



Appeal Decision

Site visit made on 27 January 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 FEBRUARY 2023

Appeal Ref: APP/X2410/W/22/3302095

Allotment Gardens North Of Leicester Road, Footpath From Leicester Road To Charnwood Water, Loughborough, Leicestershire LE11 2AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Kevin Dakin against Charnwood Borough Council.
- The application Ref P/22/0479/2 is dated 15 March 2022.
- The development proposed is the erection of agricultural buildings on agricultural land: 1x 10m by 9m prefabricated metal building for the cultivation of mushrooms; 1x 7m by 5m prefabricated metal building to be used as workshop/garage and feed store; 1x 3m by 2m chicken coop; 3x 6m by 3m polytunnels to be used as mushroom fruiting rooms; 1x existing 4m x 2m polytunnel; 1x existing 6m by 3m polytunnel; 1x composting toilet, 6x 1000ltr IBC water storage tanks.

Decision

1. The appeal is allowed and planning permission is granted for the erection of agricultural buildings on agricultural land: 1x 10m by 9m prefabricated metal building for the cultivation of mushrooms; 1x 7m by 5m prefabricated metal building to be used as workshop/garage and feed store; 1x 3m by 2m chicken coop; 3x 6m by 3m polytunnels to be used as mushroom fruiting rooms; 1x 4m x 2m polytunnel; 1x 6m by 3m polytunnel; 1x composting toilet, 6x 1000ltr IBC water storage tanks, at Allotment Gardens North Of Leicester Road, Footpath From Leicester Road To Charnwood Water, Loughborough, Leicestershire LE11 2AJ, in accordance with the terms of the application, Ref P/22/0479/2, dated 15 March 2022 and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The appeal is made against the failure of the Council to determine the application within the prescribed period. The Council confirms that had it been in a position to determine the application it would have granted planning permission. Accordingly, there are no matters at issue between the main parties. Nevertheless, I shall determine the appeal as if it were made to the Secretary of State in the first instance and have framed the main issues on the basis of those considered by the Council in its Statement of Case.
3. The description of development includes polytunnels described as 'existing,' but the application form also states that no work or change of use has started. I also saw no polytunnels within the locations they are proposed on the submitted plans. Therefore, I have assessed the scheme on the basis of the plans and not on a partly retrospective basis. As a result, I have also omitted the words 'existing' from the formal decision above.

Main Issues

4. The main issues are i) the effect of the proposal on the character and appearance of the area, including the settings of designated heritage assets; ii) the effect on neighbours' living conditions, and iii) the effect on biodiversity.

Reasons

Character and Appearance

5. The appeal relates to a triangular parcel of land to the south of 282 Leicester Road, bounded by Leicester Road, a public footpath and a railway line. Though the site address refers to 'allotment gardens,' both parties describe the site as being in agricultural use as a smallholding. The site contains a number of structures, including sheds, containers, covered storage and planting beds. The proposal seeks to install various structures including polytunnels, prefabricated metal buildings, a chicken coop, a toilet and water storage tanks.
6. The site already exhibits a distinct agricultural character with various equipment, materials and structures dotted across the site. Views into the site are limited mainly to the entrance gate, as it is otherwise screened by trees and hedgerows along the roadside boundary and fencing along the footpath boundary. A stand of trees to the centre of the site and other foliage dotted around further filters the presence of structures and equipment.
7. The main element of the proposal would be two large metal sheds, the tallest reaching some 3.6m in height. Their design would reflect the agricultural character of the site and they would be set back from the main entrance, reducing their visibility in the street scene. The other proposed elements would be smaller in scale and placed in more discreet positions behind the two sheds or the central stand of trees, where they would not be prominent and would have limited cumulative effect as a result. Their appearance would nevertheless be consistent with the use of the land as a smallholding.
8. Overall, the proposed additions to the site would be appropriate to its existing use and character and given the screening to the site boundaries, the appearance of the street scene and wider area would be maintained. The proposal would also preserve the undeveloped character of the Loughborough-Quorn green wedge.
9. For these same reasons, and having regard to the physical separation of Leicester Road and the screening provided by vegetation to both sides, the proposal would not have an adverse effect on the setting of the Loughborough Cemetery Conservation Area, located directly across the road from the appeal site, nor the setting of the listed building located centrally within the cemetery.
10. In reaching a view, I have had regard to an earlier appeal decision on the site from 2017¹. However, this was for the erection of two dwellings and other outbuildings, and so was for a different scale and character of development. Consequently, it is not directly comparable to this scheme, which I have considered on its own merits.
11. Therefore, I conclude that the proposal would preserve the character and appearance of the area, and no conflict arises with Policies CS2, CS12 and

¹ Appeal Ref: APP/X2410/W/17/3176942

CS14 of the Charnwood Local Plan 2011 to 2028 Core Strategy (November 2015) (the CS) and saved Policies EV/1, CT/2 and CT/3 of the Borough Local Plan 1999-2006 (January 2004) (the BLP), which together require development to respect and enhance the character of the area, including Green Wedges; protect and enhance green infrastructure assets; protect heritage assets and their settings and facilitate diversification of the rural economy.

Neighbours' Living Conditions

12. The nearest dwelling at 282 Leicester Road is separated by the public footpath and I saw that it has no direct views over the appeal site, nor would any new opportunities for overlooking result from the proposal. The proposed structures would also not be of a position or scale that would cause a noticeable loss of outlook or light for adjacent occupants. I further concur with the Council that the chicken coop would also be sufficiently distant from No 282 to avoid adverse impact from odours.
13. I note the Council's suggested condition to restrict the hours during which noisy machinery may be used, which I agree is necessary to avoid undue noise and disturbance to neighbouring occupants. Subject to this, I conclude that the proposal would preserve the living conditions of neighbouring occupants, in accordance with the requirements of Policy CS2 of the CS and saved Policy EV/1 of the BLP to protect the amenity of people who live or work nearby.

Biodiversity

14. The proposal would continue the existing agricultural use of the land with existing vegetation retained within the site and along its boundaries. The site is not designated as a Local Wildlife Site or SSSI, and there is no other evidence to indicate the presence of protected species on the site. The proposed structures would also be removable, and the site would remain a largely undeveloped, green space with the potential to accommodate wildlife. No conflict would therefore arise with the aims of Policy CS13 of the CS to conserve and enhance the natural environment.

Conditions

15. In addition to the standard time limit, a condition is required setting out the approved plans, to provide certainty. It is also necessary to require the use of materials as specified on the plans to ensure a satisfactory appearance. Finally, as set out above, a condition restricting the operation of noisy plant and machinery before 8:00am and after 8:00pm is necessary to protect neighbours' living conditions.

Conclusion

16. For the reasons given, I conclude that proposal accords with the development plan, taken as a whole. There are no material considerations that would indicate that permission should nevertheless be withheld. Therefore, the appeal should be allowed.

K. Savage

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: Drawing no. "Site Plan" (pages 1-5); "Composting Toilet" (pages 1-4); "10 metre x 9 metre Prefabricated Agricultural Building" (pages 1-5); "1000 Litre IBS Tanks" (pages 1-1); "3m x 2m Poultry Shed" (page 1-1); "Polytunnels" (pages 1-3); "7 metre x 5 metre Prefabricated Agricultural Building" (Pages 1-5); "6m x 3m Polytunnel" (page 1-1); "4m x 2m Polytunnel" (page 1-1).
- 3) The development hereby permitted shall be constructed in accordance with the materials shown on the approved plans.
- 4) No noisy plant and/or machinery shall be operated on the premises before 8:00am and after 8:00pm on any day of the week.
