

Appeal Decision

Hearing held on 11 April 2017

Site visit made on 11 April 2017

by A A Phillips BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 25 May 2017

Appeal Ref: APP/M2325/W/17/3166503

Land adjacent to Bali Hai, West Moss Lane, Higher Ballam, Lytham St Annes, Lancashire FY4 4NH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Beesley against the decision of Fylde Borough Council.
 - The application Ref 16/0183, dated 9 March 2016, was refused by notice dated 6 July 2016.
 - The development proposed is the erection of a detached two storey dwelling house with integral garage for use as a rural workers dwelling including formation of access track from West Moss Lane and external parking area.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. I have used the agreed description of the proposal as above rather than the description used on the planning application form as it more accurately describes the proposal before me.
3. I have been referred to a number of policies in the emerging Fylde Local Plan Publication Version June 2016. However, although the examination has started it has been adjourned and as such the policies in it may be subject to change. Therefore, I can only give limited weight to these emerging policies.

Main Issues

4. The main issues are:
 - i. Whether, having regard to local and national policy that seeks to avoid isolated new homes in the countryside there is an essential need for a rural worker to live permanently at a new dwelling at or near to their place of work.
 - ii. Whether the dwelling is of a size commensurate with the essential requirement and could be sustained in the long term by the enterprise.
 - iii. The effect on the character and appearance of the area.
 - iv. The effect on nearby protected sites with particular regard to overwintering birds.
-

Reasons

5. At the time of determining the planning application it was considered that the Council did not have an up to date five year supply of housing land. However, subsequently, on 28 February 2017 the Council issued an Interim Five Year Housing Supply Statement which confirms that the Council does have an up to date five year supply of housing land. This has been the subject of discussion at the first part of the Local Plan Examination and the Inspector is yet to report on whether the Local Plan process can move to the next stage on that basis. However, the evidence before me demonstrates that the Council does currently have an up to date five year supply.

Essential Need

6. Policy SP2 of the LP relates to development in countryside areas and states that in such areas development will not be permitted except where proposals fall within one of a number of categories. These include development essentially required for the purposes of agriculture, horticulture, forestry or other uses appropriate to a rural area. Therefore, unless it has been demonstrated to be essentially required residential is not an appropriate use.
7. Policy SP10 relates specifically to agricultural workers dwellings and states that new permanent dwellings required in connection with agriculture will only be permitted on existing well-established units and subject to specific criteria. This includes there being a clear functional need which could not be met by an existing dwelling or other accommodation on the unit or in the general locality, the need relates to a full time worker and the unit and agricultural activity concerned is profitable and well-established. Policy SP12 of the LP states that new agricultural dwellings will only be permitted which are of a high standard of design and dwellings located in an isolated location away from the existing farmstead will not be permitted. Where possible, access should be taken from existing farm drives. Policy SP14 of the LP specifies that planning permission will not be granted for a new permanent dwelling in the countryside in relation to small scale commercial operations, including riding stables and equestrian centres. HL2 of the LP states that planning applications for housing will only be permitted where the development would be in keeping with the character of the locality, is in a sustainable location having regard to the availability of facilities and services, among other objectives.
8. With regard to national policy, Paragraph 55 of the Framework states that isolated new homes in the countryside should be avoided in the absence of special circumstances, such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. Therefore, there is a requirement to consider both the physical need for someone to be on site at most times and also whether the business in question has reasonable long term prospects so as to be regarded as permanent.
9. The appeal site is located off West Moss Lane adjacent to an existing residential property known as Bali Hai. It is rectangular in shape and has direct vehicular access off West Moss Lane. There are open fields around the site with a row of residential properties to the east which form the small hamlet known as Higher Ballam. Near to the site and within the ownership of the appellant are some agricultural type buildings, including some which have been converted to stables, storage and workshops used by the appellant in connection with the equestrian and agricultural contracting businesses.

