



Appeal Decision

Hearing held on 3 November 2022

Site visit made on 3 November 2022

by Mark Harbottle BSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2022

Appeal Ref: APP/B3030/C/21/3287514

Land known as land at Westwood Park, Main Street, Thorney, NG23 7DA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended ("the Act"). The appeal is made by Mr Alan Daubney against an enforcement notice issued by Newark & Sherwood District Council.
- The notice, numbered 21/00200/ENFB, was issued on 4 November 2021.
- The breach of planning control as alleged in the notice is, without planning permission, development consisting of the erection of an agricultural storage building.
- The requirements of the notice are to: demolish the building and remove all associated and ancillary materials, waste, debris and associated development above and below ground from the land.
- The period for compliance with the requirement is: 4 months after the notice takes effect.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed, and planning permission is granted in the terms set out below in the Formal Decision.

Main Issue

1. The sole ground of appeal is that planning permission should be granted for the construction of the agricultural storage building described in the notice. The main issue is whether the erection of the building is sustainable development in the countryside, where development is strictly controlled, having regard to its siting and scale and the agricultural unit.

Reasons

2. The building is the only one on an agricultural holding of 7.28 hectares, other than the dwelling Westwood Park. The holding is in 2 parts, separated by a group of former agricultural buildings that were previously associated with it.
3. The appellant sought planning permission to convert 2 barns within the group (barns A and B) to dwellings in 2020 ("the conversion scheme")¹. He was not engaged in agriculture then, and the statement supporting his application described barns A and B as redundant. While the application was later expanded to include the use of the 2 other barns (barns C and D) as ancillary storage, the supporting statement was not revised.

¹ 20/00855/FUL, granted 14 July 2020

4. The approved conversion scheme therefore allowed all buildings that might otherwise have been available for future agricultural storage in connection with the holding to be put to other uses. All 4 barns were subsequently sold to a developer. While the holding may not have needed an agricultural storage building when permission was granted, a significant change in circumstances subsequently occurred when the appellant decided to farm the land.
5. There is no dispute that an agricultural storage building requires a rural setting or that this building is appropriate to its location in terms of its scale, form, and appearance. In these respects, it is consistent with Spatial Policy 3 of the Newark & Sherwood Local Development Framework ("the LDF") Amended Core Strategy and policy DM8 of the LDF Allocations & Development Management Development Plan Document ("the DPD"). It therefore remains to be considered whether the building is a sustainable response to the current and likely future needs of the agricultural holding.
6. The appellant stated that he uses 2 tractors, a flail mower, a mini digger, and a ride-on mower to farm the holding, although a different range of items was stored in the building at the time of my visit. However, they all require covered storage, as does the fertilizer used on the land. The drawings provided when the appellant sought planning permission for the building² also showed a secure store area and a hay store within it. The current internal arrangement is different, with secure storage being made in another part of the building, behind a roller shutter, and there is no hay store. The building also includes a workshop area, which is not unexpected considering the range of tools and equipment that may need maintenance.
7. Not all the foregoing was evident when the notice was prepared, and some information only came to light during the Hearing. While the Council may feel disadvantaged because of this, it is not clear whether it made efforts to obtain more information, for example by serving a Planning Contravention Notice or requesting sight of a business plan, before issuing the notice.
8. It was suggested that details of the appellant's former shopfitting business, of the land he currently owns or rents and of any previous storage arrangements should be provided but I am not convinced these are needed. It was not explained why details of a business that is no longer active, and for which the building was not constructed, might be relevant to my decision. Neither is it clear how details of the agricultural storage options that were lost when barns A, B, C and D were sold with planning permission for non-agricultural use would help. As to the amount of land, I consider it reasonable to determine the appeal based on the agricultural holding agreed to be 7.28 hectares.
9. The appellant originally intended to store hay from the holding, but he switched to growing winter wheat and turf, produce that does not need to be stored in the building. Changes in farming such as this indicate that the building may be used flexibly over time, which might include periods when not all the space within it is utilised. However, it has not been shown that this would cause harm to any interest of significance, given the agreement that the building does not harm the character of the area or the landscape.
10. There is a reasonable need for agricultural storage on the holding and no other option for meeting that need has been identified. The siting and scale of the

² Application 21/01599/FUL, refused 15 October 2021

building are appropriate for the use it is intended to serve and for the size of the holding. It therefore accords with Spatial Policy 3 of the LDF Amended Core Strategy and policy DM8 of the DPD and is acceptable.

Conditions

11. The building is substantially complete and in use, but some external surfaces are unfinished. The external facing materials shown on drawing UKSD-SA-08-0004 revision A.00 have been found acceptable but it is necessary to ensure that any other external facing materials do not have a detrimental impact on the character of the location. In this way, the building will comply with Spatial Policy 3 of the LDF Amended Core Strategy.

Conclusion

12. For the reasons given above, I conclude that the building accords with the development plan and the appeal therefore succeeds on ground (a). I shall grant planning permission for the development as described in the notice.

Formal Decision

13. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act for the development already carried out, namely the erection of an agricultural storage building at land known as land at Westwood Park, Main Street, Thorney, NG23 7DA, as shown on the plan attached to the notice and subject to the following condition:

- 1) Unless within 1 month of the date of this decision a scheme for any external facing materials of the building that are not shown on drawing UKSD-SA-08-0004 revision A.00, including the colour of those materials and any treatment applied to them, is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 4 months of the local planning authority's approval, the building hereby permitted shall be demolished and all materials resulting from the demolition shall be removed from the land.

Upon implementation of the approved scheme specified in this condition, the external facing materials shall thereafter be retained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Mark Harbottle

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Reese Musson, Director, UKSD Limited
Alan Daubney

FOR THE LOCAL PLANNING AUTHORITY:

Chris Briggs, Planning Enforcement Officer, Newark & Sherwood District Council
Steve Cadman, Development Management Planner, Newark & Sherwood District Council
Clare Walker, Senior Planner, Newark & Sherwood District Council