



Appeal Decision

Site visit made on 2 October 2024

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 October 2024

Appeal Ref: APP/A2335/W/24/3340688

Land at Back Lane, Borwick, Priest Hutton, Lancaster LA6 1AJ

Easting (x): 353757 Northing (y): 473088

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Anita Parkinson against the decision of Lancaster City Council.
 - The application reference is 23/01189/FUL.
 - The development proposed is the erection of an agricultural livestock building and access track (part retrospective).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal submission, the appellant has put forward a drawing showing a timber framed building with a fibre cement roof, open on one side with timber boarding elevations on the others. However, I am mindful that the appeal process should not be used to evolve a scheme to overcome the Local Planning Authority's (LPA) reasons for refusal and instead a fresh planning application should usually be made¹. I am normally required to deal with an appeal on the basis of the same plans that informed the Council's decision. Nonetheless, and irrespective of the merits or otherwise of an alternative proposal, I have considered whether it would be appropriate to take the additional drawing into account in this case.
3. I have concluded that it would not. Firstly, because to do so would result in a different scheme to the one originally applied for, which *Planning Practice Guidance*² advises should be avoided. Furthermore, to do so would potentially run contrary to the Wheatcroft principles³. It is my view in this case, therefore that the appeal must be determined on the basis of the plans as originally submitted to the Council and upon which it based its decision. To do otherwise would prejudice the interests of the Council, interested third parties and consultees, who have not been consulted on the revised scheme and who may have observations to make. I have therefore proceeded to determine the appeal on the basis of the plans as originally submitted.

¹ Annexe M of the *Procedural Guide Planning Appeals – England* advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

² Planning Practice Guidance Reference ID: 16-006-20140306

³ *Bernard Wheatcroft Ltd v Secretary of State for the Environment* [JPL, 1982, P37]

Main Issues

4. The main issues are:

- Whether the development is essential for the purposes of agriculture having regard to local development plan policies;
- The effect of the development on the character and appearance of the site and its surroundings; and
- The effect of the development on biodiversity.

Reasons

Requirement for Agriculture

5. Policy DM47 of the "A Local Plan for Lancaster District 2011-31 Part Two: Development Management Development Plan Document 2020" (DMDPD) supports development proposals in rural areas where they are essential operations reasonably for the purposes of agriculture (amongst other activities) where there is a proven and justified need. On greenfield sites within the open countryside, the policy states that development will only be supported where it is clearly demonstrated through a robust assessment that no alternative suitable locations exist within local settlement areas and that the benefits of the proposal outweigh the impacts on local amenity.
6. The appellant has set out that a small flock of pedigree goats are currently kept elsewhere which are used to produce milk for the small-scale manufacture of soap and a herd of a maximum of 20/25 goats would be kept on the appeal site. The appellant also states that Welsh mountain ponies graze the land whose manure would be harrowed into the land or bagged and sold. Furthermore, I have not been provided with any detailed information on the quantity of soap produced, nor have I been provided with information on the commercial viability of the operation or that there are no alternative locations within settlements locally. Moreover, the part-time employment of one local person would make an insignificant contribution to economic development in the area.
7. Whilst the production of milk for human consumption would be an agricultural process, the production of soap, to my mind, is not regarded as an 'ordinary and reasonable' agricultural practice. The production of soap is more akin to a manufacturing or industrial process of the type that might fall within Class E (g) (iii) of Schedule 2 to the Town and Country Planning (Use Classes) Order 1987 (as amended).
8. Whilst I recognise that DMDPD Policy DM47 encourages economic development in rural area, from the information before me I am not convinced that the proposal is a viable business. Furthermore, I have not been presented with any substantive evidence that benefits exist which would outweigh the harm that I have found on this or other main issues.
9. I therefore conclude that the proposed building would not be required for a proven and justified agricultural purpose. Consequently, the proposal is contrary to DMDPD Policy DM47 which, amongst other things requires that development in rural areas is essential for agriculture. It would also be contrary

to the aims of Section 6 of the National Planning Policy Framework (the Framework).

