
Appeal Decision

Site visit made on 19 November 2019

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 December 2019

Appeal Ref: APP/X2410/W/19/3236043

Pasture Lane, Hathern, Loughborough LE12 5LJ

- 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 Kevin Smith against the decision of Charnwood Borough Council.
 - The application Ref P/18/0267/2, dated 1 May 2018, was refused by notice dated 19 March 2019.
 - The development proposed is the erection of a barn for storage of hay and agricultural machinery.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of this appeal are:
 - whether a functional agricultural need for the proposed development has been demonstrated;
 - the effect of the proposed development on the character and appearance of the appeal site and surrounding area; and,
 - whether the proposed development would be in an appropriate location with respect to matters of flood risk.

Reasons

Whether needed for agriculture

3. The Council argues that the appellant has not demonstrated an agricultural need for the building, and so it is not justified under Policies CS10, CS11 and CS25 of the Charnwood Local Plan (2011-2028) Core Strategy 2015 (CS). The Council acknowledges that the appellant's agricultural holding is located on land that extends to approximately 7.06ha. This includes an area used for equestrian purposes in the same field as the site. In this respect I note that a letter¹ confirming a County Parish Holding number and Single Business Identifier number has been provided by the appellant to support his submission.
4. The appellant has stated that the building is required for the storage of hay / straw, machinery and equipment in association with the agricultural operation.

¹ Rural Payments Agency dated 2 July 2019

Nevertheless, there is little firm evidence concerning the items of machinery and equipment that are intended to be stored in the building and how they are required for the maintenance of the land. When I visited the site, it was apparent that hay and straw were located in the immediate vicinity of the site covered by tarpaulins. Furthermore, I noted the presence of 2no. shipping containers and additional containers near to the equestrian area.

5. I acknowledge that it is highly likely that there is need for some agricultural storage in association with the appellant's enterprise, due to the existing temporary methods of storage currently on site and the amount of land that requires maintenance by the appellant. However, given the lack of specific detail surrounding the items of machinery and equipment required to be stored in the proposed building for agricultural purposes, I cannot be certain that the scale of the proposed development is reasonably necessary for the purposes of agriculture.
6. The National Planning Policy Framework (the Framework) is a material consideration in the determination of this appeal. Paragraph 83 of the Framework states that planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings; and the development and diversification of agricultural and other land-based rural businesses.
7. I note reference by the appellant to a demolished brick barn to support his submission. However, as this building was demolished and removed some time ago, the site circumstances have changed, and the style and form of the development now proposed also appear to be materially different. I am sure that the appellant intends to provide a well-managed agricultural enterprise, especially as he has reinstated natural boundaries improving natural habitat and biodiversity and improved water courses through general maintenance. However, in this instance, these are not reasons to allow otherwise unacceptable development, given the uncertainty surrounding the required level of storage for agricultural purposes.
8. For the reasons given above, I conclude on the available evidence that I am not persuaded that a functional agricultural need for the proposed development has been demonstrated. The proposed development would therefore fail to comply with the operational requirements of agriculture and rural enterprise aims of CS Policies CS10, CS11 and CS25, saved Policy CT/1 of the Council's Local Plan (1991 to 2006) 2004 (LP) and the Framework.

Character and appearance

9. The location of the scheme would be in a field, close to the track and the shared boundary with the adjacent field in a westerly direction, which comprises a mature hedgerow and trees. Surrounding the site are other fields and Pasture Lane is a notable distance from the site. On the evidence before, including my findings during my visit the proposed development would still be visible from the road.
10. I accept that the proposed development would have the typical appearance of an agricultural building that would not be uncommon on a farm holding. Moreover, the materials proposed for construction in this instance would be agricultural in appearance. However, the countryside, such as that surrounding

the appeal site, generally has an open and spacious character. Paragraph 170 of the Framework states that decisions should contribute to and enhance the natural and local environment by, amongst other things, recognising the intrinsic character and beauty of the countryside.

11. I recognise that the proposal has been amended through the course of the application, reducing the roof pitch, amongst other things. Nevertheless, the scale, massing and height of the proposed building would still be a noticeable feature in the landscape. Given my findings on the previous issue, I cannot be certain that the proposed development is of an acceptable scale. Thus, as the scheme would be notable in size, even when compared to the size of the holding, it would, nevertheless, be very noticeable in the landscape due to its relatively exposed location.
12. For the reasons given above, I conclude that the proposed development would cause significant harm to the character and appearance of the appeal site and the surrounding countryside. The proposed development would therefore fail to comply with the character and appearance aims of CS Policies CS2, CS10 and CS11, saved LP Policy CT/1 and the Framework.

Flood risk

13. The Framework sets out a sequential, risk-based approach to the location of development. The Planning Practice Guidance (PPG) indicates that the aim of this approach is to keep development out of medium and high flood risk areas (Flood Zones 2 and 3) where possible. The site lies within Flood Zone 3 according to the Environment Agency's (EA) flood risk mapping. Land within this zone has a high probability of flooding.
14. CS Policy CS16 sets out to direct development in locations within the Borough to locations at lowest risk, applying the Sequential Test and, if necessary, the Exception Test. Additionally, where development is proposed in flood risk areas, mitigation measures must be in place to reduce the effects of flood water. Furthermore, CS Policy CS16 would support developments which takes opportunities to reduce flood risk elsewhere and manage surface water run off with no net increase in the rate of run off for greenfield sites.
15. The appellant's Flood Risk Assessment² (the FRA) document which accompanies the application acknowledges that the site is recorded within Flood Zone 3³ with a high risk of flooding. The FRA also accepts that the proposed development is categorised as 'Less Vulnerable'⁴. The FRA proposes a series of mitigation methods, such as Flood Resilient Measures, Flood Warning and Evacuation, Flood Warnings Direct, Flood Warning Service and Surface Water Runoff (SuDS). Nevertheless, I note that during various communications with the EA, the EA have maintained their objection to the scheme. I consider, the objection from The EA to be a material consideration of significant weight in the determination of the appeal.
16. The EA consider, in line with the PPG⁵ that as the site is located within Flood Zone 3b, functional flood plain with a high probability of flooding, the guidance

² Undertaken by UK Flood Risk Consultants, Flood Risk Assessment REF:QFRA 1103, dated 20 August 2018

³ PPG Paragraph: 066 Reference ID: 7-066-20140306 - Table 1: Flood Zones

⁴ PPG Paragraph: 066 Reference ID: 7-066-20140306 - Table 2: Flood risk vulnerability classification

⁵ PPG Paragraph: 067 Reference ID: 7-067-20140306 - Table 3: Flood risk vulnerability and flood zone 'compatibility'

surrounding proposed development, which is categorised as 'Less Vulnerable' advises that the development proposed is not compatible within Flood Zone 3b and should therefore not be permitted. The appellant asserts that the EA has not taken into account local flood relief measures introduced in the 1990s. However, on the details before me, no substantive evidence to the contrary has been provided that causes me to question the consultation response of the EA with regard to flood risk at and from the appeal site. Consequently, I am not satisfied that the proposed development would be located in a suitable location.

17. The appellant has also made reference to numerous sites⁶ in support of his submission on this issue. However, I have limited information on these sites and I am unable to draw any meaningful parallels between them and the appeal scheme. I do recognise that the Small Holding, including the bungalow, stable block and other extensions is located close to the appeal site. However, the fact that this and the other properties may exist is not a reason, on their own, to allow otherwise unacceptable development. Furthermore, I do not know the planning merits of these cases, unlike the appeal scheme which I have determined on its own planning merits.
18. For the reasons given above, I conclude that the proposed development would not be in an appropriate location with respect to matters of flood risk. The proposed development would therefore fail to comply with the flood risk and drainage aims of CS Policy CS16, the requirement of the PPG and the Framework.

Other Matters

19. I acknowledge that the proposed development received no local objection, including Parish and Ward Councillors, and that the proposed development would bring some social and economic benefits to the area, especially through the construction phase of the development. However, I find that these factors in favour of the development do not outweigh the harm that would be caused. I have considered this appeal proposal on its own planning merits and concluded that the scheme is not acceptable for the reasons set out above.
20. I note the appellant's comments about the way the Council handled the application and the contribution of the EA on the scheme subject of this appeal. However, these matters are not material to the assessment of the appeal before me.

Conclusion

21. Taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR

⁶ The Smallholding; The Stints, off Greenhill Rise; Loughborough Boat Club residence and Soar Lane, Sutton Bonnington.