



Appeal Decision

Site visit made on 18 February 2020

by F Cullen BA(Hons) MSc DipTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23 March 2020

Appeal Ref: APP/P1045/W/19/3242644

Land to the rear of Ash Tree Farm, Spend Lane, Sandybrook, Ashbourne DE6 2AR

- 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 P Tong against the decision of Derbyshire Dales District Council.
 - The application Ref 19/00793/FUL, dated 8 July 2019, was refused by notice dated 23 September 2019.
 - The development proposed is a change of use of equestrian and agricultural land to B8 storage including the siting of 64 storage containers.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application for Planning Permission (PP) which is the subject of this appeal was refused by the Council on 23 September 2019. Following this, the Council issued an Enforcement Notice (EN) on 31 October 2019. Appeals against the refusal of PP and the EN were submitted to the Planning Inspectorate by the appellant on 6 December 2019. The appeal against the EN was turned away as being out of time.
3. Given the issue of an EN by the Council, under Article 37(2)(c) of The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) any appeal against the refusal of PP should have been received by the Planning Inspectorate within 28 days of the issue of the EN, i.e. 28 November 2019. Although used sparingly, discretion to accept late appeals is afforded under Article 37(1)(a)(ii) of the DMPO. As there was no delay between the submission of the appeals and the Council has not sought to question the acceptance of the appeal against the refusal of PP as being out of time, this appeal has been accepted and I have determined it on this basis. For the avoidance of doubt, my consideration of the appeal deals solely with the evidence related to the refusal to grant PP.
4. At the time of my site visit, I saw that the change of use of the land and the siting of the storage containers has already occurred. I have dealt with the appeal on that basis.
5. Additional information in the form of tax returns has been submitted by the appellant in support of the appeal. I am mindful that the appeal process should not be used to evolve a scheme and it is important that what is considered by

the Inspector is essentially what was considered by the Council as local planning authority, and on which interested people's views were sought. The Council has had the opportunity to comment on the information as part of the appeal. I am therefore prepared to accept it on this basis. I am satisfied that no interested party has been prejudiced by this approach.

Main Issues

6. The main issues are:

- Whether the development provides a suitable location for B8 storage use, having regard to the development plan; and
- The effect of the development on the character and appearance of the landscape.

Reasons

Suitable location

7. The appeal site is located between Ashbourne and Thorpe within the open countryside. It is sited within Ash Tree Farm landholding and is accessed via a narrow track from Spend Lane.
8. Prior to the installation of the self-storage container facility (the facility) between 2016 and 2018, the appeal site is stated to have been an unused equestrian ménage and agricultural grazing land. The rest of the landholding is currently used for a variety of agricultural purposes, including grazing livestock (mainly sheep and chickens).
9. On my site visit, I observed that the appeal site is comprised of two storage yards, one at a slightly higher level and each with a gated access. The metal storage containers are of varying sizes and have a dark green finish. The yards are partly screened by existing hedgerows and additional planting has been carried out by the appellant.
10. Policy S4(f) of the Derbyshire Dales Local Plan 2017 (DDLDP) states that planning permission will be granted for development where, it comprises proposals for agriculture and related development which helps sustain existing agricultural and other rural based enterprises, including small scale farm shops selling local produce, complementary farm diversification and new agricultural buildings that maintain the landscape quality and character of the countryside. In addition, Policy EC1 of the DDLDP supports new agricultural development, farm diversification and other development which supports the rural economy.
11. The appellant contends that the development is a diversification of the existing farm business which has been running for almost four continuous years, and has submitted agricultural tax computations dating from 2014-2018 as part of the appeal.
12. I accept that the information submitted confirms that the farm is an ongoing business and has been running during this period. However, no evidence has been provided which clarifies the relationship between the facility and the existing farm business, and how it provides a supplementary diversification scheme which supports the landholding. In this respect, the information does not provide a justification for the development.

13. I note the economic, social and environmental benefits of the facility which have been highlighted by the appellant, such as employment, a service to local businesses, low impact in terms of trips to the site and zero waste. However, limited or no conclusive evidence on these matters, such as details of the job created, information about the users of the facility and how far and how often they have travelled, is before me as part of the appeal. Therefore, the local benefits stated as being accrued from the facility, particularly how it supports the rural economy, cannot be fully confirmed.
14. Accordingly, I conclude that the development does not provide a suitable location for B8 storage use, having regard to the development plan. As such, it is contrary to Policies S1, S4 and EC1 of the DDLP. Together, and amongst other things, these policies seek to ensure that new development makes a positive contribution towards the achievement of sustainable development; facilitates sustainable rural community needs, tourism and economic development; and supports proposals for new or expansion of existing business or industrial development in sustainable locations.

