
Appeal Decision

Site visit made on 8 June 2021

by S. Ashworth BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 05 July 2021

Appeal Ref: APP/M1005/W/21/3269559

Land north-east of Town End Farm, Ashbourne Road, Kirk Langley.

- 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 and Mrs Naylor against the decision of Amber Valley Borough Council.
 - The application Ref AVA/2020/0622, dated 9 July 2020, was refused by notice dated 7 December 2020.
 - The development proposed is construction of new steel framed building for the housing of livestock.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the planning application was refused, the Kirk Langley Neighbourhood Plan has come into force as part of the development plan for the area. Its policies, as set out in the Council's officer report, carry full weight.
3. At the time of my site visit the site had been cleared of vegetation and a caravan was stationed on it. I am not aware of the planning status for this development and I have not therefore taken it into account in my consideration of this appeal.

Main Issues

4. The main issues in this case are:
 1. The effect of the proposal of the character and appearance of the area
 2. Whether the proposal would preserve or enhance the character or appearance of the Kirk Langley Conservation Area and, linked to that, whether the proposal would preserve the setting of the grade II listed building, Meynell House.

Reasons

Character and appearance of the area

5. The appeal site comprises a small area of cleared land immediately adjacent to Flagshaw Lane a short distance from the A52 Ashbourne to Derby road. The proposal is for the construction of a steel framed agricultural building with

- associated hardstanding on the site to store farm machinery and to house a variety of livestock along with items including machinery and feed. The building would be used in connection with the adjoining land which, along with the appeal site, totals around 5 acres in area. The land would be used for the grazing of sheep, cattle, chickens and goats on organic principles.
6. Policy EN1 of the Amber Valley Local Plan 2006 (the Local Plan) permits development in the countryside if it is essential for agriculture. Policy EN11 permits agricultural development provided it is essential for agricultural purposes, does not have a significant adverse impact on the character of the locality and is located within or adjacent to existing buildings to minimise its impact. These policies predate the National Planning Policy Framework (the Framework) but nevertheless reflect its requirements in terms of recognising the intrinsic character and beauty of the countryside. Policy ENV2 of the Kirk Langley Neighbourhood Plan (the Neighbourhood Plan) seeks to protect and enhance the historic landscape and local character evident within the Parish. Policy BUS2 supports proposals for new business development where the scale, design and form of the development is in keeping with the rural landscape and does not harm landscape character, amongst other things.
 7. The Council does not dispute that the building, in terms of its size, is appropriate to serve the use of the adjoining land for agricultural purposes and accepts that the principle of development in accordance with policy EN1. I have noted the concerns of the third parties, including the Parish Council in this regard. Nevertheless, while the site area is limited, I have no reason to consider that the building is disproportionate in terms of its size to its proposed use.
 8. The site is bound to one side by Flagshaw Lane. The land immediately adjacent to it, edged in blue on the submitted plan, is an open area of grassland which is bordered by a cluster of buildings fronting Ashbourne Road to one side and Flagshaw Brook and the woodland that surrounds it to the other. Beyond that is open countryside. Whilst the A52 is a busy road that bisects the settlement, Flagshaw Lane is a quiet narrow road, bounded by hedgerows and vegetation. Accordingly, the site, situated away from the busy road and outside of the built-up part of the settlement, has a tranquil, rural character and an open appearance free from built development.
 9. The proposal would introduce a substantial building into the space in a prominent position immediately adjacent to the highway, set further forward than the neighbouring pair of houses which are well back from the road. The building, which would be sited in an elevated position above road level, would be visible travelling in both directions along Flagshaw Lane, from the access and from the entrance to the public footpath opposite the site.
 10. I understand that the plans have been amended since the original proposal to reduce the scale of the building and size of the hardstanding, amongst other things. I also acknowledge that it would be of a sympathetic colour and would be partly screened by the existing boundary vegetation. Nevertheless, this would not entirely negate its effect on the public realm. I acknowledge the rural heritage of the settlement and do not dispute that agricultural buildings are common in the wider area. However, this building would not be appreciably associated with a farmhouse or any other rural building and would therefore appear as an incongruous and dominant structure in this location. Moreover,

the development would introduce a sizeable building into the space and as such impact on the open character and appearance of the site.

11. In that respect the proposal would be contrary to Policy EN11 of the Local Plan and Policies ENV2 and BUS2 of the Neighbourhood Plan as set out above.

Designated Heritage Assets

12. The site is within the Kirk Langley Conservation Area, the significance of which is derived primarily from the architectural and historic interest of the buildings which form the historic core of the settlement. Buildings have a consistency in terms of their building materials which give this part of the settlement a unified appearance and which contributes to the significance of the conservation area. They include the grade II listed building, Meynell House, identified as the Meynell Arms Hotel on the list description, and its associated stables, also a grade II listed building. Meynell House dates from around 1800. Its significance lies in its age, history and architectural detailing.
13. The conservation area also includes the fields around the historic core of the settlement, including the appeal site and other land associated with it. From what I have read, these fields, including the site, were originally part of the estate of Meynell House and so have an historic connection with it. They form part of the setting of the listed buildings and enable the listed buildings to be seen and appreciated. The site therefore makes a positive contribution to the significance of both the conservation area and listed buildings as heritage assets.
14. For the reasons set out above, the building would be an obvious and discordant element in the open space which is a significant part of the conservation area, detracting from its character in both visual and spatial terms. Its substantial form and modern functional appearance would also be a distracting feature within the setting of the listed building. Moreover, as a result of its presence and position, the ability to appreciate the heritage assets would be diminished. The proposal would thereby adversely affect the significance of the heritage assets.
15. Accordingly, the proposal would be contrary to Policies EN24 and EN27 of the Local Plan which require that new buildings within the setting of a listed buildings contribute to the preservation of the building and its setting, and would contribute to the preservation and enhancement of the conservation area. In addition, the proposal would be contrary to policy HER2 of the Neighbourhood Plan which requires, amongst other things, that all development proposals take into account the character, context and setting of local identified historical assets including important views to and from those assets. Moreover, the proposal would not accord with the statutory duty set out in paragraphs s.72 (1) or s.66 (1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which require that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area and the desirability of preserving the setting of the listed building respectively.
16. The approach in the Framework is that where a proposal will lead to less than substantial harm to a designated heritage asset, as in this case, that harm should be weighed against the public benefits of the proposal.

17. The proposal before me would support an agricultural activity on the land and as such will be of economic benefit. However, there is no detailed business plan or financial forecast before me, and it seems to me that such benefit is limited by the scale of the operation and size of the land associated with it. I also note that the appellant intends to sell meat and produce associated with the use of the land to the local market for the benefit of the community. These matters cumulatively carry limited weight in support of the scheme.
18. On the other side of the balance the Framework advises that great weight should be given to a heritage asset's conservation and the more important the asset, the greater the weight shall be. In this case the proposal would adversely affect both the conservation area and the setting of an important listed building. On that basis the public benefits of the proposal do not outweigh the harm identified.
19. The proposal is contrary to the development plan considered as a whole and to the weighty statutory requirements of the Act. As set out above, other considerations do not indicate that permission should be granted. For these reasons, and taking into account all other matters raised, the appeal is dismissed.

S Ashworth

INSPECTOR