Appeal Decision

Site visit made on 13 January 2015

by Karen L Ridge LLB (Hons) MTPL

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

Decision date: 30 January 2015

Appeal Ref: APP/B2355/A/14/2216798

Land at Swinnel Brook Park, Grane Road, Haslingden, Rossendale BB4 4FN

- 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 William Flannigan against the decision of Rossendale Borough Council.
- The application Ref. 2013/0490, dated 29 October 2013 was refused by notice dated 23 January 2014.
- The development proposed is the siting of one park home and operational development and the diversion of a public right of way (footpath no. 352).

Decision

1. **The appeal is dismissed** in relation to the diversion of a public right of way (footpath no. 352).

2. **The appeal is allowed** in relation to the siting of one park home and associated operational development and planning permission is granted for the siting of one park home and associated operational development on land at Swinnel Brook Park, Grane Road, Haslingden, Rossendale BB4 4FN in accordance with the terms of the application, Ref. 2013/0490, dated 29 October 2013, subject to the following conditions:

   1) The development hereby permitted shall begin not later than three years from the date of this decision.

   2) The park home and operational development hereby permitted shall be carried out in accordance with the following approved plans: location plan FLA54/4-001 and proposed site layout plan for one additional park home FLA54/4-002.

   3) The car parking hereby approved shall be constructed and made available for use prior to first occupation of the park home hereby permitted and shall be permanently kept available for car parking thereafter.

   4) Any ground/construction works associated with the development hereby approved, including deliveries to the site, shall not take place except between the hours of 0700 hours to 1900 hours Mondays to Fridays and 0800 hours and 1300 hours on Saturdays. No construction works or deliveries shall take place on Sundays, Bank Holidays or Public Holidays.
Procedural matters

3. The appeal site comprises a small parcel of land at the southern end of a park homes site. There have been a series of planning permissions in relation to the park homes site. On 23 September 2009 the Council granted a further planning permission¹ for an extension to the site curtilage, at the southern end of the park homes site (the extended land). The land in the extension included the site in this appeal. That permission was subject to a condition removing the right to place caravans within the extended land without first obtaining planning permission.

4. The proposal has been carried out in part in that the operational development, in the form of a concrete base for the park home, has already been built. I have dealt with the appeal on this basis.

5. The Council does not take issue with the request for planning permission for the diversion of the public right of way for which a Public Diversion Order² has already been made. I can see no valid planning reasons for objecting to planning permission in relation to the diversion which effectively seeks to regularise the current position and is a minor revision to the existing footpath.

6. However, on examination of the diversion order it appears that the length of the original footpath to be diverted and the new length of footpath are outside the redline area shown on the location plan delineating the appeal site. I therefore consider that I do not have authority to grant planning permission for an act of development outside the appeal site. Since both parts of the appeal proposal, the park home and the diversion of the footpath, are functionally and physically separate I shall proceed to determine the balance of the appeal proposal. Therefore my decision shall concentrate solely on the question of the location of the park home.

7. The Council refused the planning application citing three reasons for refusal. The first two reasons related to flood risk issues and the siting of the park home in relation to Swinnel Brook. The Environment Agency (EA) state that the appeal site is in flood zone 2/3. A flood risk assessment was then submitted and during the course of this appeal the EA withdrew its objection in relation to both flood risk issues and the siting of the park home. By email dated 4 July 2014 the Council confirmed that it no longer wished to pursue the first and second reasons for refusal.

8. I have considered the flood risk assessment and the comments from the EA. The EA are now satisfied that the development is at low risk of flooding and will not increase flood risk elsewhere. Given the nature of the development, as an addition to the existing park home site, it follows that there are no other reasonably available sites for the site extension in areas at lower risk of flooding. In addition, I am satisfied that the proposal would provide some limited sustainability benefits by virtue of providing an additional park home in an accessible location and that the development is at low risk of flooding and will not increase flood risk elsewhere. The sustainability benefits outweigh the limited flood risk. As such the proposal passes the sequential and exception tests outlined in the Technical Guidance to the National Planning Policy Framework.

¹ Reference 2009/0364.
² Public Path Diversion Order 2013 made on 15 October 2013 by Lancashire County Council in relation to public footpaths 349 and 352 (parts).
9. Taking all of the above into account I am satisfied that the issues raised in the first and second reasons for refusal have been satisfactorily addressed. In particular I note that the original planning permission restricted the number of park homes across the site to no more than 55 and the appellant confirms that the additional park home which is the subject of this appeal would take the existing number of park homes to 49 units.

10. In July 2014 the Council published its response to a public consultation exercise on part 2 of its Local Plan Site Allocations and Development Management DPD. Since this occurred after the deadline for final comments and it could potentially contain information material to my determination I allowed the appellant to submit relevant extracts of the document and gave the Council 7 days to comment on the extract.