10. According to the LP the site is situated outside of any settlement and is therefore within land designated as countryside. Lytham is the closest settlement and is approximately 2.1 kilometres from the appeal site.
11. The evidence presented to me confirms that the appellant is employed full time elsewhere whilst his wife is now retired and spends a great deal of her time at the stables near to the appeal site undertaking a range of tasks associated with the horse livery and breeding horses. The appellant also undertakes agricultural contracting work and carries out machinery repairs and servicing. From time-to-time some casual labour is employed for the equestrian business and contractors are sometimes brought in to train and school horses.
12. The enterprise also involves taking a hay or haylage crop from land adjacent to the appeal site and from other land which may be rented for that purpose. Some of the crop is fed to the horses and some is sold. The appellant carries out a range of work at the enterprise and he has also invested significantly in agricultural machinery which appears to be mainly used off-site in his employment as a part time agricultural contractor. Therefore, I do not consider the agricultural contracting side of the business to necessitate a full time permanent presence or residence on site it.
13. At the time of my site visit there was a total of eight stables on site used for a mix of full livery and 'DIY' livery. There were currently four full liveries on site with the remaining stables being used for 'DIY' livery purposes. The appellant has confirmed that the last horse births at the site were in 20014 when two horses were born. Previous to that one horse was born in 2012. Therefore, in the past five years there have been a total of only three horses born at the site. The equestrian business has operated on the site along these lines for the past nine or so years.
14. I understand that properties previously associated with the farm; namely West Moss Farm and Bali Hai, are no longer available to the appellant due to family circumstances and therefore it has been necessary for him and his family to live elsewhere for the past ten years. The main reason for regular presence on site and the need for a permanent residence adjacent to the site is animal welfare including monitoring sick horses and the need for there to be an on-site presence around the time a horse is due to give birth. However, I understand that horses generally give birth without human intervention and the appellant confirmed at the Hearing that there has been no human presence at the birth of any foals at the enterprise. Equipment such as birthing alarms could also be used to monitor horses and could alert the appellant if an emergency situation arose.
15. I also observed that there is a CCTV system at the stables site and that system could be used or modified to monitor horses. The appellants currently live in St Annes which is between approximately ten to twenty minutes' drive from the site and therefore if their presence was required they could get there in a reasonable timescale. However, an on-site presence at the site would not satisfy the welfare of all the horses all year round because at certain times of the winter some horses may be sent elsewhere at Freckleton, Wrea Green, Elswick and Kirkham for grazing.
16. The appellant has also identified security and personal safety reasons for requiring a permanent residence on site. There have been two incidents reported to the Police, neither of which have related to the appellant's

property, but rather suspicious behaviour near to the site. Theft of hay and straw has also occurred and the appellant stated at the Hearing that rural crime is currently at its peak. However, given that there have only been two reports of crime to the police, only anecdotal information regarding crime and intimidation rather than specific evidence of crime at the appeal site and no records of crime have been presented there is insufficient evidence to demonstrate that an on-site presence is required for the protection of property and in the interests of the enterprise. Furthermore, other options such as using an intruder alarm, CCTV and linking such detection equipment to the appellant's existing residential property or to the Police could equally deal with the risks associated with potential crime.

