



Appeal Decision

Site visit made on 9 March 2020

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 27 March 2020

Appeal Ref: APP/W4325/W/19/3239055

Land adjacent to Brookfield, Thurstaston Road, Irby CH61 0HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Reed against the decision of Wirral Metropolitan Borough Council.
 - The application Ref APP/19/00113, dated 23 January 2019, was refused by notice dated 17 May 2019.
 - The development proposed is described on the application form as the 'erection of an agricultural building to be used for the storage of machinery, equipment and hay'.
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Decision

1. The appeal is dismissed.

Planning context

2. The appeal site falls within the Thurstaston Common Area of Special Landscape Value ('ASLV') and Green Belt. In brief saved policy LA1 of the Unitary Development Plan (adopted originally in February 2000, the 'UDP') seeks to protect the character and appearance of ASLVs, particularly their characteristic features. Supporting paragraph 14.8 explains how LA1 does not prevent any new development, but rather aims to ensure that 'special priority' is given to landscape preservation. UDP policy GB2 limits permissible development in the Green Belt to certain types, including that which relates to agriculture and forestry. Paragraph 213 of the National Planning Policy Framework ('NPPF') explains how development plan policies should not be considered out-of-date simply because they were adopted prior to its publication.
3. NPPF paragraph 170. a) sets out how planning should seek to protect and enhance valued landscapes commensurate with their identified quality in the development plan. That is broadly aligned with UDP policy LA1. Similarly NPPF paragraph 145 gives, as an exception to the general position that new buildings are inappropriate development in the Green Belt, those which are for agriculture and forestry. Again GB2 remains consistent with that approach, in so far as relevant to this appeal. Whilst both development plan policies and the NPPF envisage circumstances in which agricultural development may be acceptable in valued landscapes and the Green Belt, none accord unconditional support to it.

4. The proposal is not under permitted development rights.¹ However the ability to exercise those rights in respect of agricultural buildings is subject to various limitations and conditions. Condition A.2(2)(i) is that an application must be made to the local planning authority as to whether its prior approval is required as regards of the siting, design and external appearance of a building. Moreover those agricultural permitted development rights apply only where development is 'reasonably necessary for the purposes of agriculture within that unit'.

Main issues

5. Against the context above it is appropriate to assess as main issues (i) the effect of the proposal on landscape character, and (ii) in the event that any harm would result, whether that is justifiable with regard to the benefits of the scheme.

Reasons

Landscape character

6. Benty Farm is encircled by Thurstaston Common. Both are owned by the National Trust. The appellant is a member of the fifth generation to rent and work the Farm. Thurstaston Common, a densely wooded area, is a Site of Special Scientific Interest ('SSSI'), albeit that designation does not encompass the appeal site. The appeal site is a separate right-angled parcel of land of approximately 0.62ha within the appellants' control. It is broadly level and laid to grass, aside from a copse of semi-mature planted trees. The site wraps around Brookfield, No 90 Thurstaston Road. At its nearest, and as the crow flies, Benty Farm and the appeal site are some 200m apart. Plan B103 shows that Benty Farm amounts to around 10ha of land.
7. Brookfield is a bungalow, albeit with accommodation within the pitch of the roof, that has been extended and altered over time. Access to the site is, and would be, slightly further east than the driveway to No 90. The appeal site extends as far as Sandy Lane, a residential street characterised principally by detached bungalows marking the limits of the built form of Irby. Brookfield is therefore an outlier, falling instead to the west of Sandy Lane.
8. At present, being a natural and open parcel of land, the appeal site is consistent with its rural surroundings. The site falls within character area 3b 'Thurstaston and Greasby Sandstone Hills' as identified in the Council's 2019 Landscape Character Assessment ('LCA').² That area is characterised by a varied field pattern of primarily arable land with patches of woodland. The landscape is also cut by various brooks and footpaths, and has a sylvan and tranquil character despite the proximity of urban areas. That character, clearly valued by many nearby, merits an appropriate degree of protection.
9. However the appeal site is enclosed by established hedgerows along Thurstaston Road and Sandy Lane. Plan B102 shows the retention of existing,

¹ Part 6, Class A of schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended.

