



Appeal Decision

Hearing held on 16 May 2024

Site visit made on 16 May 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2024

Appeal Ref: APP/T2350/W/24/3336809

Quarry Bank, Abbott Brow, Mellor, Lancashire BB2 7HU

- 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 Kevin Taylor against the decision of Ribble Valley Borough Council.
 - The application Ref is 3/2023/0517.
 - The development proposed is the use of residential caravan for residential purposes with a specific occupancy condition attached.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The caravan which is proposed to be occupied has been installed on the site but is not currently used for residential purposes.
3. An amended location plan has been submitted with the appeal. The appellant has commented that this was with a view to address the Council's concerns in relation to the effect on character and appearance. At the hearing, the Council commented that they have had regard to the amended plan but highlighted that it had not been considered by third parties and it brought the residential use closer to the public footpath.
4. The caravan relating to the appeal is consistent on both the plan as initially considered by the Council, and the plan submitted with the appeal. The concerns of all parties are clear in the evidence, and I do not consider that the interests of any interested party would be prejudiced by me determining the appeal based on the amended plan.

Main Issues

5. The main issues are 1) whether or not the appeal site is in an appropriate location for housing development having regard to development plan policy and the settlement strategy, 2) whether or not the appeal site is in a sustainable location for housing development having regard to travel and accessibility, 3) the effect of the development on the character and appearance of the area, and 4) other considerations including personal circumstances.

Reasons

Whether or not appropriate location for housing development having regard to development plan policy and the settlement strategy

6. The appeal site comprises land, buildings and structures that were formerly part of a quarry for which operations have ceased and been abandoned. There are a small number of buildings nearby, including some dwellings.
7. Key Statement DS1 of the Ribble Valley Core Strategy (2014) ('the Core Strategy') identifies the locations where the majority of new housing development will be focused. These locations comprise the principal settlements, Tier 1 Villages which are the more sustainable of the defined settlements, and Tier 2 Villages which are the less sustainable of the defined settlements where development will need to meet a proven local need or deliver regeneration benefits.
8. The appeal site sits between Mellor and Osbaldeston which are identified in Policy DS1 as Tier 1 and Tier 2 Villages respectively. The site is not, however, within any of the identified settlements and is therefore within the open countryside. This is a matter of agreement between the parties.
9. Policy DMH3 of the Core Strategy specifically deals with dwellings in the open countryside. The policy outlines how residential development in the open countryside will be limited to a number of given exceptions. The appeal development does not compromise one of the given exceptions.
10. The aim of this policy is to protect the open countryside from sporadic or visually harmful development, which is a high priority of the Council, and is necessary to deliver both sustainable patterns of development and the overarching core strategy vision. It was further put forward at the appeal that the settlement strategy is also to ensure that residential developments are close to shops and services.
11. The proposed development would therefore not be in an appropriate location for a residential property and the development would be contrary to Policy DMH3 of the Core Strategy as set out above. It is agreed between the parties that the development is contrary to this policy.

Whether or not the appeal site is in a sustainable location for housing development

12. The appeal site has an existing access from Abbott Brow. Near to the junction with the A59 there is a public house and a petrol filling station which includes a small convenience store. There are also bus stops located here. I observed that the road was very busy at the time of my afternoon site visit and there are no designated pedestrian crossing points. Although the speed limit is 30mph for this section of the road, due to the volume of traffic and the lack of crossing points, it is not particularly harmonious for pedestrians.
13. There is no footpath leading to the site, with only a short section of footpath leading from the A59 adjacent to the car dealership. To access these local facilities, it would be necessary to walk in the roadway where there is also no street lighting. Due to the risk of collision with vehicles, this would represent an unsafe and unappealing pedestrian environment, particularly during the hours of darkness which would be greater at wintertime.