17. Therefore, given the very limited number of births at the site over the past few years, the options available for surveillance of the site, the relatively small scale of the equestrian operation on the site and the lack of evidence relating to security and personal safety I do not consider that the enterprise justifies or demonstrates an essential need for a rural worker to be present on site at all times.
18. Financial information for the period April 2011 to April 2014 has been submitted as evidence of the financial viability of the enterprise. However, the information includes expenditure clearly not associated with the business such as hotel accommodation and cat food. Furthermore, the presentation of the evidence is inconsistent and unclear and appears to exclude important financial information relating directly to the operation such as salaries, utilities and insurance. Income from the sale of horses, livery, the sale of other items and a loan for machinery appear not to have been included. The appellant has stated that the business does not run at a loss and there are business contracts for the coming year. However, overall there is no detailed or accurate income and expenditure information available which demonstrates the scale of the business and profitability in the business that would be able to support the current proposal in the long term. The information does not demonstrate the scale of the enterprise to justify a full time worker and it provides no comfort regarding where the money would come from within the business to construct and service the proposed dwelling.
19. No business plan has been submitted as evidence to show how the business will move forward in the future to ensure a rural workers salary can sustain the proposed development. Although the appellant intends to expand the business in the future by building more stables and a new barn, there is no information to show where the money would come from to pay for these or the level of income that may be generated for the enterprise.
20. The appellant has submitted some evidence in relation to the availability of alternative accommodation nearby which is claimed to show that suitable properties in the area are out of his price range and do not meet his desire to live on the site near to their enterprise. In response to this evidence, at the Hearing the Council stated that their research showed there to be numerous properties within half a mile of the site and others that would significantly reduce the distance between the appellant's place of residence and the site. Although the Council acknowledged that some of these properties may not be of the type desired by the appellant they may meet the needs of a rural worker in this case. The appellant also stated that they would be able to fund the build cost should planning permission be granted for the dwelling and the

family income from the farm could support them. However, on the basis of the financial information provided there is no evidence to support this claim. Furthermore, I am not convinced that there are no other suitable properties to meet the needs of the enterprise within the locality.

21. It is clear that the appellant has previously been advised by the Council to explore alternatives to building a new dwelling on the appeal site. The appellant has dismissed converting buildings within the farm yard or building a new house around one of the existing buildings adjacent to the farm yard on the grounds that the Council has previously advised that planning permission would not be granted for either. However, it is apparent that these discussions took place on an informal basis several years ago and that no formal enquiries or planning applications were ever submitted.
22. I therefore conclude that it has not been demonstrated that there is an essential need for a rural worker to live permanently at the appeal site in the countryside. As such, whilst I recognise that living on the site would mean the appellant and his wife would not have to travel to the stables the proposal would conflict with Policies SP2, SP10, SP12, SP14 and HL2 of the LP and the Framework.

Size of the proposed dwelling

23. Policy SP10 of the LP states that new permanent dwellings will only be permitted where the dwelling required is of a size commensurate with the established requirements and could be sustained by the enterprise in the long term, among other things.
24. The proposal is for a large two storey detached dwelling with an attached garage and would have a lounge, living/dining/kitchen, pantry, toilet, hall and attached garage with storage space at ground floor with four bedrooms (two en suite), store and main bathroom at first floor level.
25. It appears to me that the proposed dwelling has been designed not to meet the requirements for a permanent rural worker, but rather for the appellant and his wife and also their extended family. At the Hearing the appellant clarified that the house had been designed with particular circumstances in mind that no longer exist. It would also accommodate the residential requirements of the appellant's son who is not employed in the enterprise or any other rural activity and his family.
26. According to Paragraph 55 of the Framework, proposals for isolated new homes should be avoided unless there are special circumstances including the essential need for a rural worker. The proposal may meet the family's circumstances, but it is over sized for a rural worker's dwelling and therefore contrary to the intention of the Framework and also the adopted development plan.
27. Therefore, on this issue I conclude that even if an essential need had been demonstrated the proposal would not be of a size commensurate with any essential requirement and could not be sustained in the long term by the enterprise contrary to Policy SP10 of the LP and the Framework.

Character and appearance

28. Policy SP12 of the LP states that new agricultural dwellings will only be permitted which are of a high standard of design. Under Policy HL2 planning permission for housing will only be permitted where the development would be in keeping with the character of the locality in terms of scale and design, among other things.
29. The landscape around the appeal site is essentially flat open countryside with small and medium sized fields and scattered small pockets of woodland. There is also a row of rural properties and other dispersed farm buildings in the vicinity. West Moss Lane itself is a relatively narrow Lane which links Ballam Road to a series of rural routes and groups of agricultural buildings and properties. The site is highly visible from West Moss Lane and other wider vantage points due to the open and flat landscape.
30. The proposed two storey modern dwelling would contrast greatly with its surroundings and would stand on its own at the edge of the row of existing properties which includes Bali Hai, the adjacent bungalow. Furthermore, it would be separated from the buildings used for the appellant's enterprise. The dwelling plus its curtilage, vehicle parking areas and other domestic paraphernalia would constitute an urban form in a rural setting and be at odds with its surroundings and harmful to the character and appearance of the countryside. Although the hedgerow which bounds West Moss Lane would provide some screening I find that overall, the scheme would fail to respect its attractive rural surroundings.
31. On this issue I conclude that the proposal would be very harmful to the character and appearance of the area and would therefore conflict with Policies SP12 and HL2 of the LP and the Framework.