² I understand that the LCA is evidence underpinning the preparation of a new Local Plan, presently out for consultation under Regulation 18 of the Town and Country Planning (Local Planning)(England) Regulations 2012 as amended, and therefore at a relatively early stage.

and planting of new, boundary features. There is some visibility from properties along Sandy Lane, as they tend to be set at a higher level than the pavement. However the hedgerow flanking the Lane limits all but partial views from many public vantage points there. The proposal is to set the barn behind No 90 relative to Thurstaston Road. By consequence the form of Brookfield would obscure a good proportion of the building from viewpoints to the south.³

10. Woodland comprising the SSSI is located to the west of the appeal site along Greasby Brook. The SSSI is criss-crossed by public rights of way, including a recently established footpath connecting School Lane to footpath No 54.⁴ However, having walked that and other routes within Thurstaston Common, there is little visibility of the appeal site on account of intervening trees and vegetation. I was unable to identify other more distant vantage points in which the appeal site is a readily apparent element of the landscape.
11. The appeal site falls within 'general area 3' as defined in the Wirral Green Belt Review (published in 2019, the 'GBR'). The GBR explains how that area has a strong contribution to the five purposes for which Green Belt is designated, as now set out in NPPF paragraph 134. However, at a more detailed level, the GBR puts the appeal site within 'parcel 7.25'. That parcel is identified in the GBR as having a 'weak contribution' to Green Belt purposes on account of its limited contribution to openness, the paucity of long-distance views of the site, and being of limited significance in terms of separating settlements. Those findings are consistent with my observations.
12. The building would be 23.35m in length by 11.3m in width. It would reach a maximum height of 7m, with lower eaves. On account of its scale, the proposed barn would be partially visible from Thurstaston Road behind No 90, and against the backdrop of the SSSI as viewed from along Sandy Lane. Albeit that agricultural buildings are not inappropriate development in the Green Belt, by virtue of its size and alterations to improve access, the proposal would inevitably reduce the open and natural character of the appeal site.
13. The proposal is for a timber clad portal barn with a fibre cement roof. Buildings of that type are commonplace in rural settings. Although the proposal is not under permitted development rights, it is relevant to note that the maximum permissible size of a building under Part 6, Class A is 465sqm.⁵ Instead the proposal here is for a building of with more limited floorspace of 264sqm.
14. Drawing together my reasoning above the proposal would have some adverse effect on natural landscape character. That would be in conflict with the provisions of LA1 which seek to preserve landscape character, and of GB2 which seek to avoid damage to 'the visual amenities of the Green Belt'. Equally conflict would arise with the relevant elements of NPPF paragraph 170. However the site is visually enclosed and contributes only to a qualified extent to landscape character. By virtue of the design proposed, its intended location, and the relationship of the site to its wider surroundings, adverse effects would, in my view, be limited.

³ As shown in particular in the street scene elevation on plan B100.

⁴ Via order made on 29 November 2019 under section 26 of the Highways Act 1980 as amended.

⁵ Albeit there is no case made that in other respects the proposal would fulfil the relevant limitations.

Benefits

15. Policies LA1 and GB2, UDP policy AG4 regarding agricultural development, and also permitted development rights, envisage scenarios where agricultural development may be appropriate provided that it is suitably justified. Arguably the creation of any new agricultural development on a fresh site could be argued to adversely affect the natural qualities of the landscape. NPPF paragraph 83 is supportive of the sustainable growth and expansion of all types of businesses in rural areas, including through the creation of well-designed new buildings, and the diversification of land-based rural businesses.
16. In addition to the appellant's comments at appeal there are two principal documents before me in respect of the justification for the scheme, a planning statement and an agricultural justification report.⁶ The planning statement explains how the main farm activities undertaken at Benty Farm include hay making, sheep grazing, and agricultural contracting. The existing buildings at Benty Farm are uniquely identified on a supporting plan in that document. I am told that in 2014 Benty Tea Rooms opened. That involved the part conversion of an existing agricultural unit, 'shed 3', resulting in the loss of around 81sqm of floorspace that could have been used for agricultural purposes.
17. I am told that other existing buildings are in a poor state of repair. That is certainly the case of 'shed 2', which appears of historic construction. The planning statement explains how, on account of the limited availability of internal floorspace, plant and machinery must necessarily be stored in the open, resulting in 'advanced deterioration'. The statement further sets out that another shed 'adjacent to the field', has sufficient capacity to accommodate only around 10 sheep as necessary, for example during inclement weather or lambing season. I understand that the appellant keeps a flock of around 100 Shropshire sheep and produces around 2,500 bales of hay annually.⁷
18. The planning statement explains how the proposal would enable 'shed 1', at 120 sqm, to be used for bringing sheep under cover. The appellant states that it is not his intention to use the proposed building for accommodating livestock. Further, the planning statement also explains that there is an 'urgent need' for a suitable building on account of the above, and in order to enable hay production to increase.
19. Undoubtedly the proposal would be beneficial to the appellant in terms of provision of additional floorspace constructed to a modern standard in an accessible location, thereby enabling greater convenience in operating the tea rooms in close proximity to a working farm. I also note the extensive history to engagement between the appellant and Council with a view to arriving at an approach acceptable to both parties.⁸ However there are several significant shortcomings with the evidence before me in justification of the scheme.
20. Section 2.4.5 of the agricultural justification report explains how some of the space in the shed will be taken up by the flock, and accordingly that 'the shed

⁶ The latter prepared by Rostons Land & Property Specialists, Ref AJR.CPCP7516.

⁷ Albeit a figure of 4000 is cited in correspondence on behalf of appellant of 19 September 2018.

⁸ Including in respect of former applications Ref AGN/18/00678 and APP/18/00826.

must be predator proof for the protection of the ewes and lambs'.⁹ That conflicts with the appellant's intended use of the building. The report further explains that Benty Farm is a diversified enterprise including 'several farm enterprises' including an agricultural (machinery) contracting business. That is stated in paragraph 1.4 to enable 'Benty Farm the ability to purchase modern agricultural machinery, assisting with the management of their land'. There is no distinction in the information before me as to what plant and machinery on site relates to the management of Benty Farm or is rather contracted out.

21. Section 2.2 of the report explains that all enterprises at the farm are 'financially viable'. However the report also asserts that 'to remain viable these businesses need to be able to continue growing'. It is difficult to reconcile those two positions; an enterprise cannot at the same time be viable, but only viable contingent on future growth. I accept that the proposal would enable a larger flock to be held at Benty Farm and additional hay to be suitably stored. However the agricultural justification report explains that the scale and height of the proposed building is, in part, related to agriculture beyond the holding, i.e. to enable the storage of hay sourced from elsewhere by way of provision of a mezzanine level (section 2.4.5). That provision does not necessarily need to be made here.
22. On several occasions, principally with reference to climate change and more changeable weather conditions, the appellant argues that there is an urgent need for the proposed building. However it is unclear as to how long a flock of sheep has been successfully maintained in the absence thereof; Benty Farm has been operational for several generations. In part that urgency results from the use of around 81sqm of a former agricultural building as a tea room; there is no substantive evidence before me to establish what role that undertaking played in supporting the ongoing viability of Benty Farm relative to effects on livestock capacity.
23. The appellant is, understandably, unwilling to commit significant expenditure in creating a new building on land that he does not own. I am also told that the erection of a new building at Benty Farm may equally breach the terms of his tenancy. I do not, however, have a definitive position from the National Trust in that regard. Nevertheless private legal restrictions on the use of land and planning are largely independent matters. Land ownership is not, of itself, a strong argument for allowing development. Moreover the appellant's position in that regard appears to run counter to the investment that has already gone in to developing the tea room, and intention to further expand that facility. Many agricultural buildings are also designed so as to be relatively easily assembled and dismantled allowing for their relocation or re-sale.
24. Furthermore there are no accounts or figures before me related to the holding to gauge its existing viability, or what elements of turnover relate to the various enterprises present or plans for future expansion. Whilst access to the appeal site would be more convenient than the existing winding route to reach Benty Farm, dismissing the appeal would not alter present arrangements (which have persisted for some time). Whilst I acknowledge that the proposal would be personally beneficial to the appellant, taken as a whole the evidence

⁹ And also at section 2.4.7 that 'the new shed will provide significantly higher standards of animal welfare for the sheep at Benty Farm'.

before me does not robustly justify either the scale or location of the proposed building in the light of the landscape harm that would result.

Other matters

25. I have noted the various concerns of those nearby regarding the potential effects of the proposal, including in terms of highway safety, ecology and the prospect of allowing this scheme to set an unwelcome precedent or to presage further development. However those matters do not form part of the Council's case. Moreover, even were I to be satisfied that the proposal would be acceptable in all other respects, or could be made so through via conditions or planning obligations, that would effectively be neutral in my determination of the case (rather than weighing positively in favour of allowing the appeal).

Conclusion

26. For the above reasons, having taken account of the development plan as a whole, the approach in the NPPF, along with all other relevant material considerations, I conclude that the appeal should be dismissed.

Thomas Bristow
INSPECTOR