



Appeal Decision

Site visit made on 20 February 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 24th June 2024

Appeal Ref: APP/M2325/W/23/3326770

Land at Bryning Lane, Kellamergh, Bryning with Warton, Warton, Lancashire PR4 1TN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr R Capstick against the decision of Fylde Borough Council.
 - The application Ref is 23/0069.
 - The development proposed is residential development of current agricultural field. Proposed development to comprise 2-4 detached dwellinghouses with parking spaces and garden areas.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the address on the appeal form in the heading above as it is more concise than the description found on the application form.
3. The proposal is for permission in principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
4. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.

Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

6. Policy S1 of the Fylde Local Plan to 2032 (incorporating partial review), adopted 2021 (LP), provides a settlement hierarchy for the borough. This determines that the site is within a designated countryside area. As such, Policy GD4 applies which allows development in the countryside if it complies with a number of criteria. It is common ground that the proposal would be in

the countryside and not accord with criteria a) to e) or g). The only potentially applicable criterion is f) which refers to minor infill development.

7. Neither the LP, nor the National Planning Policy Framework (the Framework) define infill. An appeal decision¹ has been submitted by the appellant which has considered the term infill. Whilst this site is in the Green Belt, and so refers to limited infill, as opposed to minor infill, it does highlight the different interpretations of this term, and that when considering infill, it is a question of fact and planning judgement for the decision maker.
8. The Council has submitted eight appeal decisions² from within the borough, all of which determined that the proposals were not minor infill development. The appellant has highlighted that those cases relate to sites that are not enclosed and are more open in character than the appeal site. Whatever the individual characteristics of these sites, the appeals were determined on the basis that minor infill in relation to Policy GD4 is the filling of a modest gap in an otherwise continuous built-up frontage. I have no reason to disagree with this interpretation. In addition, the supporting text to Policy GD4 states that minor infill development will be of a scale and use that does not have a material impact on the rural character of the area. The size of the site and the existing form and density of development are also relevant.
9. The appeal site is a field of pasture adjacent to a small grouping of around 18 houses and buildings, in an area referred to as Kellamergh. Kellamergh appears to have developed around a farmstead. The Birley Arms is adjacent to the site to the southeast at the edge of Kellamergh, but from the highway appears to largely stand alone amongst predominately farmland. The site is bounded by a dense hedge and some trees. It is a large plot which has a road and track around three sides, with a small row of houses to the north.
10. The site is set back from the main road, with a large verge at the front, including a surfaced area that may be used as a pull-in for vehicles in the front of the entrance to the field.
11. The frontage of the site bridges the bend in the road. The steep grass bank and wide verge, plus the trees along some of its boundaries, results in a distinctive character to the site. It does not appear enclosed by built form, but rather, together with nearby open pasture, contributes to the rural setting of Kellamergh. Whilst the indicative plan shows three dwellings, with two along the frontage with Bryning Lane, the application is for up to 4 dwellings. The size and scale of development with up to 4 houses, would have a significant urbanising effect on the rural character of the site and in this context, would not be minor development.
12. The site is large, and the front of the site sweeps along the roadside for a considerable length. Therefore, I do not consider that it would be a modest gap that was being filled. A track aside the site would break up the development along Bryning Lane, resulting in a separation between the site and the detached housing on one side and the Birley Arms on the other. This would not result in the scheme infilling a continuous frontage.

¹ APP/F2360/W/21/3284681

² APP/M2325/W/19/3229376; APP/M2325/W/19/3237770; APP/M2325/W/19/3241054; APP/M2325/W/19/3242506; APP/M2325/W/20/3246446; APP/M2325/W/19/3241100; APP/M2325/W/19/3244029; APP/M2325/W/21/3269902

13. For these reasons, I do not consider the proposal would accord with LP Policy GD4 f) because it would not be minor infill development.
14. Policy H2 of the LP requires development to make efficient use of land, expecting this to result in a minimum density of 30 dwellings per hectare. The Council contend that the proposed development of between 2 and 4 houses would result in a density of between 5 and 10 dwellings, whilst the appellant has said that in order to achieve this minimum density, it would require 12 dwellings on the site. Neither party has disputed these figures.
15. The supporting wording to policy H2 does, however, refer, amongst other things, to the development not having a detrimental impact on the amenity, character and appearance of the surrounding area. Therefore, a lower density may be allowed where it is reflective of the character and appearance of the area. Paragraph 128 d) of the Framework also requires that whilst making efficient use of land, account must be made of the desirability of an area's prevailing character and setting.
16. In this instance, based on the rural characteristics of the area, and my findings above that a lower density would be harmful in of itself, a higher density equal to 30 dwellings per hectare on this site would logically not be appropriate. In this respect it would not accord with LP Policy H2.
17. Whilst the site is enclosed by hedging, its size and rise in levels to the rear means that it provides an important green gap, which contributes to the rural location. It overlooks fields on the other side of the road which provide open views of the surrounding countryside. The narrow track that runs alongside and to the rear of the site, with its verges, trees and cottages, adds to the countryside setting. The indicative plan shows that access to potentially three dwellings would be off this track. Therefore, any access for the proposed development would result in some removal of parts of the hedgerow. This would harm the rural character of the site.
18. Beyond the Birley Arms is the start of the village of Warton where I saw new housing on the edge of the settlement, separated by a lane and field from the public house. The development proposal, with its removal of a wide green gap along the road would lead to creeping development along Bryning Lane which would contribute to the urbanisation of this countryside location. It would therefore erode the character of the area and fail to protect the landscape characteristics of the site.
19. The appellant contends that the visual amenity of the site and area are a result of the larger areas of agricultural land on the approach to and opposite the site, rather than the site itself. However, it is the overall mixture of buildings, gaps, hedgerows and trees, as well as the agricultural fields, which contribute to the visual appearance of the area. Whilst the appellant considers that mitigation measures could protect this, I have no evidence before me as to what this would entail and whether it would be effective in protecting visual amenity.
20. Therefore, I conclude that the proposed development would harm the character and appearance of the area. It would not accord with LP Policy GD4 and LP Policy H2, as well as LP Policy S1, as set out above. It would also not accord with LP Policy DLF1, which is a strategic policy setting out the location of development, including housing windfall sites. Furthermore, it would not accord

with LP Policies ENV1, H2 and GD7 which requires development to have regard to its visual impact on the landscape and its effect on character and appearance.

Conclusion

21. The proposed development conflicts with the development plan when taken as a whole and there are no other considerations, including the provisions of the Framework, that outweigh the identified harm and associated development plan conflict.
22. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

M J Francis

INSPECTOR