Character and appearance of the landscape

15. The appeal site lies within an expansive and undulating green, rural landscape which is interspersed by individual houses, farmsteads and small settlements, along with large areas of mature woodland, tree belts and hedge lines.
16. I acknowledge that the facility is relatively modest in size in relation to the landholding, appears well maintained, has restricted opening hours and is only lit by one single floodlight. I also note that the single level of units and finish of the containers, together with the existing and newly planted boundary treatment, mitigate the development's impact on the appearance of the landscape and the ability to view it from surrounding public routes.
17. However, notwithstanding the limited wider visual impact of the development, the yards and containers are highly conspicuous to any visitors when within the site. Furthermore, their commercial nature and very hard and heavy industrial form are in sharp contrast to, and out of keeping with, the agricultural structures and softer rural landscape of the surrounding area. In these respects, the development results in a discordant use and incongruous feature within the landscape which does not protect or enhance its intrinsic character.
18. I note that the appellant has confirmed that the site is not anticipated to grow over and above its current capacity, and that he is willing to accept the imposition of a condition to ensure that the containers cannot be stacked in the future. However, these factors are not sufficient to overcome the fundamental objections to the nature and form of this type of development in this location and context.
19. Therefore, I conclude that the development has a harmful effect on the character of the landscape. As such, it conflicts with Policies S1, S4, PD1 and PD5 of the DDLP. Together, and amongst other things, these policies seek to ensure that new development makes a positive contribution towards the achievement of sustainable development; protects and where possible, enhances the landscape's intrinsic character and distinctiveness, whilst also facilitating sustainable rural community needs, tourism and economic development; responds positively to the environment; and protects, enhances and restores the landscape character of the Plan Area.

Other Matters

20. It is suggested by the appellant that the site in part comprised previously developed land, and provides a commercial enterprise in accordance with the criteria for which Policy S4 of the DDLP states planning permission will be granted. However, having regard to the National Planning Policy Framework's definition of Previously Developed Land, the appellant's statement confirms that there were no previous buildings on the site and the definition excludes land that was last occupied by agricultural or forestry buildings. Furthermore, in my planning judgement, the appellant's claims that the facility complements the existing agricultural business and maintains the landscape quality and character of the countryside, have not been substantiated. Therefore, this is a matter to which I afford limited weight.
21. I am aware that Policies S9 and EC10 of the DDLP seek to support farm enterprises and diversification. However, as there is no evidence before me that the development is a diversification which supports the existing business and I have concluded that it is a use that is not compatible with its location in terms of the character of the landscape, I am of the opinion that the development also conflicts with these policies.
22. I have had regard to the appellant's comments that there were no opportunities to re-use or replace existing buildings before the containers were sited in this location, that there are no other unoccupied existing buildings within the landholding where the containers could have been located and that the layout of the yards represent an efficient use of land which benefits the wider farm operations. However, these factors do not justify the identified harm.
23. The appellant has drawn my attention to other self-storage container facilities that have been granted planning permission by the Local Planning Authorities in which they are located, or allowed on appeal¹. Some are highlighted by the appellant to be key examples of successful rural self-storage uses working in tandem with an operational farm and small-holding, and so are comparable to Ash Tree Farm. However, I do not know the full details or circumstances of these developments and, from the limited information provided, I am unable to draw any direct comparisons with the appeal before me. In any event, I have determined this appeal on its own planning merits and the specific context of the appeal site and found that it causes harm.
24. I am aware that no technical concerns, subject to the imposition of conditions, were raised by Highway Development Control and Environmental Health. I also note that no objections were received from Mappleton Parish Council or neighbouring landowners. However, these are neutral considerations in the balance and do not outweigh or overcome my conclusions on the main issues.
25. I note the appellant's comments that the Council assumed a lack of connection of the facility to the established business use on site and made no attempt to clarify this issue which was then used as part of the reason for refusal. However, such matters are not material considerations to which I can give any significant weight in the context of an appeal under Section 78 of the Act.

¹ Combs Farm Storage NG22 8EW; Coed Farm SA32 8HB and Appeal Ref: APP/M6825/A/12/2171843; Wimpstone Fields CV39 8NN; Henwood Farm LE67 1AP; Apple Pie Farm TN17 4EU; Appeal Ref: APP/X1925/A/10/2121343; and Appeal Ref: APP/L2630/W/15/3040063.

Conclusion

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

F Cullen

INSPECTOR