14. The reality is that the occupant and their visitors would be likely to undertake most journeys by car. This is the least sustainable option. It was outlined at the hearing how the proposed occupant, Mr Howard, mainly walks and cycles. I have considered the pedestrian environment above and given reasons why it is not appropriate. The cycling environment is arguably slightly less hazardous; however, it would be unreasonable and unenforceable to require that this is the sole means of travel.
15. Reference was made to a bus route running on Abbott Brow. At the hearing, the Council suggested that this is a school service. The appellant's evidence states that the service is two-hourly. Either way, I have not been presented with definitive evidence relating to frequency or the location of bus stops for this service. On the basis of the evidence before me, the service, does not however appear frequent.
16. I acknowledge that people may walk in the roadway at present, and I observed this taking place during my site visit. Equally however the lack of appropriate facilities is likely to dissuade walking, as Mr Willcock also highlighted at the hearing that his clients do not walk in the road as they consider it unsafe. The fact that there is no evidence of collisions does not lead me to conclude that there would be a safe and sustainable means of accessing the site.
17. I therefore conclude that the site is not in a sustainable location for housing development in terms of ensuring the need to travel is minimised and that travel is undertaken by the most sustainable modes. The proposed development would be contrary to Policy DMG3 and Key Statement DM12 of the Core Strategy which requires considerable weight to be given to the provision for access to the development by pedestrians and the availability and adequacy of public transport. The development would also be contrary to the aim that new development should be located to minimise the need to travel and should incorporate good access by foot and have convenient links to public transport to reduce the need to travel by private car.
18. The development would also be contrary to the requirement of the National Planning Policy Framework (2023) ('the Framework') that applications ensure that appropriate opportunities to promote sustainable transport modes can be taken up, given the type of development and its location, and that safe and suitable access to the site can be achieved for all users.

Character and appearance

19. The appeal site is located in a predominantly rural environment. After the crossroad junction with the A59, the area becomes quite suddenly distinctly rural in character, where there is an emphasis on traditional rural stone buildings such as Quarry Bank house and the buildings opposite, although Lower Abbott Bungalow departs from this trend.
20. The appeal site has had a range of historic uses, most notably its historic quarry use. It much appears, however, to have blended into the landscape containing the remnants of buildings associated with its former uses.
21. The caravan which is proposed to be occupied is cream coloured with a timber skirt. It is positioned on a prominent and elevated part of the site. When viewed from the roadside, there is a large amount of landscape screening which obscures views of the caravan, however it is likely that the caravan

would be more visible during the autumn and winter months when the landscaping is not in leaf.

22. There is a public right of way to the southern boundary of the site. Although there is hedge planting in between the footpath and the site, I observed that there are gaps in places which allow visibility of the caravan, even during my late springtime site visit.
23. In terms of its design and materials, the caravan is undoubtedly out of character with the built form of the surrounding rural environment. It appears in somewhat isolation and as an alien feature in the surrounding context. The impact of the development on the character and appearance of the area would bleed into the surrounding open countryside given the size of the appeal site extending significantly beyond the footprint of the caravan. Such a large domestic curtilage would bring inevitable domestic paraphernalia which would erode the rural character. This would also include the parking of vehicles and outbuildings. This incursion into the open countryside would be highly apparent, eroding the rural character of the local landscape.
24. The presence of the existing landscaping, and any further landscaping which could be secured by condition would mitigate the impact when viewed from the roadside and the public right of way. Such a reduction in visibility does not, however, remove the harm in its entirety.
25. I therefore find that the proposal causes a moderate degree of harm to the character and appearance of the area. The proposal is therefore contrary to Policies DMG1 and DMG2 of the Core Strategy. These policies require, amongst other things, that development be of a high standard of design, with particular emphasis placed on visual appearance and the relationship to surroundings including impact on landscape character, and that within the open countryside, development will be required to be in keeping with the character of the landscape, acknowledging the special qualities of the area by virtue of, amongst other things, its design, materials and siting.
26. The development would also be contrary to the requirement of the Framework that decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside.

Other considerations

27. Planning permission¹ was granted in 1982 for the proposed siting of a caravan as a permanent residence. Condition 2 of the consent states that the permission shall enure for the benefit of Mr J Hardicker only and for no other person. The evidence outlines that Mr Hardicker, who was associated with the former quarry operation, was at the time residing at the appeal site in 'extremely substandard' accommodation and had done so since 1949. At the time, the Council stated that they would not normally allow a residential dwelling in this location but had due regard to the applicant's personal circumstances and granted planning permission on this basis, allowing him to continue to reside at the site.
28. The evidence states that Mr Hardicker passed away in 1989. The planning permission does not specifically require the caravan to be removed, however

¹ Planning Application Ref: 3/82/0028/P

under the terms of the permission, *both* the siting of the caravan *and* its use as a permanent residence are for the sole benefit of Mr Hardicker. Therefore, it is not solely the occupation of the caravan that is for the benefit of Mr Hardicker, but also its very siting. Due to his passing, the terms of the consent can no longer be fulfilled. In the intervening period, there has not been an attempt to establish any lawful use of the site or siting of a caravan.

