



Appeal Decision

Hearing (Virtual) Held on 30 June 2021

Site Visit made on 1 July 2021

by A Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2021

Appeal Ref: APP/H0738/W/21/3269564

The Carrs Angling Lakes, Letch Lane, Carlton, Stockton on Tees TS21 1EB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Thomas Andrew against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 20/2750/OUT, dated 10 December 2020, was refused by notice dated 12 February 2021.
 - The development proposed is outline application for a fishery worker's dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for outline application for a fishery worker's dwelling at The Carrs Angling Lakes, Letch Lane, Carlton, Stockton on Tees TS21 1EB, in accordance with the terms of the application, Ref 20/2750/OUT, dated 10 December 2020, subject to the conditions set out in the schedule to this Decision.

Procedural Matters

2. The application has been submitted in outline with all matters reserved for future consideration. I have dealt with the appeal on that basis, treating the submitted plans as indicative.

Main Issues

3. The main issues are:
 - Whether there is an essential need for a dwelling to accommodate a rural worker on the site;
 - The effect of the proposed development on the character and appearance of the area; and
 - Whether the appeal site is a suitable location for the proposed development having regard to the risk of flooding.

Reasons

Essential need

4. The Carrs Angling Lakes occupies a rural location just outside the village of Carlton. It contains five recreational fishing lakes, stock ponds, a bait shop, toilet and parking facilities. The two agricultural storage buildings within the site are said to be used in association with the management of the surrounding farmland. There is existing access from Letch Lane.

5. The fishery was established in 2005 and is presently managed full time by the appellant and his partner. Previously the fishery was managed by the appellant's father who lives in the village, but who now has a much reduced day-to-day role in the fishery. My attention was drawn to a previous appeal¹ relating to a dwelling at the fishery that was dismissed in 2017. The proposal at that time included a separate machinery store. These were to be positioned away from the fishing lakes at the fishery entrance. Subsequently, outline planning permission has been granted on appeal² for a machinery building at a different location closer to the lakes, where the dwelling subject of this appeal is now proposed. I am informed that the reserved matters application for the machinery building has been submitted, but is still under consideration by the Council.
6. In terms of planning policy and applying a strategy based on settlement boundaries, Policy SD3 of the Stockton-on-Tees Local Plan 2019 (LP) defines land outside of the limits to development as countryside. As the appeal site is outside the development limits of Carlton, it is for planning purposes within the open countryside. Policy SD3(4) precludes housing in the countryside unless under certain circumstances, including dwellings necessary for rural workers.
7. Policy EG8(2) of the LP specifically concerns agricultural, forestry and other rural based enterprise dwellings. These will be supported where they support existing activities on well-established rural based enterprises provided that:
a) there is a clearly established existing functional need; b) the need relates to a full time worker; c) the unit and activity has been established for at least 3 years, is currently financially sound, and has a clear prospect of remaining so; d) there are no existing buildings on the unit, or any accommodation in the area which could meet the need; e) the size of the dwelling is commensurate to the functional requirement; and f) the dwelling is sited so as to meet the functional need and is well related to existing buildings.
8. These policies are consistent with paragraph 79 of the National Planning Policy Framework (the Framework) insofar as it seeks to avoid isolated homes in the countryside unless there are special circumstances, including an essential need for a rural worker.
9. The Council accepted that criteria b), c) and f) of Policy EG8(2) would be met by the proposal and I have no reason to disagree. Criteria e) has limited applicability at this outline stage. This leaves the matters of functional need and other available dwellings as the focus of dispute in this appeal.
10. The appellant identifies a range of reasons as to why an on-site presence is essential. This includes for security, control of predatory birds, to manage flood risk, and deal with unforeseen circumstances relating to the health of the fish stock and customer welfare. In particular, deoxygenation incidents and outbreaks of disease can happen very quickly, often in warmer weather and when fish are spawning. Fish can get snagged up in lines and require freeing by boat. These incidents need urgent attention to limit the loss of and suffering of fish and potentially significant financial losses for the business. In addition, gates must be opened/locked, facilities cleaned, and checks of the site and stock carried out early in the morning and late in the evening.