Overwintering birds

32. The appeal site is situated at the edge of the Lytham Moss Biological Heritage Site which is linked to the Ribble and Alt Estuaries Special Protection Area (SPA) and Ramsar site and the Morecambe Bay SPA and Ramsar site. These are important for the habitat provided for foraging wintering birds. Further to the submission of an ecological assessment which was submitted in support of a recent planning application at nearby Coppice Farm the Council's ecologist advised that subject to avoiding site works during winter months and a landscaping plan to screen the development from wintering birds, the proposal raised no concerns from an ecological perspective.
33. However, a recent appeal¹ for land at Coppice Farm on West Moss Lane referred to the same ecological survey submitted by the appellants for the current appeal. In that case the Inspector found that it had not been demonstrated that the proposal would not have significant adverse effects on the interest of the SPA to the extent that conflict was found with the development plan.
34. However, the Coppice Farm development for the demolition of existing agricultural buildings and the erection of residential development comprising ten detached houses would have significantly changed the character of that site which is surrounded by very open land, generate greater levels of activity and sterilise a large area of land which would be much less attractive for over

¹ APP/M2325/W/16/3158103

wintering birds. The current appeal site is further away from the estuary, located adjacent to existing activity generating residential development and has some existing hedge screening along its front boundary.

35. In the event of allowing this appeal imposing the conditions specified by the Council's Ecologist could be imposed to mitigate harm. I am satisfied that the circumstances are sufficiently different to the Coppice Farm case to conclude on this issue that the proposal would not have a harmful effect on nearby protected sites with particular regard to overwintering birds. Therefore, on this issue I find there to be no conflict with the Framework.

Other matters

36. The appellant has drawn my attention to several other developments in the area which have been granted planning permission by the Council. I observed some of these at my site visit. Although I had very limited information on these cases, it appears to me that none were comparable to the appeal case with respect to the type of development, location, setting, scale and planning policy context. Therefore, they have very limited relevance to the current case and I have determined the current appeal on its own merits.
37. I understand that the appellant is part of the local community and works for local farmers and residents and that the proposal would have a role in meeting the appellant's family needs. The appellant also contends that the development would allow his grandchildren to be brought up in Ballam, contribute to bringing the next generation into agriculture, encourage young people to become caretakers of the environment and experience the countryside and where food comes from. However, little weight can be given to such personal circumstances.
38. The appellant stated at the Hearing that the development will include facilities for recycling waste water and energy generation, yet there are no such proposals shown on the submitted plans. I observed on site that there is an owl box in one of the buildings and that there would be no effect on the living conditions of neighbouring residential properties as a result of the proposal.

Conclusion

39. I have found no harm with regard to the effect on nearby protected sites with particular regard to overwintering birds and there are no harmful effects on the living conditions of neighbouring properties. Nevertheless, I have found that it has not been demonstrated that there is an essential need for a rural worker to live permanently at the appeal site in the countryside and that even if an essential need had been demonstrated the proposal would not be of a size commensurate with any essential requirement and could not be sustained in the long term by the enterprise contrary. I have also found harm with respect to the character and appearance of the area.
40. Therefore, for the reasons given above and taking into account other matters raised I conclude that the proposal conflicts with the development plan taken as a whole and that the appeal should be dismissed.

Alastair Phillips INSPECTOR

