



Appeal Decision

Hearing Held on 5 June 2019

Site visit made on 5 June 2019

by Felicity Thompson BA(Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2019

Appeal Ref: APP/A2470/W/18/3211129

Lyndon Top Farm, Lyndon Road, Manton, LE15 8RN

- 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 Kerry against the decision of Rutland County Council.
 - The application Ref 2018/0155/FUL, dated 9 February 2018, was refused by notice dated 19 April 2018.
 - The development proposed is erection of a temporary rural workers dwelling and agricultural building.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application plans refer to a timber cabin however, at the hearing the appellant clarified that the proposal is for a mobile home. I have therefore considered the appeal on this basis.

Application for costs

3. Applications for costs have been made by Mr Kerry and Rutland County Council. These applications will be the subject of separate Decisions.

Main Issues

4. The main issues are:
 - whether there is an essential need for a rural worker to live on the site; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Policy context

5. Policy CS4 of the Rutland Local Development Framework Core Strategy Development Plan Document adopted July 2011 (the Core Strategy) sets out the spatial aims for the location of development across Rutland and states that development in the open countryside will be strictly limited to that which has an essential need to be located in the countryside.

6. Policy CS16 of the Core Strategy states that the strategy for the rural economy is (a) to encourage agricultural, horticultural and forestry enterprises and farm diversification projects where this would be consistent with maintaining and enhancing the environment and contribute to local distinctiveness.
7. Policy CS24 of the Core Strategy is specific to the defined Rutland Water area, within which the appeal site is located. It states that outside the defined 5 recreation areas new development will be restricted to certain types including where essential for operational requirements of existing facilities and subject to being appropriate in terms of location, scale, design and impact on the landscape.
8. Policy SP6 of the Rutland Local Plan Site Allocations and Policies Development Plan Document adopted October 2014 (the Local Plan) states that applications for mobile workers dwellings will only be permitted when it can be clearly demonstrated that there is an established existing functional need in accordance with advice set out at Appendix 1. Appendix 1 requires a functional test to establish whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times. Paragraph 12 of the appendix refers to temporary agricultural dwellings and requires that a number of criteria are satisfied, which will be considered in my reasoning however, it does not require an existing established functional need to be demonstrated. The appendix forms part of the policy and as such I attach considerable weight to it.
9. Paragraph 79 of the National Planning Policy Framework (the Framework) states that planning decisions should avoid development of isolated homes in the countryside unless there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. As the Inspector in the appeal decision¹ relating to the appellant's business at Granby considered, whilst the Framework does not define what constitutes an essential need, it would be reasonable to assume that there would have to be a physical or functional need for someone to be on the site at most times to meet the requirement and, that there is evidence that the business is likely to endure in the long term. Paragraph 83 of the Framework states that planning decisions should enable the development and diversification of agricultural and other land based rural businesses.
10. It was agreed by both main parties at the hearing that Policies SP13, SP15 and SP23 of the Local Plan and Policies CS19 and CS21 of the Core Strategy relate to landscape protection and design matters and neither party raised any specific comments about these policies.

Essential need

11. The appeal site consists of an area of land comprising around 1.21 hectares planted with vines and apple trees, with the edges of the site being divided into small plots with angled hedges subdividing them. At the hearing there was discussion about whether the land is used for agricultural purposes. The appellant states that at present they take cuttings from the vines for propagation elsewhere and also use the land to grow potted trees for sale. Whilst there may be some dispute between the parties about the use of the land, there is no substantive evidence to demonstrate that it is being used for

¹ APP/P3040/W/17/3168150

- purposes other than agriculture. In any event, it was agreed that the proposal and any need relates to the proposed rabbit farming enterprise and that there is currently no functional need for a rural worker to live on site.
12. The proposal is for the development of a free-range rabbit farming enterprise growing from 100 Does in the first year to 300 Does in the third year, with around 50% of the rabbits being produced for meat and others sold live. The proposed site would be operated by a manager with the appellant providing the necessary training. It is evident that the appellant has experience of establishing and operating such an enterprise and has a functioning unit in Granby, Nottinghamshire and 2 others being developed in East Bridgford and Derbyshire.
 13. In support of the proposal the appellant has submitted an appraisal produced by Reading Agricultural Consultants (RAC), a business plan and 3 years of accounts relating to the Granby unit. The appraisal by RAC indicates that there would be a need for an excess of one full time worker and that it would be essential that someone is readily available at most times to manage the enterprise, specifically to manage the birthing process, ensure the health and well-being of stock generally, provide a security deterrent against human intruders, manage predators and provide a point of contact for customers.
 14. On the basis of the submitted evidence and discussion at the hearing I consider the primary need relates to the management of the birthing process. In this regard the appellant explained that Does would give birth throughout the year at all times of the day and night. Whilst experienced Does will return to their hutches at night, inexperienced Does will give birth anywhere including outside. In winter kittens born outside will die within approximately 3 minutes and in rain showers Does may smother kittens to protect them from the rain. The appellant referred to another enterprise where losses were reduced from 25% to 10% following on site occupation, as a result of kittens born outside during the night being taken into hutches. Whilst the appellant could increase the number of Does to make up for such losses, I accept that there is a requirement to seek to minimise such losses for animal welfare reasons.
 15. The appellant acknowledged that it may be possible to return some Does to hutches at night during the birthing period which lasts around 2 or 3 days however, it would be difficult to return all the Does to hutches because of the time taken to gather them, particularly those in communal runs. The appellant also explained that they had had incidences of live rabbits infected with myxomatosis being thrown into rabbit enclosures and therefore an onsite presence is required for security.
 16. Whilst individually none of the circumstances cited would in my view justify the need for an on-site presence at all times of the day and night, cumulatively the requirement to manage the birthing process by ensuring kittens are moved inside after birth, protecting animals from human intruders and predators and being on hand to deal with emergencies, leads me to conclude that there would be a functional need for a rural worker to live at or near their place of work, in this case the rabbit farm. In reaching this conclusion I have had regard to the Inspector's findings in respect of the Granby unit where a functional need was demonstrated, based primarily on the rabbit farming business.
 17. The rabbit meat produced, based on the proposed method of operation, can only be sold within the same and neighbouring counties however, live rabbits

can be sold anywhere in the country. The appellant referred to figures in respect of the number of enquiries received about rabbit meat, which suggest that there has been a significant increase in demand, such enquiries coming from wholesalers, dog food manufacturers and individual buyers. Whilst the appellant could not provide a breakdown of where the enquiries came from, even with the restrictions on where meat can be sold, it would seem reasonable to conclude that there is demand for rabbit meat in Rutland and its neighbouring counties. Further, the appellant stated that the reason for the restriction on sales relates to more stringent licensing in respect of the processing of meat, but if necessary, they could gain such a licence or transport the rabbits for slaughter elsewhere. Therefore, this would not be an insurmountable barrier to the success of the business.

18. The submitted accounts relate to the period from 2015 to 2017. The Council raised concerns that the accounts are not signed, and the accountant stated that they had not verified the accuracy and completeness of the accounting records. Nevertheless, I have no reason to doubt the accuracy of the accounts and am satisfied that they demonstrate that a development of this nature could be financially sound, albeit these accounts relate to a different site in a different County. The appellant's view is that the accounts relate to the same owner and product and provide evidence of potential profitability and that the evidence demonstrates that the proposal is planned on a sound financial basis. In the absence of substantive contrary evidence, I see no reason to disagree.
19. The Council provided evidence to demonstrate that there are 5 houses available for rent located within 2 miles of the site however, for the reasons given above the appellant considers this would not meet the needs of the unit. In addition, the use of CCTV was discussed however, the appellant considers this would not be able to give the required coverage for the number of rabbits and hutches and therefore would not be practical. Furthermore, this would not satisfy the need to inspect rabbits at unsocial hours. Therefore, I find that the need could not be met by existing accommodation as it would not be close enough to enable the level of supervision and security required. I have also had regard to government guidance which states that at least one member of staff should always be available to deal with any emergencies.
20. I acknowledge the Council's concerns in respect of the sale of 2 and the attempted sale of a third similar enterprise owned by the appellant. However, this has little bearing on the planning merits of the proposal in respect of functional need.
21. Consequently, I conclude that there is an essential need for a rural worker to live on the site in accordance with Policies CS4 and CS16 of the Core Strategy, Policy SP6 of the Local Plan and the Framework.

Character and appearance

22. The site is located on the southside of Rutland Water and consists of a field planted with vines surrounded by hedgerows, accessed from Lyndon Lane. The surrounding area is characterised by pastureland bound by hedgerows with a touring caravan site located to the south. Development on this side of the water is sparsely located and the landscape is well preserved, this and the wide-reaching views across the water and surrounding landscape, gives the site an open and tranquil feel, recognised by its inclusion in The Rutland Water Area

- designated to recognise and protect its quiet, tranquil and undeveloped nature.
- 23. The Rutland Landscape Character Assessment (LCA) states that the landform immediately adjacent to the water varies, but most of the basin has a distinct profile, especially along its southern and northern shores, where the land dip sharply down to the water from a shoulder of high ground, effectively obscuring many views of the water below. The site is located on that shoulder of high ground.
- 24. The aims of the LCA are to encourage the continued maturity and evolution of the modern reservoir landscape, to enhance its visual amenity and to conserve the best elements of a large scale, sweeping, open, busy, varied, colourful and modern landscape. And, to avoid inappropriately located or conspicuous developments that would detract from the landscape character.
- 25. The proposed development would introduce a mobile home and relatively large agricultural building to the site, and it is evident from discussions at the hearing that it would also necessitate the erection of permanent security fencing, rabbit runs and hutches. The appellant considers the runs and hutches would not amount to development however, it is not for me in the context of an appeal made under section 78 to determine whether or not that is the case. Whilst I have had regard to their necessity, it seems unlikely that they would be visually conspicuous and as such do not materially influence my assessment.
- 26. The appeal site is relatively well screened from close range views by existing hedges however, it is visible from wider views in particular from the Hambleton Peninsula, as agreed by the main parties at the hearing. Both main parties had taken photographs looking over the water towards the site from approximately the same position on the Hambleton Peninsula. There was some discussion about whether the Council's photograph was taken using a zoom. Whether or not that is the case, I visited and viewed the site from this location.
- 27. I observed that the site is visible from the Hambleton Peninsula albeit in reasonably distant views. However, given the proposed elevated siting of the building and mobile home, they would undoubtedly be visible from the well-used circular footpath and cycle way around Rutland Water as well as from the water itself. Some intermittent and relatively localised views would be possible from Lyndon Lane during the winter months when there is less tree coverage. I acknowledge that the hedges offer some shielding from views to the south, east and west. Nevertheless, the relatively short distance to the shores of the water and the open nature and long-distance views that are a feature of Rutland Water, mean the proposed mobile home and building would be clearly seen. As the development would be unrelated to existing buildings or landscape features it would appear particularly prominent and would cause significant harm to this largely undeveloped sensitive landscape by altering the undisturbed character of the area and reducing the tranquil perception.
- 28. The appellant referred to a previous Inspector's decision² which related to the formation of tracks on the site, where it was considered that the tracks were visible from the well-used circular footpath and cycle way around Rutland Water but that the distance of such views, to an extent, ameliorated their

² APP/A2470/A/13/2191981

impact. Nevertheless, tracks laid into the ground are not comparable to the appearance of buildings with height above ground, which would be more prominent in the landscape and as such this is of little weight in my assessment. In any event, I have considered this proposal on its own merits.

29. There is a further touring caravan site located broadly to the south east of the site which the appellant referred to. The Council stated that in their view this is unauthorised and currently under investigation, as such its existence is a matter of limited weight. In any event, touring caravans by nature come and go and do not have the same degree of permanence and are not comparable to the appeal proposal.
30. Overall, for the reasons given above the proposed development would cause harm to the character and appearance of this part of Rutland Water contrary to Policies SP13, SP15 and SP23 of the Local Plan and Policies CS19, CS21 and CS24 of the Core Strategy. Taken together these policies seek to ensure that new development is designed to be sensitive to the landscape setting, makes a positive contribution towards the unique character of Rutland's countryside and does not have an adverse impact on the landscape and general tranquil and undisturbed environment of Rutland Water. It would also conflict with the landscape protection aims of Policy SP6 and the aims of the Framework to enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Other Matters

31. That there would be no harm to residential amenity or the nearby SSSI, subject to conditions, are neutral matters which cannot outweigh my above findings.

Conclusion

32. Whilst the evidence demonstrates that there is a functional need for a rural worker to live on the site, that need doesn't currently exist. The appellant's evidence demonstrates that there is a demand for rabbit meat throughout the country however, there is no evidence which suggests that demand should be met through the development of this site or that it could not be met by locating the development elsewhere. As such the significant harm to the landscape would not be outweighed by the functional need for a worker to be present on site.
33. For the reasons given above and having regard to all matters raised, I conclude the proposal would conflict with the development plan read as a whole, and the appeal should be dismissed.

Felicity Thompson

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Zack Simons, of Counsel

Phillip Kerry

Sam Croft

Willis & Co

Peter Williams BSc MBIAC

Reading Agricultural Consultants

FOR THE LOCAL PLANNING AUTHORITY:

Nick Hodgett DipTP MRTPI

Rutland County Council

INTERESTED PERSONS:

Adrian Croot

Neighbouring landowner

DOCUMENTS SUBMITTED BEFORE THE HEARING:

1. Lyndon Top Business Plan.
2. Accounts for T & S Granby Rabbit Farm.