



Appeal Decision

Site visit made on 8 November 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2022

Appeal Ref: APP/G2435/W/22/3301947

Land To The East Side Of Austrey Lane, Appleby Parva, Leicestershire DE12 7AR

- 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 Geoffrey Clark against the decision of North West Leicestershire District Council.
 - The application Ref 21/02107/FUL, dated 4 November 2021, was refused by notice dated 6 April 2022.
 - The development proposed is the erection of a detached agricultural building and chicken coop and the provision of a track and hardstanding.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached agricultural building and chicken coop and the provision of a track and hardstanding at land to the east side of Austrey Lane, Appleby Parva, Leicestershire DE12 7AR, in accordance with the terms of the application, Ref 21/02107/FUL, dated 4 November 2021, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. The appellant's name is spelt differently on the application form and the appeal form. Looking at all the information provided, it appears the correct spelling is as stated in the header above.
3. While not a reason for refusal, the Council's submissions indicate that the site lies within the catchment area of the River Mease Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI). As such, and having regard to the provisions of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations), I have sought the advice of Natural England (NE) on the appeal. Both main parties have had an opportunity to submit comments on NE's response.

Main Issues

4. The main issues are (i) the effect of the development on the character and appearance of the area, and (ii) its effect on the integrity of the SAC and on the SSSI.

Reasons

5. The site is in the corner of a field between Austrey Lane and Atherstone Road. A gate close to the road junction provides access onto the field with a roughly surfaced track leading onto the site. A short length of close-boarded fencing

- lies on the plot, behind which I saw 2 small sheds. Various items were also stored on the site, although the field was mainly open and overgrown.
6. The site is above the adjacent highway, although roadside bushes and trees provide a degree of screening to the interior of the plot. The fencing and sheds already on the site are partially concealed by the vegetation, although the fence is clearly seen from the north through the access gap.
 7. Grassed roadside verges as well as open fields and roadside vegetation give the area a strong rural feel, despite nearby properties. Also, the site lies beyond the limits to development as defined in the North West Leicestershire Local Plan 2021 (LP). As such, the site is identified as falling within the countryside under the terms of LP policy S3.
 8. The proposed development would be low key and would cover only a small part of the field. The buildings and associated use of the hardstanding area for parking and agricultural activities would to a degree erode the openness of the site. However, the fence would partially screen the proposal in views from the road to the north. Moreover, the development would be set back from the adjoining roads with intervening vegetation. As such, it would not be unduly prominent from any public vantage point, even at times of leaf-fall.
 9. There would be views of the development from the fields to the south but these would be from private land and would have a backdrop of the fence, boundary vegetation and the property on the opposite side of the road. As a result, the proposal would not appear isolated from existing development.
 10. It would be reasonable to impose a planning condition to secure new planting to supplement the existing vegetation and to help mitigate the visual impact of the scheme. As such, the proposal would recognise and safeguard the intrinsic character of the countryside, while at the same time facilitating the agricultural use of the field. In light of the support for agriculture in the countryside set out in LP policy S3, I consider the proposal's effect on the character of the area would be acceptable. The agricultural nature of the development would respond appropriately to its rural context. In these regards it would comply with advice in the Council's Good Design for North West Leicestershire Supplementary Planning Document.
 11. Planning appeal reference number APP/G2435/W/21/3266391 was dismissed and relates to a similar proposal on the appeal site. The Inspector highlighted the disproportionate height of the building relative to its footprint and found that it would be a prominent and incongruous standalone feature. The current scheme is different as the proposed building would be lower. It would have a larger footprint than that originally advanced but its overall scale and form would be typical of an agricultural store found on a small holding. Moreover, the Inspector makes no mention of the fence on the site, which appears to have been erected since the previous appeal decision. Due to these differences, it would not be inconsistent to find this appeal proposal would have an acceptable effect on the character and appearance of the area.
 12. The Council has referred to another appeal decision reference number APP/G2435/W/22/3296436. This refused planning permission for a new storage barn on a difference site, partly due to harm that would be caused to the character and appearance of the area. However, the Inspector refers to the proposal as a large dominant development seen from a wide area. The current

proposal would be a small development that would not be dominant and that would have a localised visual effect. Therefore, the previous decision does not set a precedent that I am bound to follow.

13. For the above reasons, I conclude the development would not harm the character and appearance of the area. In these regards, it would accord with LP policy S3. Amongst other things, this supports development that facilitates the agricultural use of land in the countryside subject to it safeguarding the appearance and character of the landscape.

River Mease

14. Phosphate levels within the River Mease mean the water quality does not meet the conservation targets for the SAC. Accordingly, it is classed as being in unfavourable condition. The Council states that discharge from sewage treatment works within the catchment of the SAC is a major contributor to phosphate levels in the river.
15. The proposed development would not connect to the foul drainage network and it would not increase the amount of overnight stays on the site. However, surface water would be disposed of via a soakaway. NE suggests that there is some likelihood that phosphorous or other pollutants from surface water discharge from the site may reach the SAC and cause an adverse effect. I have no reason to dispute NE's advice. Therefore, when taking a precautionary approach, it is likely the development would have a significant effect on the SAC. As such, it is necessary to conduct an appropriate assessment under the terms of the Regulations.
16. As part of an appropriate assessment, the Regulations require me to consider measures that could be delivered so as to avoid adverse effects on the integrity of protected sites. Both the Council and NE agree that a planning condition could be imposed to ensure an appropriate sustainable surface water drainage system is provided so as to avoid pollution impacts on the SAC and SSSI. I find no reason to arrive at a different view on the matter. Therefore, I am satisfied that a condition as suggested would ensure the development avoids detriment to the river's water quality.
17. Therefore, subject to the imposition of a surface water drainage condition, I conclude the development would not adversely affect the integrity of the SAC and would not have a harmful effect on the SSSI. In these regards, it would accord with LP policies EN1, EN2 and S1.

Other Matters

18. A number of other matters have been raised by interested parties. Concerns have been raised over unauthorised development at the site as well as anti-social behaviour. However, my assessment is based on the proposal as set out in the application and appeal submissions. Therefore, objections over how the site has been used previously have no bearing on my decision.
19. The proposed development would facilitate the keeping of chickens, sheep or goats. Also, the building will be used for equipment to tend the land and as a food store. Therefore, I am satisfied the proposal would serve an agricultural purpose, albeit as a hobby or on an informal level.

20. There is limited information to substantiate concerns that the development would block a culvert or that it would cause an increase in the risk of flooding. Indeed, through the imposition of the aforementioned surface water drainage condition, the development would provide a drainage system that would help manage the disposal of surface water at the site.
21. The development would not generate significant traffic trips and the access would safely accommodate associated vehicular movements. The hard surfacing would reduce the risk of mud from the site being left on the highway.
22. The presence of nearby residences suggest the development could be connected to water and power supplies if required. No trees would need to be removed but in any case a planning condition could be reasonably imposed that requires new planting to help mitigate the visual impact of the proposal. In allowing this appeal it does not follow that any further development would be permitted. Any future schemes that come forward would need to be considered on their own merits having regard to the relevant issues at the time.
23. Reference is made to 4 Atherstone Road (No 4) and Westhill Farm, which are both grade II listed buildings near to the site. Due to the separation distance and intervening vegetation, there would be no intervisibility between the proposed development and No 4. There are views from the field of both the appeal site and Westhill Farm. However, the development would be positioned away from the listed building so that it would not meaningfully affect its setting. As such, the proposal would have an acceptable effect on the significance of designated heritage assets.
24. In the absence of firm reasons to dismiss the appeal on any of the above grounds, the concerns raised do not affect my overall conclusion.

Conditions

25. I have had regard to the list of planning conditions suggested by the Council. Where appropriate, I have amended the wording for precision reasons.
26. I impose a condition that sets out the approved plans for reasons of clarity and to ensure the development is carried out as indicated. There is no need for a separate planning condition regarding the external materials as sufficient information is shown on the drawings.
27. To avoid an increase in flood risk and harm to the integrity of the SAC and SSSI, I include a surface water drainage condition. New and replacement planting conditions are imposed to mitigate the visual impacts of the proposal. A condition regarding hard surfacing is needed to ensure a satisfactory appearance and in the interests of highway safety. Also, in the interests of safety a condition is imposed on the gradient of the track. To protect the character of the countryside a condition on external lighting is included.
28. The description of the proposed development clearly defines its use as for agricultural purposes. It is unclear what other uses would be allowed under the Town and Country Planning (Use Classes) Order 1987 (as amended) that would increase traffic movements to and from the site. As such, the suggested condition in this regard is unnecessary and so it has not been included.

Conclusion

29. The development would be acceptable in terms of the main issues and it would accord with the development plan when read as a whole. There is no reason to refuse planning permission and so I conclude the appeal should be allowed.

Jonathan Edwards

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: GC/P/202109.01 revision A, GC/P/202109.02 revision A, GC/P/202109.03, GC/P/202109.04.
- 3) No part of the development hereby permitted, including the access track, shall be first brought into use until such time as a surface water drainage system has been provided and implemented in accordance with details that have been previously submitted to and approved in writing by the local planning authority.
- 4) No part of the development hereby permitted, including the access track, shall be first brought into use until a soft landscaping scheme has been submitted to and approved in writing by the local planning authority. The approved soft landscaping scheme shall be implemented in full within the first planting and seeding season following the first use of the development hereby permitted, unless an alternative timeframe for implementation is first submitted to and approved in writing by the local planning authority.
- 5) During a period of 5 years from the first implementation of the approved landscaping scheme, any tree or shrub which may die, be removed or become seriously damaged shall be replaced in the first available planting season thereafter unless a variation to the landscaping scheme is approved in writing by the local planning authority.
- 6) The development hereby permitted shall not be brought into use until details of the materials for the access track and any vehicular parking and turning space have been submitted to and approved in writing by the local planning authority. The track, parking and turning space shall be completed in accordance with the approved details prior to the first use of the development hereby approved and shall thereafter be retained.
- 7) The track hereby approved shall have a gradient of no more than 1:12 for a distance of at least 5 metres behind the highway boundary which shall be so maintained in perpetuity.
- 8) There shall be no external lighting on the site.