



Appeal Decision

Site visit made on 3 January 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2023

Appeal Ref: APP/A3010/W/22/3300147

Land to the north of The Hop Pole, 96 Welham Road, Retford DN22 6UG

- 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 S Cowan against the decision of Bassetlaw District Council.
 - The application Ref 21/00450/FUL, dated 22 March 2021, was refused by notice dated 4 January 2022.
 - The development proposed is the siting of a BBQ hut with a 1.8m high timber fencing, 5x 1200mm high vertical timber posts, 1250mm deep non slip concrete surface at mooring berth and a compacted limestone path with associated landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The first reason for refusal detailed within the Council's decision notice includes a reference to residential development. However, the proposal does not involve residential development. This has been noted by the appellant in their appeal statement which has therefore not been prejudiced. The remainder of the reason for refusal is complete, precise, specific, and relevant to the application.

Main Issues

3. The main issues are the effect of the development on:
 - the character and appearance of the surrounding area;
 - highway safety; and
 - biodiversity assets.

Reasons

Character and Appearance

4. The appeal site comprises a triangular-shaped piece of land bounded by the Chesterfield Canal to the north, the A620 Welham Road to the south and a field to the east. A canal towpath is located along the opposite side of the canal from the appeal site. The appeal site slopes downwards from the A620 to the canal and has recently been cleared of most of its vegetation. The eastern section of the site is of a higher ground level to the adjacent field. The appeal site is located outside the development boundary of Retford within the open countryside and to the north of the public house, The Hop Pole, positioned on the opposite side of the A620.

5. The appeal site is located within the Idle Lowlands Policy Zone 08: Retford which recommends that the rural landscape be conserved by ensuring that any new development is sympathetic to local architectural style. The surrounding area is mainly rural in character, consisting predominantly of hedge lined open fields, the public house, the canal and a detached dwelling located further along the road to the east of the appeal site. To the west of the canal is the development boundary of Retford, which changes in character with dense built-up development. The predominant building material is brick and roofs are generally pitched or hipped in design.
6. The proposal would be used by the public house for pre-booked functions. It would include a detached wooden BBQ hut with two conical-shaped roofs, chemical toilets, and areas of hardstanding. A solid timber fence of 1.8m in height would be erected in a curved pattern adjacent to the A620 that would have a gated access to be used by emergency services and maintenance vehicles, with a new access created onto the road. Access to and from the appeal site would be by boat from a mooring adjacent to the public house, via the Chesterfield Canal.
7. The solid fence would be suburban in appearance and appear alien in the surrounding rural landscape, particularly when viewed from the canal and the tow path. The BBQ hut would be sited close to the canal and due to its overall scale and massing, it would appear unduly prominent and dominant when viewed from the canal and the tow path. The conical roof design of the proposed BBQ hut and the use of timber are not sympathetic to the predominant materials or roof design featured within the surrounding area. The existing bank adjacent to the A620 would offer some screening to the proposed development when travelling along the road. However, due to the overall height of both the proposed building and fencing, these features would be visible above the height of the bank and appear incongruous in the landscape. Overall, the proposed development would erode the rural open character of the appeal site and the surrounding area.
8. The inclusion of soft landscaping would soften the appearance of the proposed development. However, it would take a number of years to establish to a height and maturity that would afford any significant degree of screening. Furthermore, screening should not be used to hide what I have determined to be an unacceptable form of development in this location.
9. In reference to the first main issue, the proposed development would have a detrimental effect on the character and appearance of the surrounding area. It would be contrary to Policies DM4 and DM9 of the Bassetlaw District Local Development Framework Core Strategy and Development Management Policies DPD, adopted 2011 (CS) which, amongst other things, seek to ensure that new development proposals in the countryside are designed to be sensitive to their landscape setting and are expected to enhance the distinctive qualities of the landscape character policy zone in which they are situated. The proposal would also be contrary to paragraphs 126, 130, 131 and 134 of the National Planning Policy Framework (NPPF) and the National Model Design Code.

Highway Safety

10. The A620 leads into the centre of Retford. At the time of my site visit, I noted that the road is heavily used with frequent vehicles passing alongside the appeal site at high speed. The road has a 40mph speed limit immediately in front of the appeal site, which changes to 60mph just beyond the eastern boundary.
11. It is proposed to construct an access onto the A620 towards the eastern boundary of the appeal site. A driveway would be constructed from the access to a gate within the proposed solid 1.8m high wooden perimeter fence. The access would be used by emergency service vehicles and maintenance vehicles, such as for the emptying of the chemical toilets.
12. The submitted drawing indicates the position of the proposed access onto the A620, which would necessitate vehicles traversing down a steep bank. No information has been provided regarding the type of vehicles that would use the access. The submitted cross-section drawings do not demonstrate how the access and driveway would be created or whether it is possible, given the existing gradient. The drawings also do not indicate a turning or parking area within the site for vehicles to exit the site in a forward gear, or whether such an area can be accommodated within the site. Hedgerows are positioned to the east of the appeal site, adjacent to the highway verge and, according to the submitted information, fall outside the appellant's ownership. The submitted drawings do not include visibility splays and due to the siting of the hedgerow, it is unclear whether the required visibility splays could be achieved.
13. Users of the proposed facility and deliveries would be taken via a pontoon boat (approximately 20-24ft in length) along the canal. No other details have been provided regarding the boat or if disabled users or users with mobility issues could board and disembark safely from the vessel.
14. Direct access from the public house to the appeal site by crossing the A620 would be prevented by the erection of a 1.8m high solid fence. However, the drawing indicates a gap where the solid fence would meet the mooring berth and no details have been provided to demonstrate how people would be prevented from opening the vehicle access gate. Given the time it would take to use the proposed boat to access/exit the appeal site, I am not persuaded that users, particularly when under the influence of alcohol, would not try to use the most direct route back to the public house/the car park by crossing over the road, with the potential to cause conflict between the users of the facility, and cyclists and motorists of the A620.
15. The appellant considers that such matters could be conditioned. However, from the information before me, it is unclear whether such conditions would meet the six tests detailed within paragraph 56 of the NPPF, or that the works could be achieved within the confines of the appeal site and without additional harm to the character and appearance of the surrounding area. Therefore, it is essential for the highway safety matters to be resolved prior to determination, otherwise all relevant material considerations may not have been addressed in making the decision.
16. In reference to the second main issue, insufficient information has been submitted to demonstrate that the proposed development would not adversely affect highway safety. It would therefore be contrary to paragraphs 110 and

112 of the NPPF which, amongst other things, seek to ensure that safe and suitable access to the site can be achieved for all users, that developments should address the needs of people with disabilities and reduced mobility in relation to all modes of transport, create places which minimise the scope for conflicts between pedestrians, cyclists and vehicles, and allow for the efficient delivery of goods and access by service and emergency vehicles.

17. I do not consider that Policy DM13 of the CS is relevant to the second main issue as it concerns parking standards, the Nottinghamshire Transport Plan and the optimisation of the highway network and highway capacity improvements. Likewise, paragraph 134 of the NPPF is concerned with design, rather than matters of highway safety.

Biodiversity Assets

18. The Chesterfield Canal is designated as a Local Wildlife Site (LWS). The appeal site abuts the LWS and would involve development along its edge, including the provision of a concrete surface to the mooring berth. I recognise that the site has been cleared of most of its vegetation. However, the ground levels are undulating and would require some excavation to create the level surface indicated on the submitted drawings. In addition, the vegetation along the canal edge is largely undisturbed. Furthermore, hard surfacing is proposed surrounding the proposed BBQ hut that would extend in close proximity to the canal and it is unclear how surface water would be managed and whether it would discharge into the canal.
19. The appellant considers that given the small scale of the proposal, there is likely to be no significant harm to biodiversity. However, this view is unsubstantiated. Without evidence, it is unclear whether the proposal would adversely affect the LWS or protected species, or what mitigation measures could be required. It is therefore essential for this to be established before an appeal is allowed, otherwise all relevant material considerations may not have been addressed in making the decision.
20. In reference to the third main issue, insufficient information has been submitted to determine the proposal's effect on biodiversity assets, contrary to Policy DM9 of the CS that requires, amongst other things, a development to demonstrate that it will not adversely affect or result in the loss of features of recognised importance within LWSs or protected species. The proposal would also be contrary to the NPPF in this regard.

Other Matters

21. The appellant considers the proposal would be an appropriate use of a disused and under-utilised parcel of land. From the information before me, the previous use of the land (before it became overgrown) was for the growing of vegetables and therefore it was agricultural in nature. There is nothing before me to suggest that the land could not be used for such a use again, or that the proposal is the only or least obtrusive use for the appeal site.
22. I accept that the proposal would support an existing business that seeks to invest, expand and adapt, however, I am not persuaded that it is the only or the least intrusive form of development that could achieve these aims. Furthermore, I have not been provided with evidence that the proposal is required to aid the business' recovery after the pandemic, or that it is required

to assist in unlocking the potential and value of the canal to communities and help to preserve, conserve and enhance it.

23. The inclusion of a soft landscaping scheme as part of the proposed development would be required to meet the policy aims of both design and achieving a net gain in biodiversity. This is therefore a neutral matter.

Conclusion

24. For the reasons given above, having considered the development plan as a whole and all other material considerations, I conclude that the appeal is dismissed.

A Berry

INSPECTOR