
Appeal Decision

Site visit made on 19 October 2021

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 November 2021

Appeal Ref: APP/B3030/W/21/3277044

Field Reference 5543, Great North Road, Weston, Newark NG23 6TE

- 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 John Bell against the decision of Newark & Sherwood District Council.
 - The application Ref 21/00567/FUL, dated 5 March 2021, was refused by notice dated 23 April 2021.
 - The development proposed is described as 'Change of use of Land from Agricultural to Domestic Garden and Change of use of Tractor & Implement Store & Workshop (Agricultural) to Domestic Garage, Store & Workshop - Retrospective.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal, the revised National Planning Policy Framework (July 2021) (the Framework) was published. Parties were provided with an opportunity to comment on the relevance of this, and I have taken any subsequent comments received into account in my determination of this appeal.
3. The appeal is retrospective and at the time of my site visit, the structure subject to appeal was completed. I have considered the development accordingly on this basis.
4. Prior to refusal of the application, the Council and appellant agreed to change the description of development from domestic to residential which is reflected in the decision notice. However, I have considered the appeal on the basis of the wording in the application form.

Main Issue

5. The main issues are as follows:
 - whether the location of development is suitable with regard to the spatial strategy for the area;
 - the effect of the development on the character and appearance of the area; and

- whether the location of the development is suitable with regards to flood risk.

Reasons

Whether Suitable Location

6. The appeal site comprises a field to the side of Great North Road. I understand planning permission was granted¹ for a storage building for tractors and equipment in 2013. A further permission was granted² to change details regarding materials, although the building was assessed on the basis of its agricultural use and the development was subsequently built contrary to the approved details. The appeal seeks to retrospectively change the use of the land and garage to residential while also formalising the unauthorised changes to the building's design, including the windows and rooflights.
7. The location of the appeal site is outside of any settlement boundaries identified in the development plan and is in the countryside for the purposes of development management. I note this is not in dispute between the parties. Policy DM8 of the Newark and Sherwood Local Development Framework Allocations and Development Management Development Plan Document (adopted July 2013) (the DPD) identifies acceptable uses in the countryside against which the development does not comply.
8. I have had regard to the appellant's point that the location would be within walking distance to Weston, a village half a mile away, and the larger settlements of Tuxton and Sutton-on-Trent are accessible by bicycle or bus; however the development would not be occupied by people as the appeal site as it is detached from the dwellings over the road.
9. Despite the appellant's claim that the land has been wrongly classified as agricultural and has been used in the same way for 30+ years, it is not my role to determine the legality of the use of the site nor have I been made aware of an application for a certificate of lawful development. If the appellant wishes to ascertain whether the development is lawful, they may make an application under section 192 of the Town and Country Planning Act 1990.
10. As such, the provision of a residential use would not be suitable in this location, contrary to Policy DM8 of the DPD and Spatial Policy 3 of the Newark and Sherwood Amended Core Strategy (adopted March 2019) (the CS). These advise, among other things, that development away from the main built-up areas of villages, in the open countryside, will be strictly controlled.

Character and Appearance of the Area

11. The appeal site includes a three-bay garage constructed in red brick with a pantile roof, white uPVC windows to three sides, rooflights and timber doors to the front. The land around the garage is used for growing crops and the site includes a paved vehicular access. On the opposite side of the road there are sporadic dwellings, although the area is predominantly rural in character with an expanse of open fields to all sides.
12. The Landscape Character Assessment outlines one of the aims of the action zone within which the appeal site is located is to conserve the rural character of

¹ 13/00519/FUL

² 19/01729/S73

the landscape. The use of uPVC windows in this location therefore further erodes the rural character of the building and the area giving the garage a distinctly domestic appearance. While I don't have the 2013 plans before me, I understand windows to the rear were included in the design of the building. These were to be timber framed with clear profile sheets to the roof. A variation to that permission was granted in 2021 to allow the workshop to be built in red brick with a tiled roof on the basis that these materials reflected those of surrounding buildings. However, the use of uPVC windows and rooflights would introduce incongruous and domestic features and erode the rural character of the building and the surrounding area. While I note in the appellant's evidence there are photographs of agricultural buildings with uPVC windows, I have no information before me as to whether these were granted planning permission which limits the weight which I can attach to them in my decision.

13. Furthermore, the site is clearly visible from the road to passing traffic and pedestrians. While it is proposed to plant hedges, these would take some time to mature. While I would agree the site is tidy and well maintained, I disagree that the defining characteristic of the area is the red brick buildings nearby. The area is intrinsically rural in character and the use of the land as a domestic garden is visually discordant in this context given the potential use could allow for domestication such as garden furniture. This is compounded by the separation of the site from the appellant's property some 45m away on the opposite side of Great North Road.
14. I appreciate the use of uPVC provides some advantages, such as safety against crime. I also do not doubt the appellant's assertion that storage is still required to house their equipment. However, the materials and design of fenestration would not alter the ability of the building for storage. While it is argued the use of the site in this manner would represent an efficient use of land in accordance with Core Policy 9, this is contingent on the development being suitable to local character.
15. Based on the above, the development is harmful to the character and appearance of the area. It is therefore contrary to Core Policies 9 and 13 and Spatial Policy 3 of the CS and Policies DM5 and DM8 of the DPD. These seek, among other aims, to ensure local distinctiveness of the District's landscape and character of built form should be reflected in the scale, form, mass, layout, design, materials and detailing of proposals for new development.

Flood Risk

16. The appeal site is located in Flood Zone 3a. Paragraph 168 of the Framework advises that planning applications for some minor development and changes of use should not be subject to the sequential or exception tests. Minor development includes development that does not increase the size of buildings e.g. alterations to external appearance; and householder development, including garages, which are within the curtilage of the existing dwelling. In this case, whilst the garage is outside of the curtilage of the dwelling it nevertheless includes alterations which would not increase the size of the building. As such I am satisfied that the development should not be subject to the sequential test.
17. However, the Framework is clear that the development should still meet the requirements for a site-specific flood risk assessment as set out in footnote 55.

This footnote makes it clear that a site-specific flood risk assessment should be provided for all development which is located in Flood Zones 2 and 3.

18. The Flood Risk Assessment (FRA) provided by the appellant states the appeal site is surrounded on three sides by open watercourses, which are maintained by landowners and the local drainage board. These flow into under road culverts which discharge into a nearby dyke.
19. While advice in the Planning Practice Guidance (PPG) states that the level of detail that needs to be provided in a site-specific flood risk assessment should be proportionate to the scale of development, zone 3a is 'high probability' for flood risk. Despite the appellant's claims that the change of use of the land and building from agricultural to domestic purposes will not alter the site or the permeability of the land, the FRA is lacking in detail to substantiate this. Therefore, I am not satisfied on the evidence before me that the change of use is appropriate where a more vulnerable use such as residential is proposed.
20. As such, the proposal would be contrary to Core Policies 9 and 10 of the CS and Policy DM5 of the DPD. These state, among other things, that development should wherever possible include measures to pro-actively manage surface water. The proposal would also be contrary to advice in the Framework, which seeks to avoid inappropriate development in areas at risk of flooding.

Other Matters

21. I have had regard to the appellant's statement of case, including arguments that there would be no harm to the living conditions of occupiers of nearby dwellings and that the site has a suitable vehicular access. However, these are not in dispute and a lack of harm would be neutral in the planning balance rather than weighing positively in favour of a development.

Conclusion

22. The proposal would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR