of the proposed business; and explanations and/or breakdowns should be provided as necessary to justify the figures, of which the VA does not.

24. The suggested draft condition, to restrict the business owners and operation with Cabus Nook Farm, would not meet the tests of the Framework in respect of being precise, and reasonable in all other aspects. Moreover, planning permission usually runs with the land and it is rarely appropriate to provide otherwise, including limiting the benefit of the permission to a company.
25. Consequently, I conclude, and on the balance of probability, there is insufficient evidence to demonstrate the long-term viability of the proposed development. It would be in conflict with Policies SP4, EP8 and EP9 of the LP, these policies seek to support proposals that help to diversify the rural economy, and demonstrate through a sound business plan long term viability. It would also be in conflict with the Framework, in regard to sustainable rural tourism.

Other Matters

26. The appeal site is located within approx. 5km of the Bowland Fells Special Protection Area (SPA) and Site of Special Scientific Interest (SSSI) and the Morecambe bay and Duddon Estuary SPA. It falls within the SSSI Impact Zone and is adjacent to the Lancaster Canal Biological Heritage Site (BHS). Accordingly, referring to paragraph 180 and 181 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.
27. 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. Nevertheless, 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
28. Although the proposal would not cause any harm to living conditions of neighbouring properties given the intervening distances, addition of electric charging points, highway safety, biodiversity, archaeology, drainage and flood risk, which could be subject to suitably worded conditions. These considerations are neutral weighing neither for nor against the proposal. I note third parties have raised concerns over the design and character and/or appearance of the area. However, the Council did not raise any concerns on these matters and Policies CDMP3 and CDMP4 were not cited in the reasons for refusal.
29. The appellant has referred to the Framework and that it supports rural business development accepting locations beyond settlements and not well served by public transport. Nonetheless, camping sites should be appropriately located, with suitable accessibility whether on foot or cycle to shops/services. In this case, there would be limited benefits, the proposal does not indicate any additional rural employment opportunities and the provision of additional self-

catering units in the Borough, would be minimal in terms of improving the recreational and tourist value of the Forest of Bowland AONB or Flyde Coast.

30. Moreover, although, the proposal would facilitate such tourists, any attraction visits would be a matter of choice for anyone using the accommodation. Therefore, whilst sustainable rural tourism is supported and benefits other businesses in the area, a positive consideration for the scheme. The proposal would not conform to national or local policies relating to a prosperous rural economy or constitute sustainable development.

31. I have had regard to the appeals⁴ which have been brought to my attention. However, I do not have the precise circumstances of those individual cases. Although there maybe similarities in respect of new tourism accommodation and policy conflicts, I have in any case determined the appeal on the basis of the evidence and site observations.

Conclusion

32. 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.

33. For the reasons given above I conclude that the appeal should be dismissed.

KA Taylor

INSPECTOR

⁴ APP/U2370/W/21/3277209; APP/U2370/W/21/3273598