29. Although the 1982 consent does not require the caravan to be removed, the fact is however, that the caravan currently on the site is not the same caravan that was granted consent in 1982. Condition 3 of the consent requires the siting of 'the caravan' to be agreed, suggesting that it relates to a single and specific installation as opposed to an ongoing, in perpetuity, consent. The condition granting consent solely to Mr Hardicker would support this notion.
30. Whilst it is not within the confines of this appeal for me to lawfully rule on the current (or former) status, the facts are that given the siting and occupancy of a caravan were for the sole benefit of a now deceased individual, combined with the fact that that caravan has since been removed, the current caravan does not represent some form of continuation of the consent, which in my view, has fallen away. Were this to have been the case, the appellant would no doubt have sought to remove or vary the condition under S73² to allow for occupancy for someone other than Mr Hardicker. Whilst it is a material consideration in the appeal, it does not represent a realistic fallback, and I give it limited weight.
31. My conclusions are however, for the purposes of the current appeal only and do not prejudice any future application for a lawful development certificate and/or, where relevant, any enforcement proceedings.
32. The appellant's case places great significance on the personal circumstances of the intended occupant, Mr Craig Howard. At the hearing, it was outlined that there are plans to demolish Mr Howard's current residence, which also has no central heating.
33. At the hearing it was outlined that Mr Howard has a support network of friends and acquaintances who reside nearby who assist him with day-to-day matters. I also heard how he was born and raised in the countryside and that an urban environment would not suit him, nor would it provide the assistance he currently receives. It was also outlined how the proposal extends beyond a mere desire or aspiration to live in this rural area. Mr Howard also works part time in the local garage.
34. The caravan would provide rent-free accommodation for Mr Howard and whilst there is limited substantive evidence, I acknowledge the comparable financial difficulty that would likely exist in securing alternative accommodation in the area. It was however confirmed at the hearing that there had not been any contact with the Council or Housing Agencies in terms of securing alternative means of accommodation. The Council also confirmed that Mr Howard was not registered with their Housing Needs Team. I therefore would be unable to conclude with any certainty that the caravan provides the sole means of accommodation, even if it is clearly the appellant's and Mr Howard's preferred means of accommodation.

² Section 73 of the Town and Country Planning Act 1990

35. Therefore, whilst the case for the occupation of the caravan by Mr Howard was sincerely and heartfully made, and I sympathise with his situation, I am not, however, persuaded that alternatives have been fully explored that would not result in such a clear conflict with the development plan.
36. I acknowledge that a 'personal permission' was granted in 1982, and this has been suggested could be a condition on this proposal were the appeal to be allowed. There are material differences in the circumstances, not least the significant time lapse and the change in planning policies at both a local and national level. The Planning Practice Guidance also states how planning permission usually runs with the land and it is rarely appropriate to provide otherwise. It continues that there may be exceptional occasions where development that would not normally be permitted may be justified on planning grounds because of who would benefit from the permission. For example, conditions limiting benefits to a particular class of people, such as new residential accommodation in the open countryside for agricultural or forestry workers, may be justified on the grounds that an applicant has successfully demonstrated an exceptional need.
37. I have also been referred to a previous planning appeal³ at the site. In that appeal, the proposed development was for the conversion of the existing smithy building to a one-bedroom dwelling. At the hearing, it was confirmed that the intended occupant of that dwelling was also Mr Howard, as in the current appeal. In that appeal, the Inspector acknowledged that the dwelling would provide affordable housing for a local resident, and whilst they appreciated that it would have the potential to meet their requirements to reside in this rural location, there was no conclusive evidence that the need could not be met elsewhere. The Inspector found that the development was contrary to policies intended to protect the countryside.
38. I acknowledge that the current appeal differs insofar that the development relates to a caravan as opposed to a conversion, and that the same evidence may not have been before the Inspector given the different procedures. Nevertheless, the similarities are such that it is a material consideration of significant weight.
39. I have also considered Mr Howard's personal circumstances in accordance with the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010 which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it.
40. Although the provision of a dwelling for Mr Howard, in light of the personal circumstances, is a material consideration that weighs strongly in favour of the development, it does not automatically follow from the PSED that the appeal should succeed. Therefore, whilst I have given weight to these matters, they do not outweigh the harm that would be created were the appeal to be allowed.
41. In respect of the above, a refusal of planning permission is a proportionate and necessary approach to the legitimate aim of avoiding the development of housing in the open countryside, in unsustainable locations with poor

³ APP/T2350/W/22/3306104

accessibility that may also cause harm to the character and appearance of the area.

