



Appeal Decision

Site visit made on 18 February 2025

by **H Senior BA (Hons) MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 July 2025

Appeal Ref: APP/B2355/W/24/3352830

Far Brex Farm, Coal Pit Lane, White Well Bottom, Rawtenstall OL13 8NN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mrs Sarah Makin against the decision of Rossendale Borough Council.
 - The application Ref is 2024/0272.
 - The application sought planning permission for change of use from a private swimming pool to a commercial swimming pool without complying with a condition attached to planning permission Ref 2021/0533, dated 9 December 2022.
 - The condition in dispute is No 1 which states that: the use hereby permitted shall be for a limited period being the period of 2 years from the date of this decision.
 - The reason given for the condition is: to allow for an assessment of whether that is correct in practice.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Permission was granted on appeal¹ for the change of use from a private swimming pool to a commercial swimming pool with a condition limiting its use for a temporary period of two years. This appeal seeks permission to carry out the development by varying condition 1 to remove the temporary period of operation.
3. The main issue is whether the grant of a permanent planning permission for the use of the private swimming pool as a commercial swimming pool is appropriate, having regard to the development plan and other material considerations.

Reasons

4. The appeal site lies outside the urban boundary and is accessed via Coal Pit Lane, which is used as a narrow unadopted road and in parts as a footpath and bridleway. The swimming pool is adjacent to a residential property at the end of Coal Pit Lane. Due to its isolated position, access is likely to be by private car as the nearest bus stop is a considerable walk away.
5. The use of the pool for private lessons was also subject to a further condition limiting them to between the hours of 16:00 and 19:00 on Tuesdays, Wednesday and Thursdays during term time within the Council's administrative boundaries with a 30 minute changeover period between lessons.

¹ APP/B2355/W/22/3298302 and APP/B2355/C/22/3298305

6. The opening times of the swimming pool for lessons generates up to 30 car trips per day. There may be occasions when pupils arrive together through car sharing to reduce the number of trips. However, there is no substantive evidence of this before me. Whilst there is no substantive evidence of accidents or congestion on Coal Pit Lane, due in part to the 30 minute changeover condition, the use of the lane cannot be controlled to only the swimming pool users at the times of the lessons. The lane is also the route of a bridleway and footpath and forms the access to a number of private dwellings along its length. Users of the lane would therefore include walkers, horse riders and cyclists as well as residents of, and deliveries to, the dwellings, which may add to the level of use of the road increasing the potential for accidents and other conflicts.
7. The National Planning Policy Framework (the Framework) supports a rural economy in areas beyond existing settlements as long as proposals do not have an unacceptable impact on local roads. However, in this case, the pool is located in an unsustainable location and accessed via a narrow unadopted road.
8. I acknowledge the appellant's personal circumstances, including that she is a qualified swimming teacher, she has been nominated for business awards and that her providing such a facility within the urban boundary is unlikely. However, this does not preclude other similar facilities, providing a comparable type of small group setting swimming lessons, being provided in a more sustainable location.
9. Whilst there is some evidence relating to the availability of swimming lessons, as well as waiting lists at swimming pools in the vicinity of the appeal proposal, I note that the interested parties have also submitted alternative evidence. It is clear that there is conflicting evidence on the levels of waiting lists for children's swimming lessons in the local area and beyond and also that the demand for lessons varies over time. I do not therefore consider that the need for swimming lessons in this unsustainable location has been satisfactorily demonstrated sufficient to allow the grant of a permanent planning permission.
10. I acknowledge that swimming is a vital life skill and that there are areas of open water in the locality, however, these matters do not outweigh the conflict I have found with the development plan.
11. I conclude that the grant of a permanent planning permission for the use of the private swimming pool as a commercial swimming pool is not appropriate, having regard to the development plan and other material considerations. It would conflict with Policies SD1, SD2, TR1, and SS of the Rossendale Local Plan (2021) (LP) which together and amongst other matters, seek to ensure that development takes place within the Urban Boundary and is located where the need to travel will be minimised. It would also conflict with the aims of the Framework.
12. Policy TR2 of the LP relates to the provision of new and improved footpaths and bridleways. Its provisions are not directly relevant to this appeal.

Other Matters

13. In considering this appeal, I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010, which requires me to consider the need to eliminate unlawful discrimination, to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Protected characteristics include a person's disability.

14. The appellant states that the swimming facility provides for children who are overanxious in larger swimming groups which inhibits their ability to learn to swim and that swimming is a lifesaving skill.
15. In this regard, the above exercise must be weighed against my conclusion on the main issue that a permanent planning permission for the use of the private swimming pool as a commercial swimming pool is not appropriate, having regard to the development plan and other material considerations.
16. I am sympathetic to the needs of the appellant and the circumstances in which they find themselves and agree that swimming is a necessary life skill. However, even if I were persuaded, based on the information before me, that the appeal proposal represents the only option to provide swimming lessons for overanxious children in the area, there is no mechanism before me to ensure that only such children are taught in the swimming facility.
17. In this case, and for the reasons set out, a refusal of the appeal would be a proportionate and necessary approach to the legitimate aim of ensuring that significant harm is not caused to these matters. Indeed, the protection of the public interest cannot be achieved by means that are less interfering of the human rights of appellants. Therefore, while I acknowledge the personal circumstances of the appellant, I conclude that these are not matters which outweigh the harm that is caused by the development.

Conclusion

18. 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. For the reasons given above the appeal should be dismissed.

H Senior

INSPECTOR