11. That leaves the third reason for refusal which is directed at the acceptability of the additional park home in this location.

Main issue

12. The main issue remaining is whether or not the park home is in an acceptable location having regard to the designation of the land and the effect of the park home on the character and appearance of the area.

Reasons

13. Swinnel Brook Park comprises around 50 park homes in Haslingden. The park home site is tucked into a narrow valley containing Swinnel Brook and is accessed from Grane Road, behind a commercial site. The appeal site comprises a small parcel of land located at the southern tip of the park home site, off the internal access road. There are existing park homes located immediately opposite and to the side of the appeal site, with a pond a little to the west. Immediately to the eastern, rear boundary of the site lies a footpath behind which is the bank to the brook and the brook itself. Further south the land falls deeper into the valley and is interspersed with self-seeded trees and other vegetation.

14. The development plan includes the Core Strategy DPD (CS). Policy 1 of this document concerns general development locations and principles. It confirms that, in accordance with Local Plan policy DS1, development within Rossendale should take place within the defined urban boundary unless it has to be located in the countryside. CS policy 17 seeks to protect Rossendale’s Green Infrastructure and policy 23 promotes high quality design and spaces whilst seeking to maintain the relationship between urban areas and the countryside. CS policy 24 sets out a series of requirements, including that development should be compatible with its surroundings.

15. The dispute between the parties regarding the acceptability of the proposal in terms of its location, centres upon the designation of the parcel of land which is the appeal site. The larger park home site is located within an area designated as Greenlands but within the Rossendale urban boundary. The appellant contends that whilst the current appeal site is located within the ’Greenlands’ it is not within land designated as countryside. The Council believes that the appeal site is outside the urban boundary and in the countryside as defined by the proposals map. The problem arises because the map is at a scale of 1:2500 and when enlarged to view a smaller area, the line appears as a thick red line on the plan.
16. I have carefully examined the enlarged section of the proposals map, the appeal site location plan in this appeal and the site location plan submitted with the earlier 2001 planning application. On the enlarged section it does appear that the appeal site falls outside the thick red line and is therefore in the countryside as delineated on the proposals map. However, the appeal site is within the site curtilage of the park homes site, given that it forms part of the extended land. Irrespective of the designation of the appeal site, it appears very much as an intrinsic part of the wider park homes site. It is distinct and apart from the land forming Swinnel Brook and the countryside further south.

17. Matters are further complicated by the provision in CS policy 1 that the urban boundary defined in Local Plan saved policy DS1 will be reviewed and where necessary amended in the Site Allocations DPD in accordance with stated criteria. One of the criteria relates to the rectification or anomalies and inconsistencies. The Council’s Site Allocations DPD confirms that changes have occurred on the ground since the boundaries were drawn or that boundaries may no longer follow distinguishable features.

18. The consultation on the Site Allocations DPD proposed minor changes to the urban boundary around the appeal site. The plan depicting the proposed changes shows the existing urban area and urban boundary and the proposed new urban area and urban boundary. This is at a much smaller scale and interestingly the appeal site appears to me to be within the urban area on both the old and the proposed designations.

19. It is difficult to come to a definitive conclusion as to whether or not the appeal site is within the urban boundary as depicted on the adopted proposals map. However, even if it is I am satisfied that there would be no material harm in allowing one additional park home to be located on the appeal site which is so evidently an integral part of the wider park homes site. As such I conclude that the proposal would be broadly in accordance with CS policy 1.

20. The appeal site is a relatively small site which clearly forms part of the wider park homes site. It is separate and distinct from the countryside to the south and the location of an additional park home in this location would not cause any material harm to the character and appearance of the surrounding area, including the countryside. I conclude that the proposal would not erode the character and appearance or the openness of the designated Greenlands and as such it is compliant with the objectives in policies 17, 23 and 24.

Overall conclusions

21. I have explained the difficulties in relation to the part of the appeal regarding the diversion of the footpath. I have concluded that the additional park home and its associated operational development is acceptable in planning terms. Since both parts of the appeal are separate and distinct I propose to issue a split decision in this case, dismissing the appeal in relation to the footpath and allowing it in relation to the park home.

Conditions

22. In the event that the appeal is allowed the Council has put forward suggested conditions which I have considered in light of national advice. In the interests of good planning I shall impose a condition requiring development to be carried

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3 Identified as site SW(UB)7.
out in accordance with the submitted plans. I note that plan 13559 was an
indicative plan only and shall not include it. I shall also impose a condition
requiring the car parking to be constructed and available for use prior to
occupation and a condition limiting the hours of construction in the interests of
protecting the living conditions of adjoining neighbours.

Karen L Ridge

INSPECTOR