



Appeal Decision

Site Visit made on 15 June 2021

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2021

Appeal Ref: APP/M1005/W/20/3263194

**Keepers Cottage, Mugginton Lane End, Weston Underwood, Ashbourne
DE6 4PP**

- 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 M Sheehan against Amber Valley Borough Council.
 - The application Ref: AVA/2020/0617, is dated 14 July 2020.
 - The development proposed is an equipment store.
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Decision

1. The appeal is dismissed and planning permission for an equipment store is refused.

Preliminary Matters

2. During the course of the application a revised Site Layout drawing, number SK1408-20/1, was submitted to the Council, superseding the un-numbered Site Layout drawing that formed part of the original application submission. The revised drawing included a slight change to the position of the proposed building and further information regarding the proposed treatment of the areas immediately around it. I have based my decision on that revised drawing.
3. The site is within Ravensdale Park Conservation Area. I am mindful of my statutory duties under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and I have considered the appeal accordingly.
4. The site is also adjacent to the scheduled monument referred to in the scheduling as 'Ravensdale deer park, lodge, mill and fishpond'. I have had regard to the scheduled monument in my decision.

Main Issue

5. The appeal was submitted following the Council's failure to give notice of its decision within the prescribed period. The Council has provided putative reasons for refusal in its statement of case. On the basis of those reasons given, the main issues are:
 - whether the proposed development would be essential for the purposes of agriculture, having regard to local and national planning policy which seeks to restrict development in the countryside;
 - the effect of the proposed development on the character and appearance of the appeal site and its surroundings, the character or appearance of the Ravensdale Park Conservation Area (RPCA), and the setting of the scheduled monument: "Ravensdale deer park, lodge, mill and fishpond".

Reasons

Whether the development would be essential for the purposes of agriculture

6. The site is in the countryside. Policy EN1 of the Amber Valley Borough Local Plan (the Local Plan) states that in the countryside new development will only be permitted where, amongst other things, it is essential in conjunction with the requirements of agriculture. Policy EN11 of the Local Plan also states that permission will be granted for agricultural development subject to certain criteria, including that it is essential for the purposes of agriculture.
7. I have been referred to an appeal decision which found the language of Policies EN1 and EN11 to be inconsistent with the National Planning Policy Framework's (the Framework) emphasis on valued landscapes¹. However, from the evidence before me it appears that the site in that case was found not to be within a valued landscape. In this case the site is within the RPCA, which encompasses the historic landscape of the medieval Ravensdale deer park. I am therefore satisfied that it is within a valued landscape. Although the specific criteria in Policies EN1 and EN11 are not wholly in accordance with those in the Framework with regard to specific types of development in the countryside, their aims are nonetheless broadly consistent with those of the Framework, which requires planning decisions to protect and enhance valued landscapes and recognise the intrinsic character and beauty of the countryside. I therefore afford those policies significant weight in this case.
8. The appeal site is part of a field to the east of Keepers Cottage, a detached house which, together with two further detached outbuildings, forms a small complex of buildings accessed via a gravelled forecourt.
9. The appellant has stated that the fields around Keepers Cottage are used for pasture and the growing of silage and that the proposed building is required for the storage of equipment in association with the use of those fields. Some information has been provided about the maintenance of the land. However, except for reference to a grass cutter, I have not been provided with full or detailed information regarding the exact nature or amount of equipment for which storage is required or how that equipment relates to those stated uses of the land or to its maintenance. Nor has detailed information been provided regarding the use of the existing outbuildings within the Keepers Cottage site or to indicate why additional storage capacity is necessary over and above those existing buildings.
10. Therefore, based on the limited evidence before me, I am not satisfied that the development would be essential for the purposes of agriculture. Consequently, it would not accord with local policies, EN1 or EN11 of the Local Plan, or with national policy in the Framework, which seek to restrict development in the countryside.

Character and appearance, including the RPCA and scheduled monument

11. Keepers Cottage and its domestic driveway and garden areas are separated from surrounding agricultural land by various boundary treatments. The appeal site and the wider field around it are separated from Keepers Cottage by tall trees and a hedge, which provide a clear physical and visual separation and

