



Appeal Decision

Site visit made on 13 April 2021

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 23 March 2021

Appeal Ref: APP/G2435/W/21/3266391

Land East Side of Austrey Lane, Appleby Parva, Derby DE12 7AR

- 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 Geoffrey Clark against the decision of North West Leicestershire District Council.
 - The application Ref 20/00707/FUL, dated 24 April 2020, was refused by notice dated 6 October 2020.
 - The development proposed is the erection of agricultural building and chicken coop and the installation of track and hardstanding.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The Council changed the description and address of the proposed development from those contained on the planning application form to those shown in the banner heading above. These are a more accurate description of the proposed development and site address which I have therefore used in the determination of this appeal.

Main Issues

3. The main issues are:
 - Whether an agricultural need for the proposal has been demonstrated sufficient to justify development within the open countryside.
 - The effect of the proposed development on the character and appearance of the appeal site and the surrounding area.

Reasons

Justification for the development

4. The appeal site comprises a relatively small field of predominantly rough grassland located at the junction of Atherstone Road with Austrey Lane. Westhill Farm and number of sporadic residential properties are located to the west and north with open countryside to the south and east. The Council indicate that the site is located outside of any defined limits to development and is therefore identified as being located within the countryside.

5. The proposed development would involve the erection of a storage building, chicken coop, electricity cabinet and an access track and hardstanding which would be positioned in the northern corner of the site. The Council indicates that the storage building would be approximately 4.57m wide and 6.1m long with a maximum height of 5.3m. It would be used for the storage of a tractor, maintenance equipment and animal feed.
6. Although there was no evidence of any livestock on the site at the time of my site visit, the appellant indicates that the site is to be used for hobby/entry into farming with chickens and either sheep or goats. In this regard, the appellant has provided a County Parish Holding Number (CPH) for the site issued by the Rural Payments Agency.
7. No agricultural justification documentation was provided with the planning application to support the agricultural need for the building. However, the Council indicate that the appellant applied for planning permission in 2016 for a building of similar dimensions to the appeal proposal (Ref 16/00568/FUL). At that time the Council commissioned the services of an agricultural consultant to advise on the agricultural need for a building.
8. The consultant advised that the size of the unit could not be classed as a trade or business but would effectively be a hobby or interest. Whilst the building would be capable of storing a tractor, the consultant further advised that the size of the proposal was more in keeping with the size of the unit but concluded that the building was not essential for the efficient long-term operation of agriculture or forestry. Although not a statutory consultee, given the similarities between the appeal proposal and the application considered by the Council in 2016, I attach moderate weight to the views of the agricultural consultant in an advisory capacity to the Council.
9. The Council suggest that the building is not considered essential given the hobby use nature of the proposed activity. However, category (a) of Policy S3 of the North West Leicestershire Local Plan (2017) (the Local Plan) identifies that agricultural development is an acceptable use in principle in the countryside. The evidence provided in this appeal does not define or quantify in the policy, or the supporting text provided, the nature or extent of development that may be reasonably necessary for the purposes of agriculture. Furthermore, the policy provides no distinction between commercial and hobbyist agricultural activity.
10. In this case the appellant has CPH documentation and whilst there appears to be no evidence of livestock being kept on the appeal site, such activity could occur in the future. The consultant's advice also states that the building considered in 2016 could be classed as being reasonably necessary for the purposes of agriculture within the unit.
11. Section 336 of the Town and Country Planning Act 1990 identifies, amongst other things, that 'agriculture' includes the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the farming of land) and the use of land as grazing land. The Act also provides no further quantification or distinction between business and hobbyist agricultural activity.
12. I recognise the Council's concerns regarding the justification for the building, in particular its proposed height. However, taking into account the available

evidence, in particular the views of the agricultural consultant and the lack of any definition or quantification of agricultural development in the Local Plan, I have no other reasons but to conclude that the proposed development would not be in conflict with Policy S3 (a) of the Local Plan.

