



Appeal Decision

Site visit made on 8 September 2020

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 October 2020

Appeal Ref: APP/M0933/W/20/3253456

**Land to the east of Kiln Head, to the north of C5070, Lambrigg, Kendal
LA8 0DG**

- 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 Paul Whitehead against the decision of South Lakeland District Council.
 - The application Ref SL/2019/0884, dated 4 November 2019, was refused by notice dated 16 January 2020.
 - The development proposed is erection of agricultural building for storage of farm machinery, stock feed stuffs and occasional housing of animals (Re-submission of application SL/2019/0457).
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of an agricultural building for storage of farm machinery, stock feed stuffs and occasional housing of animals at land to the east of Kiln Head, to the north of C5070, Lambrigg, Kendal LA8 0DG, in accordance with the terms of the application Ref SL/2019/0884, dated 4 November 2019, subject to the following conditions:
 1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
 2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, drawing No. SK-Lam-B-001, Block Plan, drawing No. SK-Lam-B.102A and Proposed Elevations, drawing No. SK-Lam-B.101, received 5 November 2019.
 3. Notwithstanding the details shown on plan drawing No. SK-Lam-B.102A received on 5 November 2019, no development shall commence until details of a scheme for the disposal of surface water (from roof and concrete apron) has been submitted to and agreed in writing by the local planning authority. Surface water shall be managed at the source and will be required to adhere to the surface water drainage hierarchy, with percolation tests submitted where infiltration is proposed. The approved scheme shall be implemented before the development is first brought into use and retained in perpetuity thereafter.
 4. The materials to be used in the construction of the external surfaces of the building hereby permitted shall match those specified on Proposed

Elevations, drawing No. SK-Lam-B.101, received 5 November 2019 and retained as such thereafter, unless otherwise agreed in writing by the Local Planning Authority.

5. Within 6 months of the date of the approval of planning permission, or the first planting season following the approval of planning permission, whichever is soonest, the development hereby permitted shall be fully implemented in accordance with the approved landscaping measures as shown on the Proposed Block Plan, drawing No. SK-LAM-B.102A, received 5 November 2019 and shall be retained thereafter. The trees which form part of the approved measures and which are removed, die, become severely damaged or diseased within five years of their planting shall be replaced in the next planting season with trees of similar size and species to those originally required to be planted unless the Local Planning Authority gives written consent to any variation.

Procedural Matter

2. The address shown on the planning application form and decision notice differ. From the evidence provided I am satisfied that they relate to the same site and, being more specific, I have used the latter for the purposes of the above banner heading and paragraph 1.
3. As the reference to the previous planning application is not a type of development, I have omitted it for the purposes of paragraph 1.

Main Issues

4. The main issues are:
 - whether or not there is an operational need for the appeal proposal; and
 - the effect upon landscape character and appearance of the area.

Reasons

Operational Need

5. The appeal proposal would provide storage facilities in connection with the use of the site for the grazing of sheep. The appeal site is an extension of an agricultural holding, albeit it is physically separate and some distance from the parent holding and farmyard.
6. The Council has not disputed the need for storage facilities associated with the farming of livestock. Rather, what is disputed is the need for such a facility at the appeal site given the scale of the farming operation there, and the fact that such facilities falling under the control of the appellant are available at the parent holding.
7. The appellant's expert evidence sets out and verifies the business reasons concerning the requirement for the particular appeal proposal and the constraints that dictated why the appeal site was selected. That expert evidence confirms financial viability of the business prior to the expansion and also after the increase in the number of livestock has taken place. The appeal site is cited by the appellant as being capable of accommodating up to 1/5th of the current stock which would amount to a maximum of 100 sheep.

8. Furthermore, that expert evidence verifies the necessity for storage facilities associated with the farming of livestock. It confirms that the appeal proposal would improve animal welfare and allow for more efficient working practices that in turn would enable the business to sustain its recent growth and remain a viable and sustainable business.
9. The appeal site is served by a narrow single width lane for about one mile before joining wider carriageways. The journey time between the existing farmyard and appeal site is cited as being around 20 minutes in duration. As advanced by the appellant, I agree that the necessary return journey between the appeal site and the existing farmyard, at the regularity that would be demanded for the keeping of livestock, does not support an efficient way of working, not least because of the distance involved, nature of the route, particularly if undertaken by a slower moving farm vehicle and equipment, and limited labour force involved. This supports the need for the building in the location proposed.
10. The appellant has advanced a recent decision¹ as being relevant in support of their appeal. However, all of the Council's arguments regarding the matters raised in that decision, relative to the appeal before me, are accepted.
11. Nonetheless, the appellant's expert evidence does clearly justify the existing operational need for the particular appeal proposal in its own right. No party has provided substantive evidence which would rebut the basis of that justification in terms of the scale of grazing at the appeal site or relationship with the available facilities at the parent farmyard. I therefore have no cause to disagree with that expert evidence insofar as it relates to the appellant's current, specific business needs.
12. For these reasons, I do find that there is an operational need which justifies the siting of an agricultural storage and husbandry building of the size proposed, to support the farming of livestock on the appeal site.
13. Although not cited in the decision notice, parties have made reference to Policies CS1.2 and CS7.4 of the South Lakeland Local Development Framework (the Local Development Framework), and Policy DM1 of the South Lakeland Development Management Policies Development Plan Document (the Development Plan Document). In the absence of harm, I find no conflict with these nor with Policy DM25 of that Development Plan Document which is cited in the decision notice.