42. I have also had regard to rights conveyed within the Human Rights Act. I acknowledge that Mr Howard's current living arrangements are set to change. This is not however as a direct result of the outcome of this appeal. Whilst I do not consider that a temporary planning consent would be appropriate, the Council confirmed at the hearing that any subsequent enforcement action that may occur would take into account the availability of alternative accommodation for Mr Howard should this be necessary.

Other Matters

43. At the hearing, Mr Wilcock raised concerns in relation to highway safety and the vehicular access to the site. The Highways Authority, however, did not object to the application on the basis that the access has previously been used for residential purposes. The matter of highway safety therefore did not form a reason for refusing to grant planning permission. I observed on my site visit that visibility up Abbott Brow when exiting the site in a forward direction was obscured. This was mainly due to overgrown landscaping. It is unclear whether or not the removal of this, to improve visibility, is within the appellant's control. However, given my findings on the main issues, it has not been necessary for me to consider this matter further.
44. Concerns relating to land contamination were also discussed at the hearing. Mr Willcock produced correspondence and monitoring results from Lancashire County Council relating to former landfill at Abbott Brow. I adjourned the hearing to allow both main parties to consider, and respond, to the new evidence.
45. In considering the evidence, the Council commented that as the proposal is for a caravan only, and no real development is occurring (involving disturbing ground, etc.) they are of the opinion that there would not be a requirement for a contamination investigation from a contaminated land point of view. It was however highlighted that if any development was to take place that involved breaking ground (creating hard standing, foundations for any buildings, even a garden) which would possibly create a pathway to any possible contamination, then further investigations should take place. In summary, the Council remain of the view that a condition would not be warranted but accept that any proposed changes to ground conditions would need to be controlled or require further investigations and that an appropriate condition can be attached to any approval to control this.
46. The appeal site covers an area significantly greater than the footprint of the caravan. Allowing the appeal would extend the residential curtilage across an area of land where the ground conditions are not known. Use of the land for residential purposes has the potential to result in ground disturbance such as from gardening. Whilst I would have had reservations about leaving the matter to be satisfied by planning condition, given that I am dismissing the appeal for other reasons, it has not been necessary for me to reach a conclusion on the matter.

Planning Balance and Conclusion

47. Section 38(6) of the Planning and Compulsory Purchase Act 2004 outlines that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
48. The Government's objective as set out in the Framework is to support sustainable housing growth. The proposed development would result in a slight increase in the Council's overall housing number and would also bring an additional resident to the area who would contribute to the local economy. I give the personal circumstances of Mr Howard significant weight in favour of the proposed development.
49. However, the conflict with the development plan policy which seeks to prevent such development in the countryside and ensure development is steered towards sustainable locations, when combined with the inappropriate accessibility and sustainable travel options, and the harm to the character and appearance of the area, attracts greater negative significant weight that outweighs the personal circumstances and benefits associated with the proposed development.
50. The proposed development would therefore conflict with the development plan and there are no identified other considerations that outweigh this conflict.
51. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Trevor Hobday	Trevor Hobday Associates
Kevin Taylor	Appellant
Kevin Crook	For the appellant and Mr Howard

FOR THE LOCAL PLANNING AUTHORITY:

Kathryn Hughes	Ribble Valley Borough Council
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INTERESTED PARTIES:

Craig Howard	
John Willcock	Willcock Consulting

DOCUMENTS (received at or after the hearing)

- i. Correspondence from Richard McCann (Lancashire County Council) and Monitoring Results (dated 13 May 2024)
- ii. Response from Kathryn Hughes and Daniel Sutcliffe (Ribble Valley Borough Council) to the above (dated 20 May 2024 and 21 May 2024 respectively)
- iii. Consultation response from Daniel Sutcliffe to previous application (dated 16 October 2015)
- iv. Correspondence from Kevin Taylor to Richard McCann regarding above (dated 18 May 2024)
- v. Response from Kevin Taylor to the above (dated 29 May 2024)
- vi. Response from John Willcock to the above (dated 6 June 2024)