



Appeal Decision

Site visit made on 29 March 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 24 May 2022

Appeal Ref: APP/P3040/W/21/3284787

Ragnal Farm, Coachgap Lane, Langar NG13 9HP

- 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 Mrs R Ferguson against the decision of Rushcliffe Borough Council.
 - The application Ref 21/01795/FUL, dated 8 June 2021, was refused by notice dated 23 August 2021.
 - The development proposed is a two storey 4 bedroom house with biophilic design elements.
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Decision

1. The appeal is dismissed.

Main Issues

- whether the appeal site is an appropriate location for housing having regard to the settlement strategy,
- the effect on the character and appearance of the area; and
- whether the proposal would provide acceptable living conditions for the future occupants with particular regard to noise and disturbance.

Reasons

Location

2. The appeal site is located outside the settlement of Langar within an established industrial zone extending along part of Coachgap Lane. The site itself is associated with Ragnal Farm with an established horticultural enterprise to either side, open fields to the south and a range of industrial buildings across Coachgap Lane to the north.
3. The appeal site is identified as garden land associated with the dwelling at Ragnal Farm and is part of a larger grassed area lying to the rear. It is separated from the surrounding horticultural enterprise and fields by a mature hedge. The site is offset from the rear of the existing dwelling, with an industrial unit associated with the horticultural enterprise between it and Coachgap Lane, and horticultural polytunnels to the south-west. On the opposite side is a grassed area to be retained by Ragnal Farm and beyond this are more horticultural polytunnels. The proposed dwelling would be set back within its plot from the open fields to the south.

4. Policy 3 of the Rushcliffe Local Plan Part 1: Core Strategy (2014) (CS1) sets out a 'settlement hierarchy' directing most development to larger built-up settlements to ensure that sustainable development is achieved. Langar is not a key settlement identified for growth and is classified as appropriate for local needs development only, and this is defined as small scale infill development or on 'exception sites'.
5. Small scale infilling is described in paragraph 3.10 of the Rushcliffe Local Plan Part 2: Land and Planning Policies (2019) (LP2) as the development of small gaps within the existing fabric of the village or previously developed sites, whose development would not have a harmful impact on the pattern or character of the area. Whilst I accept that the appeal site sits alongside other development, including horticultural buildings and industrial units, this is not part of Langar village. The cluster of houses, the school and other services and facilities associated with the village is a considerable distance away and clearly separated from the appeal site by agricultural fields.
6. Although the Coachgap Lane industrial zone is physically remote from Langar Village, it still forms a cluster of development, and the appeal site is surrounded by built form on three sides. However, the site could not be considered as 'infilling' as it is not fully contained by development and is open to agricultural fields on one side. Therefore, there is no justification for infilling under the terms of Policy 3 of CS1. In the same respect, premises alongside Harby Road in the vicinity of the appeal site cannot be considered as infill development as they stand in substantially open countryside.
7. Despite the appellant's suggestion that the appeal site was associated with Langar Airfield and most likely used as a garden and the Council's view that the site was previously arable land, I am guided by the definition of 'previously developed land' in the National Planning Policy Framework 2021 (the Framework) (Annex 2: Glossary). This states that land that is or was last occupied by agriculture and land in built up areas such as residential gardens is excluded from the definition and, therefore, I see no case for the appeal site being identified as such.
8. Policy 22 of LP2 lists the exceptions allowed in rural areas beyond the physical edge of settlements. Although I recognise that the need for the dwelling is in part to allow a family to live close together, the appeal proposal is for an open market dwelling not linked to any adjoining land or business. Even if a link existed, the appellant would still need to present a robust case to demonstrate the requirement for a new dwelling on the site associated with a business. Without this link and justification, the proposal does not satisfy any of the exceptions listed in the policy.
9. The evidence before me also indicates that the proposal is for a self-build dwelling. The Framework recognises the need to provide housing for different groups including for people wishing to commission or build their own homes. However, Policy 13 of LP2 only supports this housing provision where it accords with all other relevant policies of the development plan. Also, there is no evidence before me to suggest that the proposal would comply with the relevant legal definitions of self-build housing, or that it would meet a currently identified Council need.
10. Concluding on this main issue, the appeal site would not be an appropriate location for housing having regard to the settlement strategy. Therefore, it

would not accord with Policy 3 of CS1 and Policies 22 and 13 of LP2. These policies recognise the need for the majority of new development to be located within the built-up areas of Nottingham and key settlements and ensuring that the countryside is conserved and enhanced. It would also not be consistent with the principles of sustainable development as outlined in the Framework.