Character and appearance

13. Overall, the surrounding area is that of a mature rural landscape interspersed with a number of sporadic residential properties and established farm buildings to the north and west. The area to the south and east comprises of open fields separated by hedgerows and areas of woodland. I have no evidence to suggest that the appeal site is subject to any landscape designation. However, its undeveloped nature makes an important contribution to the character of this part of the countryside.
14. The appeal site appears to be raised above the road level on Austrey Lane and Atherstone Road. Whilst there are boundary trees and hedgerows along these roads which offer some degree of screening, particularly during the summer months, the appeal site is visible in the context of the wider rural landscape to the south.
15. In my view, the materials proposed to be used in the storage building would be acceptable in the rural setting. However, owing to its design, the proposed storage building would appear as an unusual disproportionately tall building relative to the size of its footprint.
16. The proposed development would result in the introduction of built development on a rural site where there is currently none. I recognise that the proposed building would be positioned close to an existing hedge forming the site boundary with the road which would help to mitigate some views of the proposed development. However, in views from the wider countryside to the south and east, the storage building would appear as an unusually tall and narrow isolated structure in the countryside.
17. Consequently, the proposed building would appear as a prominent, incongruous and isolated standalone feature that would erode the open character of this part of the countryside. The prominence of the building would be exacerbated by the elevated ground level of the site relative to the adjacent public highways.
18. Overall, the proposed building would unacceptably affect the contribution that the site makes to the character of this part of the countryside, particularly to the east of Austrey Lane. It would unacceptably introduce substantial built development into the open countryside that would fail to conserve the open rural character of this part of the landscape.
19. I consider that the proposed chicken coop and electricity box, when considered individually, would not cause an unacceptable impact on the character and appearance of the area due to their small-scale nature and low height. However, when considered collectively with the proposed building, access track and hardstanding they add to my concern regarding the erosion of the open character of the site. Consequently, when considered as a whole, the proposed development would cause harm to the character and appearance of the appeal site and the surrounding area.

20. For the above reasons, the proposed development would unacceptably harm the character and appearance of the surrounding area. Accordingly, the proposed development would not accord with criterion (i) of Policy S3 of the Local Plan. This part of the policy, amongst other things, identifies that development will be supported where the appearance and character of the landscape is safeguarded and enhanced.

Other matters

21. I have taken into account the advice contained within the National Planning Policy Framework regarding the support for a prosperous rural economy. However, the economic benefit of the construction and use of the development does not outweigh the harm that I have identified above that would be caused to the character and appearance of the surrounding area.
22. As the proposed development comprises of a number of separate components, I have carefully considered whether a split decision could be issued for those aspects that cause less harm to the character and appearance of the area. However, all of the proposed buildings, the hardstanding and the access track are inextricably linked to the use of the site for agriculture. Therefore, I do not consider that a split decision would be appropriate in this case.
23. I have also taken into account the location of the site with regard to the setting of nearby heritage assets. These comprise a Grade II Listed Building located on the northern side of Atherstone Road and the Grade II Listed Building at Westhill Farm. Although the Council has raised no concerns regarding the impact of the proposed development on designated heritage assets, I am nevertheless required to have regard to the statutory duty to consider the effect of the proposal on such assets within the context of Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. I have had regard to the desirability of preserving or enhancing the designated heritage assets. Given the separation distance between the appeal site and these assets and the extent of intervening trees and hedgerows, I am satisfied that the proposal would preserve the setting of these listed buildings.
24. In addition to the main issues that I have identified above, I have also taken into account the concerns of local residents which, amongst other things, relate to highway safety, drainage, adherence to planning conditions and the future intentions of the appellant. Whilst these matters have been carefully noted, they do not alter the main issues which have been identified as the basis for the determination of this appeal, particularly in circumstances where the Council has not objected to the appeal scheme for these other reasons

Conclusion

25. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR