



Appeal Decision

Site visit made on 22 May 2023

by L Wilson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 June 2023

Appeal Ref: APP/P2365/W/22/3312694

Land to the east of Boundary Lane, Hesketh Bank, Preston PR4 6AJ

- 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 Ms A Price, Henry Alty Ltd, against the decision of West Lancashire Borough Council.
 - The application Ref 2021/1187/OUT, dated 6 October 2021, was refused by notice dated 25 November 2022.
 - The development proposed was originally described as erection of 10 number affordable dwellings and 11 number live/work units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This is an outline application with means of access, layout and scale to be considered. Appearance and landscaping are reserved matters for future approval. I will proceed on the basis that details shown on the submitted drawings in respect of matters that are reserved for future approval are for illustrative purposes.

Main Issues

3. The main issues are:
 - Whether the proposed development would accord with the requirements of development plan policy, with regard to Protected Land;
 - Whether the proposed development would provide acceptable living conditions for neighbouring occupiers, with regard to noise and pollution; and
 - The effect of the proposed development on highway safety, with regard to access.

Reasons

Protected Land

4. The site consists of a parcel of land, designated as Protected Land. Policy GN1(b) of the West Lancashire Local Plan 2012-2017: Development Plan Document (2013) (LP) states, amongst other things, that development on Protected Land will only be permitted where it retains or enhances the rural character of the area, for example small scale, low intensity tourism and leisure

- uses, and forestry and horticulture related uses. Small scale 100% affordable housing schemes (i.e. 10 units or fewer), or small scale rural employment (i.e. up to 1,000 square metres) or community facilities to meet an identified local need may be permitted on Protected Land, provided that a sequential site search has been carried out in accordance with Policy GN5.
5. The supporting text sets out that the policy is less restrictive than national Green Belt policy in relation to 'Protected Land', but generally seeks to restrict development on former non-Green Belt land outside settlements to small scale and low intensity uses, or to uses which are appropriate in rural areas.
 6. The policy does not provide consideration of a mixed-use development that satisfies two of the exception criteria or explicitly rule out a mixed-use development. The Council set out that the purpose of this policy is to ensure that edge of settlement developments are small scale in nature and any such scheme should therefore result in limited impact upon the wider landscape leading out from the settlement edge.
 7. I understand that a sequential test was carried out relating to application 2017/1205/FUL which was granted planning permission for 10 affordable dwellings. There is no clear evidence before me to suggest that those findings are not applicable to the proposal before me or that the appellant has not satisfactorily demonstrated that there is a requirement for affordable housing within Hesketh Bank, and the appeal site is the most suitable site to deliver such a requirement.
 8. The appellant has drawn my attention to a similar live/work application granted planning permission at White Rails Farm¹. The proposed live/work units would provide small scale commercial uses and the proportion of working space would be below the 1,000sqm set out in policy GN1. The Council has not disputed that the units could be considered employment uses for the purposes of policy GN1.
 9. I recognise that the site relates to the former Newhouse Nurseries, the site is predominantly surrounded by residential dwellings and the access road off Boundary Lane already exists. Having said that, the proposal would not retain or enhance the rural character of the area because the proposed development would not be small scale. The quantum of development would be greater than that proscribed in policy GN1. Consequently, it would represent an unacceptable increase in intensity of the fringe area to the edge of Hesketh Bank. Having regard to the scale of the development (which would include 10 affordable dwellings and 11 live/work units) and the wording of the policy (including the use of the word 'or'), the proposed development would not meet the exception criteria listed and would be contrary to Policy GN1(b).
 10. For these reasons, the proposed development would not accord with the requirements of development plan policy, with regard to Protected Land. The proposed development would conflict with Policy GN1 which aims to promote sustainable development and seeks to focus development within settlement boundaries and sets out circumstances development outside settlement boundaries would be considered acceptable.

¹ 2019/0475/OUT

Living conditions

11. The proposal would introduce mixed use properties set within a small housing estate. The proposed live/work units are sought to secure a restricted provision of Class E uses. Use Class E permits a wide array of commercial, business and service uses.
12. In the White Rails Farm planning application, the Council attached conditions to ensure that the live/work elements of the proposal could work in conjunction with each other and to safeguard the amenities of neighbouring occupiers. The appellant suggests that similar conditions could be attached, and the suggested conditions are set out within their submission. This includes restricting the development to Class E part (g) uses. The appellant also suggests a condition to ensure that no less than 30% of the Net Internal Area associated with the individual live/work units should relate to the work aspect of development.
13. The White Rails Farm application related to a development for up to 9 live/work units. This application cannot be directly compared to the proposal before me. This is because the scheme before me includes more live/work units and affordable dwellings within the same development and the context of the appeal site as well as the previous use of the site also differs. In any event, I have determined the appeal proposal on its own merits.
14. I observed on my site visit that there is limited background noise in the appeal site and surrounding area given its location in a small agricultural village and primarily residential area. Although the scheme is in outline with some reserved matters for future approval, the development of the site for 10 affordable dwellings and 11 live/work units would result in the buildings having limited space between them. There are also a number of existing dwellings along Moss Lane and Boundary Lane which would be situated relatively close to the proposed units.
15. Class E (g) includes (iii) any industrial process, being a use, which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. Whilst the processes associated with such uses could be carried out without detriment to the amenity of that area and planning conditions could provide some control, I am not satisfied that Class E part (g) uses could integrate successfully within the appeal site and with neighbouring dwellings.
16. The level of associated activity, number of comings and goings from deliveries and also visitors of the 11 work elements could cause harm to neighbouring occupiers. The daily level and type of activity associated with Class E part (g) uses would be fundamentally different to that associated with a residential use. The level of activity would also be greater than the current use of the site and there is no clear information before me regarding the level of activity and noise associated with the previous nursery use of the site. Thus, the work element could result in noise and disturbance issues as well as non-residential activity that would not be compatible with occupiers of neighbouring dwellings.
17. The appellant has suggested planning conditions in relation to the timings associated with deliveries and loading and unloading of vehicles connected with the business uses. However, the proposal could result in a harmful number of vehicle movements during the day with associated engine noise. Having regard to the context of the appeal site (including surrounding uses which are

predominantly residential), size of the proposed development and proportionality of the live/work units, I consider that it is likely that there would be conflict between the neighbouring dwellings and live/work units. I am not satisfied that planning conditions, that would meet the tests set out in paragraph 56 of the National Planning Policy Framework (the Framework), could effectively safeguard the amenities of neighbouring occupiers.

18. The Council has raised concern in relation to air pollution. Given the number of live/work units and proposed use of the work units, subject to appropriate planning conditions, I am satisfied that the proposed development would not result in unacceptable air pollution and would not be a reason to withhold planning permission.
19. For the reasons given above, the proposed development would not provide acceptable living conditions for neighbouring occupiers. Consequently, it would not accord with Policy GN3 of the LP which states, amongst other things, that proposals for development should retain or create reasonable levels of amenity for occupiers of the proposed and neighbouring properties. It would also conflict with Paragraph 130 of the Framework which states decisions should ensure that developments will function well and add to the overall quality of the area, and also create places with a high standard of amenity for existing and future users.

Highway safety

20. Access to the site is via an existing access constructed under the previously approved planning application. Lancashire County Council Highways Department had no objection in principle to the proposed development and set out that the proposed development should have a negligible impact on highway safety and highway capacity within the immediate vicinity of the site. However, this was subject to addressing the internal layout, parking and type of use of work/live units before making a planning decision.
21. Whilst the Highways Department considered that the access would be acceptable to serve the number of proposed residential units, given that no details of the end use of the proposed live/work units were submitted, they were unable to assess the type and size of vehicle likely to access the site to service the live/work units. Thus, the Highways Department were unable to provide comments regarding the suitability of the access.
22. The proposed live/work units would result in an intensification of the access which could result in harm to the safety of the access and wider highway network. The appellant has suggested planning conditions, including that the live/work units are restricted to Class E (g) uses. Nonetheless, they have not adequately addressed the Highway Department's comments and have not provided any robust information to demonstrate the effect the live/work units would have on the access and wider highway network. Consequently, I am not satisfied that the proposed development incorporates suitable and safe access for the proposed live/work units or that this matter could suitably be addressed by planning conditions.
23. For these reasons, insufficient evidence has been provided to ensure that the proposed development would have an acceptable effect on highway safety. Therefore, it would conflict with Policy GN3 of the LP which states, amongst

other things, that proposals for development should incorporate suitable and safe access and road layout design.

Other Matters

24. The appellant has highlighted other matters including the benefits of the proposed development and has suggested planning conditions. I recognise the benefits of the development, including that there is a need for affordable housing across West Lancashire and the socio-economic benefits of the proposal. However, based on the information presented, the other matters (including benefits and suggested conditions), would not outweigh the conflict with planning policy and harm I have found.

Conclusion

25. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal does not succeed.

L Wilson

INSPECTOR