

Appeal Decision

Site visit made on 1 February 2017

by **S J Lee BA(Hons) MA MRTPI**

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

Decision date: 3rd March 2017

Appeal Ref: APP/P1045/W/16/3163208

Land off Alders Lane, Tansley, Matlock DE4 5FB

- 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 Stokes against the decision of Derbyshire Dales District Council.
 - The application Ref 16/00564/FUL, dated 1 August 2016, was refused by notice dated 28 September 2016.
 - The development proposed was originally described as “proposed agricultural building to house and lamb sheep and to store fodder and implements.”
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (a) Whether the proposed building is required for the purposes of agriculture on the site; and
 - (b) The effect of the development on the character and appearance of the area.

Reasons

Policy background

3. Saved policy SF4 of the Derbyshire Dales Local Plan (LP)(2005) states that development within the countryside will only be permitted where it is required to serve the essential requirements of agriculture, is appropriate in nature and scale to a rural area and where it preserves or enhances the character and appearance of the countryside. Policy EDT13 has similar requirements specifically for the development of new agricultural buildings. Proposals must be required to support the agricultural enterprise, be of a size and design commensurate with the needs of the agricultural enterprise, be well related to existing buildings associated with the activity and not have an adverse impact on the character and appearance of the immediate area or wider landscape. Policy NBE8 echoes these policies insofar as it requires development to protect or enhance the character, appearance and local distinctiveness of the landscape.
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Agricultural need

4. The appellant farms around 32 acres of land across a number of sites, some of which are rented. The appellant owns the site in question and wishes to start lambing sheep on a commercial basis. The development would be used to house livestock and for storage. There is an existing agricultural building within the area of land owned by the appellant that is currently used for the storage of machinery and equipment. This building has a planning condition on it restricting the use of the building for the keeping of livestock. However, permission was granted to extend the building in 2015¹ and this allows for the housing of sheep within part of the extended building.
5. The appellant has stated, however, that they now wish to live on the site to monitor the lambing operation. Prior approval was given subject to conditions under Schedule 2, Part 3, Class Q of the Town and County (General Permitted Development) Order 2015 (GPDO) in 2015² for the change of use of the existing building to a dwelling. A further prior approval application was refused in January 2017³ on the basis that the works proposed and the curtilage of the development would go beyond the limitations imposed by the GPDO and would not constitute permitted development.
6. From the evidence before me, it is clear that in order for the appellant to be able to operate the desired lambing business there would be a requirement for some form of additional space. This would be to meet the need for housing livestock, machinery and meet DEFRA requirements. However, whether or not a need exists for the development is dependent on the implementation of extant planning permissions or approved permitted development relating to the existing agricultural building.
7. If the existing building were to be extended it would be capable of meeting the appellant's operational needs in terms of housing livestock and storage. As such, there is an opportunity to meet the need without the creation of an additional building within the open countryside. This is a significant material consideration.
8. I recognise the implementation of the extension would remove the opportunity to implement the prior approval that exists for the change of use of the building. Nonetheless, as an alternative application was put forward, and it would appear negotiations are on-going with the Council on this issue, it would be reasonable to assume the appellant does not wish to proceed with the approved proposal. Therefore, while the principle of a change of use exists, I have some doubt that the extant approval will be implemented. Furthermore, the refusal of the most recent application means that there has to be some doubt as to whether the building will be converted to a dwelling. Notwithstanding the appellant's statement regarding the sale of his current residence, the existing situation is such that either permission could still be implemented.
9. Whilst I acknowledge the appellant's desire to live on the site, it does not appear to be an absolute requirement for the business and thus the commercial enterprise could proceed in the extended agricultural building if the appellant

¹ Application reference 14/00889/FUL

² Application reference 15/00723/PDA

³ Application reference 16/00871/PDA

so wished. To an extent, therefore, the requirement for the additional building stems only from the personal preference of the appellant to live on the site and not the essential requirement of the agricultural enterprise.

10. I have not given significant weight to the Council's speculation that the appellant may wish to sell the converted building on the open market while continuing to farm the land from the development. Nevertheless, if I were minded to allow the appeal, the current uncertainty over the future of the existing building means there is a realistic risk that both the extension and new building could be implemented. This would leave a situation where an additional building was constructed in the open countryside, without the requisite requirement for the building having been demonstrated.
11. In the context of the Council's policies on this matter, while there is the potential to extend the existing building to achieve the appellant's commercial aims, it is not possible to conclude that there is an essential need for the development. Accordingly, there would be conflict with policies SF4 and EDT13 which require, amongst other things, for the development to be essential to the requirements of the agricultural enterprise.

Character and appearance

12. The appeal site forms part of an open agricultural field that was partially being used for the grazing of sheep at the time of my visit. The building would be in the north western corner of the field. The existing building referred to above is in the north western corner of the neighbouring plot of land, which itself sits to the north of the appeal site. This building is some distance from the proposed siting of the development, but is also much more closely related to the village than the appeal site. The site is bounded by mature landscaping and sits on a relatively gentle slope which rises past the site to the junction between Alders Lane, Carr Lane and Cunners Lane. Further down the slope lies the edge of the settlement of Tansley, with a cluster of buildings located on either side of Alders Lane beyond its junction with Thatchers Lane. Nonetheless, the site is clearly part of the open countryside and is largely surrounded by open fields and verdant, mature landscaping.
13. The building would be reasonably well screened by the foliage that provides the boundary to the site. However, owing to its height, footprint, materials and siting this would not completely screen the building. The building would be visible through the field access that already exists roughly parallel to the site, as well as through any gaps or thinner elements in the foliage along the side of the road. This would particularly be the case when viewed from the higher ground on Carr Lane, looking across and down toward the site. While I acknowledge that the appellant is proposing to use green steel sheeting to help it blend into the landscape, the overall bulk and height of the building would still ensure that it would be discernible from both near and longer distance views of the site.
14. The development would not relate well to any existing agricultural buildings in the area or the nearest elements of Tansley. In particular, the development would be both physically and visually detached from the other building associated with the appellant's farming activities. As such, the development, along with the associated hard standing area, would appear as a substantial and isolated encroachment into the countryside that would detract from the open rural character of the site.

15. While it would be reasonable to assume there would be some visual impact from any new agricultural building, the relevant policies require the building to be well related to other buildings associated with the use. The relative distance and poor visual relationship between the appeal site and the existing agricultural building result in this policy requirement not being met.
16. The appellant has suggested that the site selected is the most practical in terms of avoiding objections from nearby residents. Nonetheless, the Council has already granted planning permission for the housing of livestock in the location of the existing building, albeit within the permitted lean to extension. The appellant has not put forward any other reason why the building could not take place elsewhere within the wider site that would be more policy compliant. There is nothing therefore to suggest that a building closer to the existing structure, and thus closer to the existing cluster of buildings toward the bottom of Alders Lane, would not be acceptable in principle. As a result, the proposal would result in a more prominent and incongruous form of development than would be either necessary or appropriate in this location.
17. As a result of the above, I consider that the development would result in a detached and isolated form of development, which would have a materially harmful impact on the open rural character and appearance of the area. Accordingly, there would be conflict with policies SF4, EDT13 and NBE8 which seek, amongst other things, new agricultural buildings to be well related to existing buildings associated with the activity and not have an adverse impact on the character and appearance of the immediate area or wider landscape. There would also be conflict with the requirements of the National Planning Policy Framework in relation to recognising the intrinsic beauty of the countryside and requiring development to improve the character and quality of an area.

Other matters

18. The appellant has drawn my attention to a number of agricultural buildings in the vicinity of the site that are not related to other buildings and thus could be considered isolated. While I observed these on my site visit, I do not have the full details of when these buildings were developed or the circumstances under which approvals were granted. As such, I cannot be certain they represent direct parallels to the proposal before me. In any event, I have considered the appeal on its own merits based on the evidence before me and my own observations of the site and area.
19. The appellant has also noted that there are other agricultural buildings in the area that have been converted into dwellings, including an example which he considers required more alteration than his own agricultural building. However, the Council's decision to refuse the prior approval application is not before me. Nor do examples of other agricultural buildings being converted alter my conclusions on this development.
20. The appellant has suggested that the development would allow the storage of machinery and implements, resulting in a tidier appearance for the site. I do not consider that this argument adds significant weight to either the need for a new building or the character and appearance of the area. Permission already exists for a development that could meet the appellant's operational needs. In addition, a lack of maintenance or general tidiness is not a sufficient reason to allow an otherwise harmful development.

Conclusion

21. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR