



Appeal Decision

Hearing Held on 18 September 2019

Site visit made on 18 September 2019

by S Hunt BA (Hons) MA MRTPI

Inspector appointed by the Secretary of State

Decision date: 5 November 2019

Appeal Ref: APP/A3010/W/19/3226759

Land off Goosemoor Lane/Whitehouses Road, Retford, Nottinghamshire

- 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 Colin Cookson against the decision of Bassetlaw District Council.
 - The application Ref 18/01071/RSB, dated 14 August 2018, was refused by notice dated 23 October 2018.
 - The development proposed is Change of use from agricultural to residential / cattery and kennels. Convert existing deep litter house to cattery / dog grooming parlour and dog hydrotherapy area, plus construct proprietary kennel block and new dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address for the proposed development as set out in the banner heading above is taken from the application form. It is noted that a more detailed address has been set out in Council documents including the Decision Notice. The Council have referred to 'Whitehouse Road' in the majority of their documentation, whereas the appellant's application form and other documents including the site plan state 'Whitehouses Road'.
3. Notwithstanding this, I find that the slight difference in how the site address is stated has no substantive impact in defining the location of the proposal. As such, I have referred to the address on the original application form.
4. The Council provided an update to the status of the emerging Draft Bassetlaw Local Plan at the Hearing. A draft strategic plan has been published for consultation since the refusal of the planning application, and both parties agreed that weight should not be attached to it. The Council also confirmed that there was no allocations document at present. My decision therefore only relates to the adopted Bassetlaw Local Development Framework: Core Strategy and Development Management Development Plan Document 2011 (BLDF).

Main Issues

5. The main issues are:
 - Whether the location of the proposed development is acceptable in terms of local and national planning policy and guidance, including whether the

proposal for a rural workers dwelling would represent an isolated new home in the countryside;

- Whether the proposed buildings would result in harm to the character and appearance of the surrounding rural area and the Retford South Conservation Area;
- Whether there is an essential need for a new dwelling associated with the proposed pet boarding business, with particular reference to animal welfare issues and the infancy of the business enterprise;
- Whether the proposed commercial buildings are justified in the proposed countryside location, with particular reference to whether there are any other suitable sites within nearby existing settlements or on previously developed land to accommodate the business enterprise; and
- Whether the existing disused building is capable of conversion to a commercial building without significant extension, rebuilding or external alteration.

Reasons

Location; Planning Policy

6. The appeal site lies in the countryside, outside of the settlement development boundaries of Retford as defined on the Proposals Map of the BLDF. Policy CS1 of the BLDF restricts development to the area inside defined development boundaries of settlements identified in the settlement hierarchy until the adoption of the Site Allocations Development Plan Document. The proposals for a dwelling and commercial buildings are therefore contrary to the strategic policies of the development plan which restrict development in the countryside.
7. A Secretary of State recovered decision¹ issued since the determination of the application has led to the Council determining that the Core Strategy part of the BLDF is out of date. This is due to its lack of review within 5 years as required by paragraph 33 of the National Planning Policy Framework (the Framework). It was agreed by both parties at the Hearing that strategic policies CS1 to CS8 referred to in reasons for refusal 1 and 2 are no longer applicable to the decision, and in the absence of any evidence to the contrary I have no reason to disagree with this.
8. The relevant policies within the Development Management Development Plan Document part of the BLDF are up-to-date and can continue to be given appropriate weight depending on their compliance with the Framework. These relate to economic development in the countryside (Policy DM1), conversion of rural buildings (DM2), general development in the countryside (DM3), design and character (DM4), and the historic environment (DM8).
9. Part of the site lies within a designated heritage asset (Retford South Conservation Area). Whilst Policy DM8 is not specifically noted in the reasons for refusal, I regard it to be one of the most important for determining the application. I consider the impact on the character and appearance of the Conservation Area later in this decision.

¹ APP/F4410/W/17/3169288 Land East of Mere Lane, Edenthorpe, Doncaster

10. A dwelling is included in the proposals. Paragraph 79 of the Framework requires decisions to avoid the development of isolated homes in the countryside unless special circumstances apply, including (a) there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. Both parties agreed at the Hearing that the proposed dwelling would not be isolated given its proximity to the urban edge of Retford, and I concur with this view.
11. There are no up-to-date policies in the BLDF which directly relate to new dwellings in the countryside. Policy DM3 suggests that replacement of existing buildings and re-use of previously developed land may be appropriate, however the main parties agreed at the Hearing that the site does not comprise previously developed land, given its former agricultural use.
12. The Framework at paragraph 83(a) supports the sustainable growth of all types of businesses in rural areas, both through conversion of existing buildings and well-designed new buildings. Paragraph 84 states that decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements and in these circumstances it will be important to ensure that development is sensitive to its surroundings.
13. Policy DM1 of the BLDF refers to economic development in the countryside. It is generally in compliance with the Framework in that it is supportive of rural businesses and I therefore consider it up-to-date. At section (i) it seeks for any necessary built facilities to be provided by the re-use of existing buildings, or where this is not feasible, new buildings should be located and designed to minimise their impact upon the character and appearance of the countryside. Section (ii) of the Policy seeks to ensure the development requires the specific location proposed and that there are no other suitable sites in or close to existing settlements or on brownfield land. The Policy also requires that (iii) proposals should be viable as a long term business, and that (iv) the scale, design and form of the proposal, both in terms of both buildings and operation, will be appropriate for its location and setting and be compatible with surrounding land uses. I make my conclusions whether the proposed commercial buildings are justified in this countryside location with respect to the criteria within policy DM1 in the sections below.
14. I find the site to be in an accessible location. It is in close proximity to the town of Retford with its wide range of services, in easy reach of a potential customer base for the business, as well as having reasonable access to public transport services. However these positive aspects of the location are outweighed by the harm that I detail in the sections below.

Character and Appearance of the site, its surroundings and the Retford South Conservation Area

15. The site comprises a vacant agricultural holding, containing overgrown grassland and the remaining walls of a disused brick/block building formerly used as a deep litter house. The site can be clearly seen from several viewpoints including Whitehouses Road, the stopped up part of Goosemoor Lane leading to the railway line, and from the adjacent open fields. It is more screened by mature vegetation when viewed from the opposite direction, via the adjacent playing fields and Goosemoor Lane leading to the nearby settlement of Ordsall.

16. There is a busy high speed railway line in close proximity to the site. This affects the tranquillity of the area, albeit for short periods of time. Notwithstanding the derelict appearance of the former deep litter house structure, the site forms part of a pleasant green approach towards the White Houses area of Retford and leading to the nearby settlement of Ordsall.
17. Although close in distance, the character of this area is distinctly different to the nearby town of Retford, with the railway line providing a strongly defined boundary to the urban area. Levels of the site are lower than the nearest dwellings on Marquis Gardens beyond the railway line, and I noted on my visit to neighbouring properties that several of the dwellings here have an open outlook over the site and beyond towards the River Idle.
18. Simple brick and slate buildings, in the style of traditional barns, are proposed for the single storey dwelling and commercial buildings. The Council informed me at the Hearing that they did not object to the detailed design of the buildings nor the proposed use of materials. Rather, their concern related to the domesticated appearance in the rural context of the area. I find the design to generally be of a high quality in conformity with Policy DM4 of the BLDF.
19. Notwithstanding the acceptable design details, in my view the presence of a dwelling and its associated domestic paraphernalia together with two commercial buildings within this otherwise undeveloped area would be discordant with the prevalent rural character of the area. The buildings would result in an erosion of the pleasant green setting to nearby Retford and Ordsall, to the detriment of the character and appearance of the area.
20. Part of the site lies within the Retford South Conservation Area. Whilst no buildings would be located directly within the Conservation Area (CA), the proposed dwelling would skirt the edge of the designated boundary. The surroundings in which it is experienced would therefore be directly affected. I acknowledge that the Council's Conservation Officer has not objected to the proposals. Nonetheless, I am still obliged to pay special attention to the desirability of preserving or enhancing its character or appearance².
21. At the Hearing the Council highlighted that the Retford South Conservation Area Appraisal (CAA) gives some useful context to the character of the area of 'White Houses' and I was subsequently provided with a copy of the document. The significance of the CA in respect of the appeal site is in that a large part of this CA is undeveloped, and the site forms part of this (the built development is concentrated around London Road which leads into the town of Retford). The CAA specifically identifies the strong rural character of White Houses and notes that the area is quite separate from Retford; with the railway line providing a logical boundary to the character area together with the River Idle.
22. I am of the view that the appeal site, taken together with the neighbouring open land and tree lined approach to the settlements of Retford (White Houses) and Ordsall, makes a positive contribution to the character and appearance of the Conservation Area as a whole. The trees which partially screen the site would be retained, and together with additional planting would have a neutral effect on the Conservation Area.

² Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

23. However I consider that the presence of built development, in particular the proposed dwelling, would be discordant with the prevalent rural character of the area, resulting in harm to the surroundings in which the Conservation Area is experienced and would impact negatively on its significance.
24. I have taken the derelict appearance of the existing building into account, however I do not concur with the appellant that the development would improve the character and quality of the land and its surroundings, given that there is little that remains of the original building. I consider the condition of the disused building further below. In any case, any potential benefit arising from the improved appearance of the disused building would not outweigh the harm I have identified. The development would fail to preserve or enhance the character or appearance of the Retford South Conservation Area.
25. Consequently, the proposals would not accord with paragraph 200 of the Framework as the buildings would not preserve the elements of the setting that make a positive contribution to the heritage asset. In terms of paragraph 196 of the Framework, the proposals would lead to harm to its significance which is less than substantial.
26. The proposed development fails to comply with Policy DM8 of the BLDF (section B) in that it would fail to preserve or enhance the setting of a heritage asset, and Policies DM1 (section iv) and DM4 (section B i) of the BLDF in that its scale, design and form would be inappropriate for its location and setting, in relation to historic development patterns and landscape character. These policies are consistent with Section 12 of the Framework which seeks to achieve well designed places and in particular paragraph 127c of the Framework which seeks to ensure developments are sympathetic to local character and history, and I consider them to be up-to-date.

Need for a rural worker's dwelling

27. It was confirmed at the Hearing that the proposed dwelling would be tied to the business and the parties were in agreement that a condition could limit its occupation to an employee of the pet boarding business and their family members.
28. I have therefore considered whether there is an essential need for an on-site dwelling in order for the pet boarding business to operate effectively. It was put to me that it is usual for this type of business to have day and night presence to ensure the proper welfare of the animals. I have also been directed towards Pet Federation Industry guidance in respect of recommendations for on-site presence. Nearby pet boarding businesses are listed in the evidence, however I do not have details of the circumstances in which these other enterprises have been established nor whether associated staff live on site.
29. There is little evidence before me to demonstrate whether a dwelling is necessary in terms of animal welfare for this scale of pet boarding business. It would accommodate a relatively small number of pets; 10 cat pens and 5 dog pens are proposed. I have disregarded the dog grooming and dog hydrotherapy aspects of the business in terms of the need for accommodation, as these would only operate during normal working hours.
30. I acknowledge that pets have different needs to farm animals, and that they will be boarded for short periods of time in an unfamiliar environment. This

could result in behavioural issues such as prolonged barking and physical illness. Nonetheless, this is somewhat contradictory with the appellant's proposition that no dogs would be boarded beyond normal working hours (unless in exceptional circumstances); only cats would stay overnight. To my mind, cats would be in less need of overnight care and attention than dogs. The potential noise arising from barking dogs is clearly an issue that has persuaded the appellant to change their business model in this respect.

31. I recognise that some pets will be of high value, and I acknowledge that there has been a history of vandalism on the site and that crime can be an issue in rural areas, particularly where there are derelict buildings. However I am not convinced that alternative measures of security, including remote monitoring by CCTV, have been adequately explored. An on-site dwelling would certainly be more convenient for staff, and would provide a deterrent to intruders, however I am unconvinced whether it is necessary for the effective operation of the business in terms of animal welfare and security.
32. The pet boarding, dog grooming and hydrotherapy business would be a new enterprise and I was informed at the Hearing that the appellant, and his spouse who would run the business, are not currently employed in or trained in running this type of business.
33. I acknowledge the extensive research carried out in terms of the costs and the demand for this type of business locally, that the appellant and his spouse are local people and experienced dog owners, who are willing to attend training and apply for membership of the Pet Industry Federation. Figures have been provided to demonstrate the likely income and running costs of the business, including staff costs, resulting in a reasonable profit in the first year of trading after the establishment year.
34. Notwithstanding the above, and the fact the appellant already owns the land, there is a lack of evidence to demonstrate how the construction of the buildings and the initial establishment of the business (including training costs) would be financed. No detailed viability evidence in this respect has been provided, only an assertion that the appellant has available funds and will retain other income sources and employment. It is difficult to establish whether the turnover and costs provided in the evidence are reasonable, given that the business would be in its infancy and it is a new type of employment venture for the appellant and his spouse.
35. I accept that the scale of the proposed two bed dwelling with office would be commensurate with the needs and circumstances of the appellant and his spouse. Nonetheless its construction costs are not before me in the evidence and I am unconvinced that the business could support the dwelling both in the short and the long term.
36. The Council highlighted the discrepancy between the date of the appellant's Supplementary Study (July 2018), at which time overnight boarding of dogs was proposed, and the dates when the appellant confirmed to the Council that there would be day boarding of dogs only. The anticipated boarding sales refer to both day and extended boarding kennels. This discrepancy and the deletion of overnight boarding dogs in the business plan makes the necessity of an on site dwelling less plausible. The evidence is insufficient to convince me that the business could be established successfully and sustained in the long term. As

the business and the dwelling are mutually dependent, the appeal fails in this respect.

37. I conclude that an essential need for a new dwelling associated with the proposed pet boarding business has not been justified, particularly with reference to animal welfare issues and the infancy of the business enterprise. The proposals are in conflict with Policy DM1(iii) of the BLDF in that it comprises unjustified new development in the countryside and there is a lack of evidence that the development is viable as a long term business.

Alternative sites for the business enterprise

38. Policy DM1(ii) of the BLDF requires proposals for standalone economic development in rural areas to demonstrate that the development requires the specific location proposed, and that there are no other suitable sites in or close to existing settlements or on brownfield land.
39. Evidence has been supplied which seeks to demonstrate that there are no other suitable sites nearby for the proposed business enterprise, either within existing settlements or on previously developed land. I note that there is little detail about the alternative sites which have been listed and discounted. Nonetheless in this case the appellant owns the land, which is clearly the driver for locating the business here.
40. Both parties agreed at the Hearing that the site, and existing building, is not previously developed land, given its former agricultural use. Notwithstanding this, I have already established that the site is in an accessible location, in close proximity to existing settlements. I have no reason to doubt that there is a demand for this type of service from pet owners in the locality.
41. I am satisfied that the appellant has provided sufficient evidence in relation to the locational needs of the commercial proposals, including suitable alternative sites within nearby existing settlements or on previously developed land in compliance with section (ii) of Policy DM1. Nonetheless, I have previously expressed my doubts that the business could be sustained in the long term and the proposals fail to comply with section (iii) of Policy DM1. The potential re-use of the existing building is explored further below.

Existing Building

42. Policy DM2 of the BLDF supports conversion of existing buildings for economic development, provided it can be demonstrated that (i) the building is capable of conversion without significant extension, rebuilding or external alteration. The remaining walls of a disused brick/block agricultural building, formerly used as a deep litter house, lie to the rear of the site. It is here that the appellant proposes to site the main building associated with the proposed business, to house the indoor cat boarding pens together with dog grooming and hydrotherapy. There is disagreement between the parties about whether it would constitute a new building, or conversion of an existing building.
43. A structural survey is not in the evidence before me. Nevertheless on my site visit I noted that the structure has walls to each side, and no roof. It is evident that the brick building has been 'patched up' in more recent times with concrete blockwork. Interested parties informed me at the Hearing that the higher blockwork gables are a more recent addition. Without the blockwork, little of the original brick building would remain. Windows and doors would be

added, and the roof would be higher than the original building. Due to its age and derelict state I consider that it would require significant works to rebuild it into a useable structure.

44. The proposals are therefore contrary to section (i) of Policy DM2 of the BLDF, as the existing disused building would not be capable of conversion to a commercial building without significant extension, rebuilding or external alteration.

Other Matters

45. The provision of a dog grooming service and a hydrotherapy facility would be complimentary ancillary services, and would be unlikely to harm the vitality and viability of Retford Town Centre when coupled with the core pet boarding business. I also acknowledge that the appellant aims to expand the business in the future to include a mobile grooming service. Whilst such services may well be in demand in the locality, I have not further assessed these elements of the business as the appeal fails for other reasons.
46. The intention to plant further trees and hedges would have a beneficial impact in terms of additional screening and biodiversity, but does not outweigh my conclusions that the proposals represent unjustified development in the countryside and would harm the rural character and appearance of the area including the CA.
47. I note the range of other concerns raised by neighbouring occupiers, in relation to effects on living conditions, hygiene and waste management, highway safety, flood risk, potential alternative uses of the land, and the propensity of other similar businesses in the locality. I have concluded that the proposals are otherwise unacceptable for the reasons identified and none of the evidence in relation to these matters leads me to a different conclusion.
48. A previous planning application was refused for a similar proposal on the site. I have no reason to dispute that the appellant has made efforts to improve the design of the buildings and amended the business proposals in an attempt to overcome the previous reasons for refusal. Nonetheless the fundamental issues relating to the lack of justification for a dwelling and commercial buildings in the countryside, which result in harm to the character and appearance of the rural area and Conservation Area, have not been overcome by the current proposals before me.
49. It has been put to me that there is a lack of consistency in the approval of other residential developments in the countryside within the local authority area. Evidence of the circumstances of those cases has not been put before me, so I am uncertain if they represent a direct parallel to the appeal proposals nor of the policy situation when they were determined. In any case, I have determined the appeal on its own merits.
50. The appellant submits that the proposed dwelling would be self-build housing and that this type of housing should be encouraged. However there is no evidence before me that the appellant or the site has been put forward for inclusion on a self-build register in accordance with the Self-Build and Custom Housebuilding Act 2015, and therefore this carries little weight in my decision.

51. At the time the decision was made on the planning application the Council could not demonstrate a five year supply of housing, however they have since published their 2018 Five Year Supply Statement which demonstrates 7.9 years supply. The appellant has not provided any evidence to the contrary and I have not therefore considered this matter any further, as footnote 7 of paragraph 11 of the Framework would not apply in this instance.
52. I have previously noted that the strategic (CS) policies of the BLDF which relate to the location of development are considered out of date in view of their age. However, I do not concur with the main parties that the presumption in favour of sustainable development as set out in paragraph 11(d)(ii) of the Framework should be engaged. I have found that the proposals are in conflict with the development management Policies of the BLDF including those relating to design and designated heritage assets (DM4 and DM8). These Policies are considered to be up-to-date, and are amongst the basket of most important policies for determining the application.
53. Paragraph 11(d)(i) of the Framework is applicable; if policies that protect such areas or assets of particular importance provide a clear reason for refusing the development proposed, planning permission should not be granted. I have previously concluded that the proposals would cause harm to the significance of the Conservation Area and the surroundings in which it is experienced; a clear reason for refusing the development.
54. I note that there would be some positive benefits of the scheme including the provision of a useful local facility and a small level of employment. I have also previously established that the site is in an accessible location. However I have concluded that the development proposals would be discordant with the prevalent rural character of the area, and that there would be harm to the significance of the Retford South Conservation Area. This harm would be less than substantial, and would not be outweighed by any of the aforementioned public benefits.

Conclusion

55. The appeal is dismissed.

S Hunt

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

John Church
Antony Bellekom

John Church Planning Consultancy Ltd
Big Village Consulting Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Amanda Broadhead
John Krawczyk

Bassetlaw District Council
Bassetlaw District Council

INTERESTED PERSONS:

Trevor Oscroft
Elsie Oscroft
Stephen Launders
Maureen Launders

DOCUMENTS SUBMITTED AT THE HEARING

1. Retford South Conservation Area Appraisal 2009