¹ Appeal Reference: App/M1005/W/20/3246623

- demarcation between the domestic areas of Keepers Cottage and the land within the countryside immediately to the east of it, including the appeal site.
12. The site is within the RPCA, which encompasses the medieval deer park of Ravensdale. The areas of the RPCA around the site include former parkland, now largely in agricultural use, and scattered dwellings and farmsteads. Some of the former parkland features are designated as a scheduled monument.
 13. The field containing the appeal site was part of a medieval deer course, along which deer would be chased by dogs to a finishing point around a mile away in the southern part of the park, where a hunting lodge and numerous other buildings were located. The Ravensdale deer course is one of the earliest known such features. Although its boundaries have become fragmented and areas of it have been subdivided as part of their current agricultural uses, the course generally remains evident as a long, sinuous feature running along the valley side through the former parkland.
 14. To the west of the site, between the proposed building and Keepers Cottage, is part of the route of a medieval trackway which ran through the park. Parts of the trackway remain evident as a terraced track in the field to the north of the site and as a sunken lane, bordered by trees and hedges, to the south west.
 15. Insofar as it relates to this appeal, the significance of the RPCA is drawn from the open rural landscape of the historic deer park and the features of that deer park which remain, including the deer course and the medieval trackway in the vicinity of the site.
 16. The sections of the medieval trackway adjacent and close to the site are part of the designated scheduled monument. The scheduled monument also includes parts of the park pale and a former hunting lodge, mill and various ponds in the southern part of the former park. As a feature of the historic parkland landscape, the former deer course (and the appeal site which is within it) forms part of the setting of the scheduled monument, including the sections of trackway in the vicinity of the site.
 17. Although now in agricultural use, the area of the former deer course in the vicinity of the site has maintained its open appearance, enclosed by hedges on either side. The tall trees and dense vegetation between the grounds of Keepers Cottage and the site mark the edge of the deer course and provide clear physical and visual separation and distinction between the domestic areas of Keepers Cottage and the open land within the deer course and the wider countryside around it. The legibility of the former deer course, and its differentiation from the adjacent domestic property, have thus been preserved. That area of the former deer course, including the site, makes a positive contribution to the character and appearance of the rural landscape and the significance of the RPCA.
 18. The proposed building would have blockwork walls, a tiled roof and a wide roller shutter door. Notwithstanding the intended agricultural use referred to, the design of the building and the materials proposed mean that it would have the appearance of a domestic garage or outbuilding rather than an agricultural outbuilding.
 19. Because of its domestic appearance and proximity to the Keepers Cottage site, and despite the intended retention of the boundary planting between the site

and the driveway of Keepers Cottage, the building would be read as part of the existing residential use at Keepers Cottage. The resultant encroachment of an apparently domestic form of development into the adjacent open land would remove the clear distinction between the residential confines of Keepers Cottage and the open land within the former deer course. It would erode the legibility of the former deer course in the vicinity of the site, causing harm to the character and appearance of that feature and to the contribution it makes to the significance of the RPCA. Because of its domestic appearance and the blurring of the distinction between the residential Keepers Cottage site and the open countryside, the building would also appear incongruous within its wider rural surroundings. As a result, the development would fail to preserve the character or appearance of the RPCA or the wider landscape.

20. The construction of the building would not have a direct physical impact on the scheduled trackway in the vicinity of the site. However, as a route through the former medieval parkland, the trackway is inextricably linked to that historic parkland landscape. As part of that historic landscape the former deer course, including the site of the proposed building, is an integral part of the setting of the scheduled monument. As I have found harm to the deer course and that wider landscape as a result of the proposed development it would also, by extension, cause harm to the setting of the scheduled monument.
21. In the context of the scheduled monument and the RPCA as a whole the harm arising to those heritage assets would be less than substantial, having regard to the scale of the proposed development. Nevertheless, I give considerable importance and weight to that harm and to the presumption that preservation is desirable. The Framework requires any such harm to be weighed against the public benefits of the proposal.
22. As I have found insufficient evidence to demonstrate that the building would be necessary for the purposes of agriculture, that would not represent a public benefit in favour of the scheme. No other public benefits have been put forward to outweigh the harm that would arise. Accordingly, I conclude that the development would result in harm to the character and appearance of the appeal site and its surroundings, including the character and appearance of the Ravensdale Park Conservation Area (RPCA) and the setting of the scheduled monument: "Ravensdale deer park, lodge, mill and fishpond".
23. It would therefore conflict with Policies EN27, EN30 and LS3 of the Local Plan, which require development to respect the character of the locality and state that permission will only be granted for development in conservation areas if it would contribute to the preservation or enhancement of the conservation area and will not be granted for development that would result in adverse impact upon a scheduled monument. It would also conflict with the Framework, which requires great weight to be given to the conservation of heritage assets and that developments are sympathetic to local character and history, including the surrounding landscape setting.

Other Matters

24. The revised Site Layout drawing submitted during the application was not the subject of publicity by the Council. However, as the changes were relatively minor in nature and as I have found the development to be unacceptable despite the amendments made, I am satisfied that no party would be prejudiced by my having based my decision on that revised drawing.

Planning Balance and Conclusion

25. The development would conflict with the development plan taken as a whole. I find the development plan policies which are most important for determining the application to be consistent with the Framework and not out of date. Furthermore, as I have found harm to heritage assets, which is not outweighed by any public benefits, the application of policies in the Framework that protect assets of particular importance provides a clear reason for refusing the development proposed and the 'tilted balance' in paragraph 11d) of the Framework would not be engaged in any event. The development would not comprise sustainable development as defined in paragraph 11 of the Framework.
26. The development would conflict with the development plan taken as a whole and material considerations do not indicate that the decision should be made other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

Jillian Rann
INSPECTOR