Landscape Character and Appearance

14. The appeal site comprises undulating grazing land, set within an extensive, rolling Cumbrian countryside context which exhibits scenic landscape qualities associated with its local landscape categorisation. The more immediate context comprises swathes of grazing land and narrow lanes typically delineated by dry stone walls, trees and hedgerows. It is served by an existing gated access, of a width to accommodate farm vehicles.
15. Currently, with the exception of poles for overhead utility cables there are no buildings or structures on the appeal site. Apart from a modern barn, those existing buildings closest to the site are obscured from view given the

¹ APP/M9496/W/20/3251761

- topographical layout of the site and surrounding land. As such, the site has a green, undeveloped appearance and more remote countryside character.
16. The appeal proposal would change the existing undeveloped appearance of the site. However, whilst it would not form part of an existing building group, it would nonetheless be a building type and form which is characteristic of the agricultural use of the site and wider area. As such, visually, it would not represent an unexpected or alien feature in such a context.
 17. I accept that there is a discrepancy between the photographs contained in the appellant's visual assessment and the submitted layout plan in terms of the positioning of the appeal proposal relative to the boundary with the C5070 and also that there is a change in levels across this undulating site. Notwithstanding this, the siting of the appeal proposal, as shown on the submitted layout plan, would be logical and discrete, relative to existing landscape features. It would have a close relationship with the site boundary which hosts the existing access point and is least exposed.
 18. Although read on its own, alongside the proposed positioning of the building within the site, the design and relatively small scale means it would not appear unduly dominant within the wider site nor undermine the existing character of the area that is set out in the Cumbria Landscape Character Guidance. The proposed materials are not inconsistent with those used in the locality and would enable the building to be recessive in the landscape, as would the submitted landscaping scheme.
 19. The appellant has provided a detailed landscape assessment, whereas the Council has not clearly articulated and substantiated the specific alleged harm to existing landscape character and appearance that they have claimed.
 20. Visibility of the appeal proposal from the U5291 would have the greatest impact in terms of duration and degree. Whereas, its visibility would have a shorter and more immediate impact, on approach to the site from either direction along the C5070, including from the parish bench. In both instances, as the appeal proposal would be read against the backdrop of existing mature tree canopies, dry stone walling and rising ground, the presence of the appeal proposal would not be unduly visually intrusive.
 21. The appeal proposal would be obscured from view from the remaining road network within the vicinity of the site as a consequence of the rise and fall in surrounding topography. Views from higher ground, including Bridleway 546002 would be from much longer distances and, combined with the recessive credentials of the scale and materials proposed, would allow the appeal proposal to successfully assimilate with the extensive countryside setting and which is characterised by a distant scattering of buildings.
 22. For the reasons given, I find that the appeal proposal would not be harmful to the character of the landscape or appearance of the area.
 23. Although not cited in the decision notice, parties have made reference to Policies CS1.1 and CS7.4 of the Local Development Framework and Policy DM1 the Development Plan Document. In the absence of such harm, I find no conflict with these or with Policy CS8.2 of the Local Development Framework which is cited in the decision notice.

Other Matters

24. I have not been furnished with details of the previous planning application. In any event the purpose of this appeal is to determine the scheme that relates to application Ref SL/2019/0884, in light of the submitted evidence and having regard to the development plan for the area.
25. A screening opinion has confirmed that an Environmental Impact Assessment (EIA) was not required. Furthermore, I note that the Council did not raise objection to any ecological matters and that biodiversity net-gains can be achieved through the proposed landscaping scheme. Furthermore, surface run-off can be controlled by the imposition of a planning condition. In the absence of any substantive evidence to the contrary, there is no reason to dispute those assessments. Consequently, there is no conflict with the development plan when taken as a whole.

Conditions

26. In addition to the standard time limit, a condition specifying the approved plans is necessary to provide certainty. A condition requiring the submission of a drainage scheme for approval and implementation is necessary to ensure that surface water run-off is managed at the site to reduce the potential for flooding, transfer and discharge of water elsewhere. A condition to control the materials to be used in the construction of the appeal proposal is necessary to safeguard the character and appearance of the area. Furthermore, a condition to secure the implementation and establishment of the approved landscaping scheme is also necessary in the interests of biodiversity net-gain and to safeguard the character and appearance of the area.
27. The Council has not proposed a condition regarding proposed site levels. As I have found no visual harm, such a condition is unnecessary and as such, would fail the prescribed tests for planning conditions.

Conclusion

28. For the reasons set out above, the appeal should be allowed subject to the conditions specified.

C Dillon

INSPECTOR