Character and appearance

11. I recognise that the appeal site is to some extent visibly enclosed by surrounding development. Nevertheless, the proposed building would be seen from points along Harby Road, to the south of the site, when travelling towards Langar village. Here the proposed dwelling would be viewed in conjunction with the existing polytunnels to either side and set within a wider context of open fields. The other buildings associated with the industrial zone are not readily apparent. Although the appeal dwelling would be set back in its plot, it would be significantly taller than the polytunnels and conspicuous within these views, representing an unexpected element. The scale and massing of the building with its boxy form alongside the polytunnels would be a discordant element, standing out in the rural landscape.
12. Policy 22 of LP2, amongst other things, requires that the countryside will be conserved and enhanced for the sake of its intrinsic character and beauty. Whilst the position of the proposed dwelling, with its partial screening by existing structures and hedgerows, and the careful selection of materials will to some extent limit its impact on the surrounding countryside, the proposal will not be reflective of the surrounding characteristics of the area and will be an unduly prominent structure. Even if the roof pitch was reduced, it would still be a significant and incongruous form of development and I am also mindful that there is the potential for the polytunnels to be moved which could exacerbate views of the proposed dwelling.
13. I conclude that the proposal would significantly detract from the character and appearance of the area and would therefore fail to accord with Policy 10 of CS1 and Policies 1 and 22 of LP2, and paragraph 130 of the Framework which amongst other things seek to ensure that development is sympathetic to local character and adds to its overall quality.

Living Conditions

14. The site is in close proximity to established businesses including a range of industrial uses to the north side of Coachgap Lane, and the Council has advised that there are no planning controls restricting their operation; and appellant has not contested this statement. Because of the potential for noise and disturbance from these surrounding activities, the Council's Environmental Health Officer has stated that the occupation of the dwelling should be linked with the adjoining agricultural use.
15. However, the proposed dwelling is not associated with any surrounding business or land use, with the red line drawn solely around the application site with no blue line showing additional ownership. There is, therefore, a genuine risk that future occupants of the proposed dwelling would be placed at undue risk of uncontrolled noise and disturbance from surrounding land uses over which they have no control and for which it may not be possible to mitigate.

16. I recognise that to some extent the design of the building and selection of materials can be adapted to take account of potential noise and disturbance. A sound test has also indicated that at a given time the ambient noise on Coachgap Lane was less than traffic noise on Harby Road. However, given the potential for the nearby business and industrial uses to change over time, including their hours of operation, and the fact that some are unrestricted, there is a very real and significant risk to future occupiers that their living conditions cannot be protected, even if informed by a detailed noise impact assessment and specific mitigation measures.
17. I acknowledge the appellant's frustration at being advised that the site is within open countryside where new housing is restricted, and that noise intrusion of nearby uses would adversely impact on living conditions. However, even in rural areas account must be taken of existing development and the amenity of future occupants of the dwelling must be considered and protected. Moreover, I do not have a comprehensive noise survey that demonstrates otherwise, and a suitable worded condition would not satisfy the concerns in respect of the living conditions of future occupants.
18. For the reasons given above, I conclude that the proposal would not provide acceptable living conditions for the future occupiers of the proposed dwelling with particular regard to noise and disturbance. Consequently, the development would be contrary to Policy 10 of CS1 and Policy 1 of LP2 which seek to ensure that the amenity of occupiers would not be detrimentally affected by existing nearby uses. It would also be contrary to the core planning principle of the Framework which seeks a good standard of amenity for all existing and future occupants.

Other Matters

19. I acknowledge the reasons why the appellant has applied for planning permission and have taken into account the sensitive nature of the health information supplied to me as part of the appeal, and the wish to create a multi-generational home. The proposal would benefit the appellant's family and improve their living conditions, and these are personal circumstances to which I attribute weight in favour of the appeal. I also recognise the intention to design the property to be as carbon neutral as possible.
20. I have had due regard to the Public Sector Equality Duty contained in Section 149 the Equality Act 2010, which sets out the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.
21. I am also mindful of the advice contained in the Planning Practice Guidance¹ that in general planning is concerned with land use in the public interest. Therefore, whilst I acknowledge the personal circumstances of the appellant, I conclude that these matters do not outweigh my findings in respect of the effect of the proposed development on the settlement strategy for the Borough, the character and appearance of the area, and on living conditions. The harm identified clearly and demonstrably outweighs the benefits of providing a new dwelling.

¹ Paragraph 008 Reference ID: 21b-008-20140306 – 'What is a material planning consideration?'

Conclusion

22. The proposal would be contrary to the development plan as a whole and material considerations do not lead me to decide otherwise. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR