



Appeal Decision

Site visit made on 5 November 2024

by N Duff BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2024

Appeal Ref: APP/E2340/W/24/3344367

Land at Heights Lane, Fence, Burnley BB12 9JF

- 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 Mr and Mrs Mark Jones of Dubliner Farm Ltd against the decision of Pendle Borough Council.
 - The application Ref is 23/0775/FUL.
 - The development proposed is proposed agricultural building.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I am aware that there are ongoing enforcement matters at the site. These are outside of this appeal and I have considered the scheme on its own merits.
3. An additional plan has been submitted with the appeal which provides a detailed floorplan of the proposed building. I am satisfied that the Council and third parties have had an opportunity to view and comment on the plan at the appeal stage, and therefore third parties would not be prejudiced by my taking it into account.

Main Issues

4. The main issues are:
 - i) The effect of the proposed agricultural building on the character and appearance of the surrounding countryside, having particular regard to the location of the site within the Forest of Bowland National Landscape; and
 - ii) Whether there is an agricultural need for the proposed building, having regard to the farming activities at the site.

Reasons

Character and appearance

5. The site is a modest sized field located on the corner of Heights Lane and Noggarth Road. Located within the Forest of Bowland National Landscape and the open countryside. The field is a rectangular strip of land with the long side running uphill along the boundary with Heights Lane. From the northern part of the site, long range views are achieved over the Forest of Bowland National Landscape and the field itself is very open in character with low boundary

treatments giving full visibility of the field. A public footpath runs alongside the northern side of the site to fields beyond. The surrounding area comprises an open and attractive pastoral landscape, which is relatively devoid of built development.

6. At the time of my site visit a timber clad mobile home was located towards the southern part of the field, together with what appeared to be a relatively newly constructed timber field shelter, located in the middle of the field. There were several sheep grazing and some horses. There were some incidental water containers pepper potted around the field along with some equipment and a horse trailer.
7. The proposal is for a large agricultural building of significant height proposed to house livestock, feed, bedding and machinery and tools. The building would be constructed with the form of a modern agricultural building using appropriate materials. The proposal shows a small area of planting around what is described as a farmyard area. The building would be positioned at right angles to the hill slope approximately two thirds down the length of the field, away from residential properties to the north.
8. The minimal landscaping that exists, appropriately reflecting the character of the landscape, means that the proposed building would be visible from many vantage points, around the site and further afield. Particularly as a public footpath runs adjacent to the field and through fields beyond. The open setting therefore increases the visibility of the proposed building. This, together with the height and scale of the building its elevation from Noggarth Road, the span, juxtaposition on the site and its relatively isolated position would result in a highly visible structure in the landscape that would appear incongruous, and cause harm to the character and appearance of the surrounding countryside.
9. The Development in the Open Countryside Supplementary Planning Guidance (SPG) states that permission for agricultural buildings will be granted where they are adjacent to existing farm buildings, avoid skyline locations and are built along contours rather than across a slope. In this case, the building is relatively isolated, save for a shelter and timber clad mobile home on site. The location of the building when viewed from the top of the site would interrupt the skyline when looking to the south, whilst the proposed building would be located across the slope, appearing incongruous in the landscape interrupting long range views. The proposal would therefore be contrary to the SPG in these regards.
10. For the reasons mentioned the proposed development would have a harmful impact on the character and appearance of the surrounding countryside and would not conserve or enhance the scenic beauty of the Forest of Bowland National Landscape. The proposal would therefore be contrary to policies ENV1 and ENV2 of the Local Plan for Pendle Core Strategy (2015) (CS) which between them require great weight to be given to conserving the Forest of Bowland's landscape and scenic beauty. In addition, the policies require developments to be in scale with, and have respect for their surroundings and to not detract from the natural beauty of the AONB (Forest of Bowland National Landscape) by way of their siting, size, design and appearance.
11. The proposal would also be contrary to the guidance within the National Planning Policy Framework (Dec 2024) (The Framework) which states that at

paragraph 189, great weight should be given to conserving and enhancing scenic beauty in National Landscapes and that the scale and extent of development within these areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