¹ APP/H0738/W/16/3158924

² APP/H0738/W/18/3193538 & APP/H0738/W/18/3199511

11. Most of these matters were before the previous Inspector who was not persuaded that an essential functional need for a permanent on-site presence had been demonstrated. I agree that many of the risks are seasonal, have some degree of predictability, and could be managed by a person living within a reasonable travel distance of the site. Indeed, the fishery has operated successfully on this basis since 2005. The new machinery building, which would also include an office and staff facilities, would further assist in ensuring a day time presence and reduce the amount of travel time to and from the site over a long working day.
12. However, since the last appeal the fishery business has expanded significantly and customer numbers are said to have doubled. Crucially, stock is now grown on the site in stock ponds to enable the restocking of the fishing lakes. These require more regular feeding and monitoring, in particular ensuring that oxygen levels are sufficient. The stock is high value, and due to the smaller size of the ponds and their location close to the access road, are more vulnerable to poaching.
13. In addition, a new specimen lake, the "Legends Lake", now offers 24 hour fishing with high value stock worth upwards of £3,500 each. This also means that customers are present on the site through the night, which can be as many as twenty per night at the weekend. Importantly, overnight anglers are locked in from dusk to dawn for security reasons. In the event of any overnight emergency or other personal reason, the appellant would need to be on hand to open the gates to let the customer out. Clearly this is highly unpredictable, and I heard that it occurs on a regular basis. Currently the appellant is able to respond quickly because he is living with his father at the family home in the village, but this is only a temporary arrangement. As the appellant's father is seeking to retire from the business, it would be unreasonable to expect that he would continue to be available to deal with any overnight emergencies in the appellant's absence.
14. The increase in crime levels in the area is an accepted concern between the main parties. Despite the recent introduction of CCTV cameras and alarms, the fishery has continued to be subject to a number of reported crimes relating to theft of equipment and damage to fencing. Theft of fish is far more difficult to establish, which means such incidents are not normally reported. I also heard that there are regular incidents of trespassing at night that are not reported. Consideration has been given to increasing the number of CCTV towers. However, the appellant is understandably concerned that customers could be put off by the intrusion of being closely watched by CCTV cameras. An overabundance of CCTV towers would detract from the natural character and intimacy of the site, which is a crucial aspect of its attractiveness to customers.
15. Unlike the previous appeal, the location of the dwelling would enable better surveillance of the fishery, particularly the new specimen lake, stock ponds and existing farm buildings, which are most vulnerable. It would also be well placed to enable a quick response to overnight emergencies, which could otherwise seriously impact on the financial viability and reputation of the business.
16. Overall, I am satisfied that the nature of the business has materially changed since 2017 and that there is a need to have on-site presence. The continued investment in the site facilities and security demonstrates ongoing commitment to the success and expansion of the business, which I am informed is now one

of the largest of its type in the area. Furthermore, there is recognition in the Framework at paragraph 79a) that essential rural workers can include those taking majority control of farm businesses, and there are strong similarities in the way that this rural enterprise is owned and managed.

17. Drawing my findings together, the Carrs Angling Lakes is a long-established business that continues to expand and requires committed management and ongoing security, which would be aided by the ability for the appellant to live on site. Based on the evidence before me, this would translate into an essential functional need for a rural worker of the type and nature that is envisaged in both local and national planning policy for rural worker housing.
18. There are no other buildings or dwellings at the site which could fulfil the functional need. Furthermore, the lack of suitable, available properties within Carlton was not contested. Even if properties were available in Stockton, a relatively short driving distance away, this would not be suitable to fulfil the functional need that exists at the site.
19. I therefore conclude that there is an essential need for a dwelling to accommodate a rural worker on the site. Consequently, the proposal complies in this regard with Policies SD3 and EG8 of the LP and the Framework.

Character and appearance

20. The location for the dwelling is the same as for the machinery store previously granted outline planning permission at appeal. In that case the Inspector noted that due to its low lying position and the height of trees and hedgerows in the area, including along Letch Lane, the site has little visibility from most public vantage points. Based on my own observations, I concur.
21. In addition, the dwelling would be further screened by the large agricultural shed that has since been constructed next to the appeal site. As the Council advises that the other buildings and structures around the site are unauthorised they have not formed part of my assessment. Nevertheless, the presence of the existing agricultural building means that the dwelling would not appear isolated within the rural landscape.
22. Due to the outline nature of the proposal, I do not have any details of the proposed building. However, in light of the extant outline permission, I see no reason why a suitable scale and design could not be achieved through a subsequent reserved matters application. It is inevitable that a dwelling would bring with it domestic paraphernalia such as garden furniture, washing lines, parking areas and lighting. However, I am mindful that a machinery building with an office could also lead to outside storage of items, parking and lighting. In any event, due to the small scale of the proposed development and the limited visibility of the site, I am satisfied that this would not be harmful in landscape terms.
23. Furthermore, whilst the Framework seeks to ensure that the intrinsic character and beauty of the countryside is recognised and enhanced, it also supports the sustainable growth and expansion of all types of businesses in rural areas. Given my findings on the first main issue, the addition of built form into the open countryside in this location is justified.
24. Accordingly, I do not consider that there would be any unacceptable impacts on the character and appearance of the area. The proposal therefore complies with

Policies SD5 and SD8 of the LP, and paragraph 170 of the Framework. Together, these require development proposals in the countryside to be responsive to the landscape and character of the area, and to recognise the intrinsic character and beauty of the countryside.

