



Appeal Decision

Site visit made on 14 July 2020

by R W Allen B.Sc PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2020

Appeal Ref: APP/R2520/W/20/3246639

The Kitchen, Sleaford Road, Nocton Heath, Lincoln LN4 2AN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr James Kirby (Stirlin Developments Ltd) against North Kesteven District Council.
 - The application Ref 19/1206/FUL, is dated 28 August 2019.
 - The development proposed is the change of use of a former café building (Class A3 – Food and Drink) to two single storey dwellings (C3 – Dwelling Houses).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The parties dispute whether the appeal constitutes a failure case or a refusal of planning permission. The circumstances stem from the appellant's initial appeal submission against the latter on 24 January 2020 following the issuance of the Council's decision notice of refusal dated 3 December 2019. In responding to the Planning Inspectorate on the legality of the Council's decision notice due to the absence of any reasons for the refusal, the appellant resubmitted the appeal as a failure case on 10 February 2020. The Council sought to re-issue the decision notice also on 10 February 2020, but by retaining the original 3 December 2019 date on the notice, the Council has in fact only amended an unlawful decision; and this action does not axiomatically make it lawful. I find therefore that the Council has not determined the scheme within the required timescale and the appeal proceeds as a failure case.

Main Issues

3. Notwithstanding the above, the disputable matters are discussed by both parties in their respective written submissions. I am therefore able to proceed with my findings knowing it will not prejudice either main party.
4. The main issues are:
 - Whether or not the proposed development on land identified as being outside of a settlement boundary in the development plan is justified; and
 - The effect of the proposed development on the character and appearance of the area.

Reasons

Whether development is justified

5. The appeal concerns a detached building and large hardstanding area located within close proximity to the busy A15 thoroughfare. At the time of my visit, the building was in use as an office and the wider site for the storage of temporary highway signage and for the parking of vehicles. The appeal building is situated adjacent to a small number of dwellings to its north. The site is otherwise enveloped by open countryside, and the area's openness can be readily appreciated notwithstanding the site's enclosure with a profile mesh fence.
6. The main parties agree that the site lies outside of, and some distance from an identified settlement boundary and thus is within the open countryside. I have no reason to disagree. Part A(c) to Local Plan¹ (LP) policy LP55, which is a restricted policy to LP policy LP2 for development in the countryside, states that the re-use of, and conversion of non-residential buildings for residential use in the countryside will be supported providing that the building is of notable architectural or historic merit and intrinsically worthy of retention in its setting.
7. I note the parties' reference to a possible connection of the appeal building with a former RAF airfield known as Coleby Grange. However, the connection cannot be expressly quantified in evidence before me and furthermore, I observed no obvious hallmarks on the building or at the site which suggested a previous associated aviation use. I therefore do not find that this possible historic link between the two can be substantiated sufficiently to justify the conversion on this ground alone.
8. I note that the appeal building is not particularly remarkable in design terms. However, its proportions and external appearance are akin to that of a residential dwelling and the proposal would require minimal façade changes. I observed little evidence of the building being prefabricated but even if it is, I do not find that the proposal would substantially alter or harm the character and appearance of the area. Indeed, the replacement of the parking area to private garden space would in my view better integrate the site with its immediate surroundings and its appearance would be enhanced overall over the existing situation.
9. Moreover, both parties acknowledge that the site has been effectively marketed for a continued commercial use. I have not been asked to consider those matters further in this decision and I have not done so. It therefore seems to me that a 'do nothing' approach would highly likely result in the site becoming disused and vacant for an indefinite period of time, and its appearance would deteriorate as a result. I find this prospect must weigh in the planning balance, and that the proposal would be a preferable outcome in maintaining and enhancing the character of the site and the wider area.
10. I therefore find no conflict with LP policies LP2 and LP55, or with paragraph 79(c) of the Framework² which seeks to avoid the development of isolated new homes in the countryside unless the development would re-use redundant or disused buildings and enhance its immediate setting. My finding on this matter

¹ The Central Lincolnshire Local Plan 2017

² The National Planning Policy Framework 2019

renders the Council's concerns on the unsustainability of the location as redundant.

Character and appearance

11. The findings of the appellant's noise assessment³ recommends that the proposal would require the construction of a 2.4m acoustic fence around large parts of the new garden areas. This is shown to be needed along all of the external boundaries of "garden 02" and to the front garden boundary to "garden 01".
12. I appreciate that the proposed acoustic fence would be seen against the backdrop of the adjacent property when viewed from the southern approach. Nevertheless, because it would need to be a solid and continuous structure, I find that the acoustic fence would be unavoidably noticeable and visually dominating irrespective of whether it would be well-designed as the appellant suggests. It would both harshly enclose the site and erode its open character. I observed nothing, and no evidence is before me which suggests that such structures are prevalent in this area. I am equally not persuaded on the evidence before me that the acoustic fence would be capable of being adequately softened in its effects through successful planting.
13. I accept that the current parking area could be deemed to be unsightly especially if full of parked cars and lorries. However, because such vehicles are capable of being moved off site and thus retaining the site's open character, I do not accept that the acoustic fence would be comparably similar in its effects to the existing use in this regard.
14. Accordingly, I find that the proposed acoustic fence would appear as a dominant structure which would be an alien feature and would be detrimental to the area's open characteristics. It would conflict with LP policies LP17 and LP26. These require, amongst other things, that all development proposals maintain and respond positively to landscapes and preserve local views, and to take into consideration the character and local distinctiveness of the area by providing well designed boundary treatments and hard and soft landscaping.

Conclusion

15. Although I find the that principle of the proposed conversion to residential would be acceptable, the proposed acoustic fence would be significantly harmful to the area's character and appearance. Even taking account of my findings on a 'do nothing' scenario, the harm I have identified from the acoustic fence results in the proposal conflicting with the development plan as a whole, and this is sufficient for me to find against the scheme.
16. Therefore for the reasons given above, I conclude that the appeal is dismissed.

R.Allen

INSPECTOR

³ NoiseAssess Report dated November 2019