Character and Appearance

10. The appeal site comprises a parcel of land off Back Lane, set in undulating open countryside a short distance from a small cluster of properties at Borwick. It is bounded by a dry-stone wall and hedge flanking the lane and is partly enclosed by informal trees and hedgerows on other sides. It is accessed by a metal five-bar gate set at right angles to the highway off an access track to a parcel of land beyond the appeal site. A hardcore track has been laid across the field to the location where a timber clad barn would be located. The adjacent lane rises and bends as it passes the appeal site. The site's surroundings have a pleasant, rural character.
11. On my site visit I observed that the field was divided into various fenced enclosures. A field shelter which the appellant states is mobile along with trailers and other paraphernalia including pallets and an arched framed structure resembling the frame of a polytunnel were also located within the site. The appellant states that the land is also often used for the parking of a motorhome, although this was not present on my site visit. No livestock was present on the land at the time of my visit.
12. The proposal would introduce a larger building of a type and appearance commonly used for agricultural purposes. However, its scale and siting on a small parcel of land detached from other farm buildings would appear out of character with its location and the wider area where farm buildings tend to be clustered together around farmyards and other built development.
13. The proposed building would be used for accommodation for up to 25 goats, the storage of animal feed, a trailer and a quad bike. It would be highly visible from the lane, from where its dominant position in the corner of the field together with the existing field shelter and other paraphernalia on the site would appear out of place and harmful to the character and appearance of the area. The proposed bank of native fir trees on the south side of the proposed building to screen it from view from the lane would in itself appear incongruous and would unlikely to be effective for some considerable length of time until the trees became established.
14. The access track measures approximately 84 metres in length and runs across the width of the field from the gate to the proposed location of the livestock building. Whilst it has been laid without a geotextile membrane which allows grass and plants to grow through it, it nevertheless introduces development onto agricultural land and thereby fails to add positively the rural character and appearance of the site.
15. Accordingly, the siting of an agricultural livestock building and an access track in this location would not conserve the character and appearance of the area. As a result, there would be conflict with Policy EN3 of the "*Lancaster District 2011-2031 Part One: Strategic Policies and Land Allocations DPD*" (SPDPD) which seeks to ensure that development in the open countryside has due regard to its rural context. The proposal would also conflict with DMPDP Policies DM29, DM46 and DM47 which collectively require development to contribute positively to the identity and landscape character of an area appropriate to its surroundings.

Biodiversity

16. The appeal site being located in the open countryside suggests that it is capable of supporting a variety of types of habitats of both flora and fauna and may be part of an ecological network. No ecology survey has been provided. Therefore, it has not been established what habitats may be present on the site which may be affected by the proposal.
17. DMDPD Policy DM44 is clear that development proposals are expected to protect and enhance biodiversity and minimise both direct and indirect impacts. Furthermore, a net gain of biodiversity is expected to be provided. The absence of a baseline means that I cannot be certain that species, including those which are protected by law would not be adversely affected by the proposal. To this end, insufficient evidence has been put forward to demonstrate that the proposal would protect existing biodiversity. Moreover, there is little evidence, other than reference to the planting of unspecified numbers and species of trees to advocate that the proposal would enhance the biodiversity of the area.
18. I therefore conclude on this issue that in the absence of surveys or a Preliminary Ecological Appraisal, there cannot be any certainty as to whether or not the proposal would have any adverse effect on the biodiversity of the site, including whether there would be impacts on protected species and on what basis that might be. Consequently, it is not possible to ensure that any suggested mitigation measures would specifically address any potential harm, especially in relation to the removal of a section of hedgerow. Furthermore, it would not be reasonable to condition further surveys in this instance. The proposal would therefore conflict with DMDPD Policy DM44 and DM45 which seeks to ensure that development protects and enhances biodiversity including hedgerows. It would also conflict with the aims of the Framework to protect the natural environment.

Other Matters

19. The keeping of goats as an alternative to cows and sheep may have positive implications for climate change however, at the scale proposed any benefits would be negligible. Any benefits are directly contradicted by the appellant's current 40-mile commute to the site by private vehicle. Whilst I note that she and her family intend to move nearer I have no details for the timescale or location, or whether it is a realistic proposition. Furthermore, the relocation of a second unrelated business has no bearing on the appeal before me, which has been determined on its own merits on the basis of the information before me.

Conclusion

20. For the reasons set out, having considered the development plan as a whole and all other relevant considerations, I conclude that the appeal should be dismissed.

KL Robbie

INSPECTOR