Flood risk

25. There is no dispute that the dwelling would be located within Flood Zone 1 as determined by the Environment Agency published flood risk mapping. The Council nevertheless contends that the proposal should be subject to the Sequential Test because the suggested means of access passes through Flood Zone 2 and Flood Zone 3.
26. However, the suggested means of access is an existing access road serving the fishery. I have not been provided with any justification as to why the Sequential Test is required in such circumstances. Moreover, the appellant has indicated a potential alternative access route that would avoid Flood Zone 2 and Flood Zone 3 entirely.
27. Whilst the appellant would prefer not to provide the alternative access route, the Planning Practice Guidance on flood risk is clear that access routes should allow occupants to safely access and exit their dwellings in flood conditions. Vehicular access to allow the emergency services to safely reach the development during flood conditions will also normally be required. That the existing access road has not flooded during previous flood events at the site, is not sufficient evidence that it could not flood in the future.
28. An emergency access route that could provide vehicle access to the dwelling in times of flooding is therefore important to the overall safety of the development and should be provided. However, I am satisfied that the precise details of this emergency access route could be finalised at the reserved matters stage in conjunction with a condition requiring details of a flood evacuation plan to be agreed.
29. I therefore conclude that the appeal site is a suitable location for the proposed development having regard to the risk of flooding. As such, the proposal complies with Policy SD5(2), and paragraphs 155 and 163 of the Framework. These seek to ensure development is directed towards areas of low flood risk and can be made safe for its lifetime, including provision of safe access and escape routes as part of an agreed emergency plan where appropriate.

Conditions

30. Conditions suggested by the Council have been assessed against the guidance contained in the Framework and PPG. In particular, I have had regard to the Government's intention that planning conditions should be kept to a minimum. Where necessary, I have amended the wording of conditions to ensure precision, and I have imposed only those conditions which meet the relevant tests. Any pre-commencement conditions have been agreed by the appellant.
31. As this is an outline application, conditions relating to the submission and timing of reserved matters applications, and the commencement of development, are necessary in the interests of certainty. A condition requiring a flood evacuation plan is necessary to ensure the safety of the occupiers and emergency access in the event of flooding. A condition requiring details of

measures to protect existing trees during construction works is necessary in the interests of visual amenity. A condition for the approval and implementation of a foul and surface water drainage scheme is necessary to ensure the satisfactory drainage of the site. An occupancy restriction condition is necessary to ensure that the dwelling serves its intended purpose and to meet the requirements of development plan policy. Finally, to ensure subsequent control over the future size of the dwelling in this rural location and to ensure the dwelling is commensurate to the functional requirement, a condition removing some permitted development rights to enlarge it is appropriate in this case, but only in relation to extensions under class A.

32. I have not imposed the suggested conditions relating to finished floor levels, external lighting, landscaping, and boundary treatments as these will be considered at reserved matters stage. A condition controlling construction hours would be unnecessary for a development of this scale, so is not imposed. There is no evidence that the site is likely to be contaminated land so a condition relating to reporting unexpected land contamination is not necessary and is not imposed.

Conclusion

33. I have found that an essential need for the proposal has been demonstrated, and that the proposal would be acceptable in terms of flood risk and the effect on the character and appearance of the area.
34. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be allowed.

A Caines

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Thomas Andrew

Annick Boogaards

Frank Andrew

FOR THE LOCAL PLANNING AUTHORITY:

Kieren Campbell

Stockton-on-Tees Borough Council

Schedule of Conditions

- 1) Details of the access, appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) On submission of the reserved matters subject to condition 1 (above) the applicant shall provide a suitable flood evacuation plan, including the provision of an emergency access route, to safeguard the occupiers of the development from the potential risks posed by a flooding emergency. The plan shall be agreed in writing with the local planning authority and adhered to for the life of the development.
- 5) No development shall commence until a scheme for the protection of trees has been submitted to and approved in writing by the local planning authority. Such a scheme shall be based on best practice as set out in British Standard 5837:2012 (or equivalent document which may update or supersede that standard) and shall ensure that no vehicles can access, and no storage of materials or equipment can take place within the root and canopy protection areas of any trees on or adjacent the site. The approved scheme of protection shall be implemented prior to any works commencing on site and thereafter retained throughout the construction period.
- 6) No development shall commence until details of the proposed means of foul and surface water drainage has been submitted to and approved in writing by the local planning authority. The development shall not be occupied prior to completion of the approved drainage works.

- 7) The occupation of the dwelling hereby permitted shall be limited to a person or persons solely or mainly employed at the Carrs Angling Lakes and any partner or resident dependants.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), (or any Order revoking, amending or re-enacting that Order with or without modification) no enlargement of the dwelling under Schedule 2, Part 1, Class A shall be carried out.

End of Schedule