Agricultural need

12. The site is currently being used for agricultural purposes as pasture land for the grazing of sheep, alongside horses and some incidental storage of equipment that complements this use. The evidence states that site has a county parish holding (CPH) number and the appellants are registered farmers.
13. The appellant proposes to graze a total of 16 sheep on the land, comprising 15 ewes and 1 ram. The evidence provided indicates that in order for the appellant to adequately care for the livestock, it must uphold the five freedoms which are a fundamental requirement of the Farm Animal Welfare Council, which are listed in the DEFRA Code of Recommendations for the Welfare of Livestock: Sheep (DEFRA Code) as; freedom from hunger and thirst; freedom from discomfort; freedom from pain, injury or disease; freedom to express normal behaviour and freedom from fear and distress.
14. The proposed building is to accommodate sheep during lambing including an isolation area, area for feed and bedding storage and secure machinery storage. As part of the evidence provided a plan shows how the building will be used and for what purposes within. This does demonstrate where sheep will be kept, where vehicles and tools will be securely stored and where feed and bedding would be stored. The area of the proposed building measures approximately 125sq.m.
15. Having regard to the accommodation of the livestock, the sheep are Lonk sheep, a hardy hill sheep breed. The proposed building is to accommodate ewes when giving birth, and during extreme weather conditions. The enclosed environment would also allow the appellants to observe the sheep to ensure continued welfare. The building would also provide a covered area should the animals require veterinary treatment, and for routine management. The amount of space required for the sheep if all were indoors at the same time would be approximately 33sq.m as required by the standards set out in the DEFRA code.
16. With regard to the storage of feed, straw and hay, the evidence provided does not demonstrate the quantity of feed, hay and straw that would need to be stored to provide for the number of sheep, or how frequently deliveries are made, in order for it to remain fresh, usable and not harmful to the sheep. Just that bales would be stacked. Due to the breed of sheep being described as a hardy hill sheep, I have no detailed evidence to suggest how long animals such as these need to be kept indoors in order to uphold the five freedoms and whether storage of bedding would need to be seasonal. Similarly, I have no evidence to demonstrate the quantity of feed or hay that is required to supplement the diets of a relatively small flock such as this.
17. Therefore, whilst it is clear from the evidence what would be stored/housed within the agricultural building, due to the absence of information relating to quantities of feed, hay, and straw I am not satisfied that a building of this

scale is required to fulfil the needs of the holding. Or indeed if some functions, such as storage for feed need to be fulfilled on this site and whether feed could not be provided when checking on the animals, especially given the availability of other land leased by the appellant as demonstrated in the evidence.

18. A reasonably sized wooden shelter is located on the site, and whilst I have no information of the planning status of this building, I similarly have no evidence as to what steps have been made to utilise this and the other building onsite to meet some of the needs of the appellant.
19. Even though other land is leased by the appellant, some distance away, the flock of sheep is small and the growth of the flock would be restricted in the future by the size of this site. Therefore, based on the evidence before me, a building of this size would appear to be disproportionate to the size of the agricultural operation on site. Whilst I am aware of what items would be stored in the building and some aspects of need, such as accommodation of livestock and secure storage of machinery, for the reasons mentioned I am unconvinced, based on the evidence submitted and from my observations on the ground, that a building of this size is needed for this scale of agricultural activity at the current time to fulfil the functions required by the appellant.
20. Therefore, for the reasons mentioned I conclude that the agricultural enterprise does not justify the agricultural building as the need for the building has not been sufficiently demonstrated. Accordingly, the proposed development would be contrary to policy ENV1 of the CS which states that proposals will be considered on a needs basis, and should be in scale with their surroundings.

Other Matters

21. A Grade II Listed building, the Height Farmhouse, a late 18th century or early 19th century building is located close to the appeal site on Heights Road, to the north in an elevated position. I am satisfied that due to the location of the proposed development being located a significant distance away to the southern portion of the field, together with the substantial intervening landscaping around the curtilage of Height Farmhouse and road between the sites, that the proposed building would not detract from the significance of the designated heritage asset, insofar as it relates to its setting.
22. The proposal includes the addition of three bird boxes on the proposed building, together with the appellant working with the Forest of Bowland National Landscape team to increase biodiversity on site through tree planting. Whilst this does weigh in favour of the proposed development, and would increase biodiversity on the appeal site, it does not outweigh the harm identified in the main issues.

Conclusion

23. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons given the appeal is dismissed.

N Duff
INSPECTOR

