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# Appeal Decision

Site visit made on 5 July 2022

**by A Berry MTCP (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 July 2022**

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**Appeal Ref: APP/B3030/W/22/3294038**

**Land off Wellow Road, Eakring NG22 0DF**

- 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 Anthony Pearce against the decision of Newark & Sherwood District Council.
  - The application Ref 21/01532/FUL, dated 23 June 2021, was refused by notice dated 3 September 2021.
  - The development proposed is the construction of a workshop/store.
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## Decision

1. The appeal is dismissed.

## Procedural Matter

2. The council refer to Policy CP9 of the adopted Newark and Sherwood Amended Core Strategy (CS) and Policy DM5 of the Newark and Sherwood Allocations and Development Management Development Plan Document (DPD) in their reasons for refusal. However, and on my reading, they appear to be concerned with design and the acceptability thereof. Given this is not a matter of contention for the council, I do not see that, by definition, the appeal scheme would conflict with them. These policies are not therefore relevant to the main issue.

## Main Issue

3. The main issue is the principle of the proposed development with specific regard to the use of the appeal site, its location and the need for the proposed building.

## Reasons

4. At the time of my site visit, the appeal site contained areas of long grass (described as 'meadow' on the drawings), some fruit trees, an empty chicken coop, an open-sided shelter with a small tractor underneath, a lawnmower, some wooden pallets, a wood store, a table and a chest of drawers. Section 336 of The Town and Country Planning Act 1990 defines agriculture as "*horticulture, fruit growing, seed growing, dairy farming, the keeping and breeding of livestock (including any creature kept for the production of food, wool, skins, fur, or for the purpose of the farming of the land), the use of land as grazing land, meadowland, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes*". Fruit growing is taking place on the appeal site and parts are used as meadowland. Although these are modest, the

definition of agriculture does not require an assessment of scale, nor does it have to be a commercial operation. I therefore find that the appeal site is being used for agricultural purposes.

5. There is conflict between the parties regarding whether the appeal site forms part of the village of Eakring and is therefore assessed against Policy SP3 of the CS, or whether the appeal site is in the open countryside and therefore assessed against Policy DM8 of the DPD. The supporting text to Policy SP3 states that to be considered against this policy, the appeal site would need to be located within the existing built extent of the village, which includes dwellings and their gardens, commercial premises, farmyards and community facilities, but normally excludes undeveloped land, fields, paddocks or open space which form the edge of the village.
6. The appellant maintains that the land formed part of the garden/curtilage of the adjacent dwelling, Lynby. However, this is unsubstantiated and not verified by a Certificate of Lawfulness. In any event, it is separated from Lynby by a mature hedge, and the land has the appearance of a modest field/open space between two dwellings on the edge of Eakring. Therefore, I agree with the council that the appeal site should be assessed against Policy DM8 of the DPD.
7. The appellant states that the proposed building is needed to "enable the equipment and food required to be kept on the land and to not have to be transported to and from the appellant's home each time maintenance or tending to animals is required". Having a building to store equipment/machinery at the appeal site would be more convenient than transporting it the short distance from the appellant's dwelling. However, limited information has been provided by the appellant as to the operational requirements of the appeal site to justify the need for a workshop, toilet and storage area. Furthermore, limited information has been provided of the equipment that is to be stored within the proposed building to justify its size. In addition, no animals were present on the land at the time of my site visit and therefore there is currently no requirement for the storage of feed or the tending of animals.
8. With these things in mind, insufficient information has been provided to demonstrate a need for the proposed building to serve the appeal site, or that the scale of the building is limited to that necessary to sustain the agricultural operation taking place. The proposed development would therefore conflict with Policy DM8 of the DPD which, amongst other things, seeks to strictly control development away from the main built-up areas of villages.

### **Other Matters**

9. The appeal site is located within Eakring Conservation Area (ECA) therefore I have a statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservations Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. As the appeal proposal would not be readily visible from any public area, and would be acceptable in design terms, both the character and appearance of ECA would be preserved. Furthermore, the council's Conservation Officer has raised no objection in this regard. No harm would therefore be caused to the significance of ECA from the appeal proposal. That said, the inclusion of the appeal site within the boundary of ECA does not construe that it is also located within the village of Eakring for the purposes of Policy SP3 of the CS.

10. Notwithstanding my comments above, regarding the applicability of the council's cited policies, the pre-application advice referred to was for a different development. In any event, the council is not bound by the advice that is given, which is without prejudice to the final outcome of any planning application.

### **Conclusion**

11. Whilst there would be no material harm arising out of the erection of the building, in the absence of a sufficiently compelling justification for the proposed development, it would conflict with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal should therefore be dismissed.

*A Berry*

INSPECTOR