



Appeal Decision

Site visit made on 7 February 2023

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2023

Appeal Ref: APP/K0235/W/22/3298010

Greys Farm, Wymington Road, Podington NN29 7HP

- 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 A Mahon against Bedford Borough Council.
 - The application Ref 21/03022/FUL, is dated 15 November 2021.
 - The development proposed is change of use of agricultural building to light industrial (Use Class E (g) (iii)).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr A Mahon against Bedford Borough Council. This application is the subject of a separate decision.

Procedural Matters

3. Following the submission of the appeal, the Council has clarified the position it would have taken on the application if it had had the opportunity to make the decision. The main issues below are based on putative reasons for refusal set out in their statement.

Main Issues

4. The main issues are:
 - whether the site is in a suitable location for employment development;
 - the effect of the proposed development on existing trees; and
 - the effect of the development on waste storage and collection.

Reasons

Suitable Location

5. The appeal site is located in the countryside and would involve the re-use of an existing building. Therefore, it would adhere to criterion (ii) of Policy 75 of the Bedford Borough Council Local Plan 2030¹, adopted 2020 (LP) which allows for new employment development in the countryside. As the proposed development is only required to meet one of the circumstances outlined, it is

¹ Bedford Borough Council Local Plan 2030 Planning for the Future, adopted 2020

not necessary for me to determine whether it would also comply with criterion (i), (iii) or (iv). However, the re-use of an existing building in the countryside for employment purposes must also demonstrate compliance with criteria (v) to (x) of the policy.

6. Criterion (ix) requires the proposal, amongst other things, to not have significant and demonstrable harm to the established character of the area. The appeal site comprises two detached agricultural buildings constructed of modern materials, sited on a level surface. Immediately surrounding the buildings is an area of hardstanding, whilst a concrete apron is positioned to one gable end of each building. Surrounding the southernmost building is a grassed area, that at the time of my site visit, also contained two piles of rubble. To two sides of the appeal site are earth bunds that have been densely planted with deciduous trees, beyond which are agricultural fields which provide a strong rural setting. A Public Right of Way (PRoW) traverses the adjacent agricultural fields.
7. The proposed development includes the creation of 22 car parking spaces which would be located to the north/northwest of the building to be converted to light industrial. This area of land is currently occupied by a tree covered bund, which is elevated above both the adjacent field and the ground surrounding the existing building and has a curved profile. No information has been supplied regarding how this area will be reprofiled to create a level surface for the area of car parking. However, the submitted drawings indicate that the majority of the existing trees will be felled.
8. The existing trees have a high amenity group value as part of a landscape feature and they screen the appeal site to a significant degree, limiting views of the site from Wymington Road and the PRoW, even during the winter months when the trees are not in leaf. The loss of such a large number of trees would visually expose the appeal site, particularly from the PRoW and would significantly alter the character and appearance of this part of the countryside. No matter how the level surface would be created, it would add to this harm by extending an area of hard surfacing into an undeveloped part of the site, resulting in an intrusion into the countryside, which would be harmful to the rural character of the locality.
9. The appellant has suggested that the car parking area could be screened by landscaping which could be conditioned and considers that the Council, in concluding that the proposal would comply with Policies 42S and 43 of the LP, indicates their acceptance that the loss of trees could be mitigated through a suitably worded condition. However, the Council's confirmation that the proposal would comply with Policies 42S and 43 of the LP is in respect of protected species and biodiversity. Furthermore, such planting would take a significant time to mature to a size and density that would effectively screen the proposed development and in any event, landscaping should not be used to permanently hide an otherwise unacceptable form of development.
10. The appellant has included within their final comments a sketch drawing indicating roughly alternative locations for the proposed parking area and they request that these are taken into consideration. The submission of this drawing at the final comments stage has meant that interested parties have not had the opportunity to consider these new locations and could be prejudiced if accepted. Furthermore, it is not a scaled drawing and therefore it would be

difficult to properly assess the proposals. Therefore, I must determine the appeal on the basis of the information that was submitted to the Council.

11. The proposal would result in significant and demonstrable harm to the established character of the area and therefore it would not comply with criterion (ix) of LP Policy 75. As I have found that the proposed development would not comply with this criterion and it is a requirement of the policy for a development to meet all of the criteria from (v) to (ix), it is not necessary for me to determine whether the proposed development would comply with any other criterion. On this basis, the proposal is not supported in the countryside.
12. The appeal site is located on the outskirts of the village of Podington and within walking distance of a garden centre with café. However, the routes are not appealing because they are unlit and lack a pavement. Bus stops are located within Podington. However, I have not been provided with information as to the regularity of the service, or its precise route. Therefore, it is unclear whether public transport could be relied upon by occupiers of the proposed employment units. As such, future occupiers of the employment units are likely to be reliant on the private motor vehicle.
13. Paragraph 85 of the National Planning Policy Framework (NPPF) states that decisions should recognise that sites to meet local business needs in rural areas may have to be found in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). I have found that the proposal would not be sensitive to its surroundings, and I have no details before me as to how the appellant would exploit opportunities to make the location more sustainable.
14. In reference to the first main issue, the appeal site is not a suitable location for employment development. It would therefore conflict with Policies 3S, 7S, 28S, 29, 30 and 75 of the LP which, amongst other things, seek to safeguard the intrinsic character of the countryside through the careful management of development to meet local needs whilst supporting the rural economy.

Existing Trees

15. As previously detailed, the proposed development would result in the loss of a significant number of trees to facilitate the proposed car parking area. No Arboricultural Survey has been submitted to support the proposal. The appellant indicates that the trees were surveyed as part of the Phase 1 Habitat & Protected Species Survey, however, this was in respect of bat roosting potential. I acknowledge that the trees are not covered by a Tree Preservation Order and are not mature, however, they are semi-mature and have a high amenity group value as part of a landscape feature, and therefore opportunities should be considered for their retention.
16. Engineering works would be required to achieve a level surface for the proposed car parking area. Without cross-sections, topographical details or an Arboricultural Survey, it is unclear whether the retention of the trees shown on the submitted drawing is possible. Without such information, the full impact of the proposed development on existing trees is unknown. For these reasons, it

would not be acceptable for a survey to be submitted prior to the commencement of development.

17. In reference to the second main issue, insufficient information has been provided to ascertain the effect of the proposed development on existing trees. It would therefore conflict with Policies 35S, 37, 38 and 39 of the LP which, amongst other things, require existing trees on and immediately adjacent the development site to be recorded following guidance in the relevant British Standard, and applications should provide details as to how retained trees will be protected prior to, during and after construction.

Waste Storage and Collection

18. The submitted information does not include details regarding refuse/recycling storage and collection points. The appellant suggests that this could be dealt with by a pre-commencement condition. However, the submitted drawings indicate that a significant proportion of the surrounding land would be used for the provision of a one-way system, car parking, HGV parking and cycle storage. Furthermore, the southernmost building would be retained for agricultural uses and the appellant has stated that they seek to use the southern part of the site for compounds and agricultural activity/paraphernalia ancillary to the agricultural use of the retained building. It is unclear whether sufficient space would be available within the site to provide waste storage and collection facilities for the proposed development and therefore it could not be dealt with by condition.
19. In reference to the third main issue, insufficient information has been provided to ascertain the effect of the proposed development on waste storage and collection. It would therefore conflict with Policies 29(viii) and 32(v) of the LP which, amongst other things, require planning applications to give particular attention to arrangements for dealing with waste (including recyclable materials) storage and collection.

Other Matters

20. I have been directed to a planning application² at the appeal site in which the Council approved a change of use and external alterations to the agricultural buildings to Class B1 (business). However, planning permission was granted in 2003 and was considered against a different development plan. Furthermore, the approved drawing indicates that the car parking was to be contained in a different location, and therefore it is not directly comparable to the appeal proposal. In any event, each case must be determined on its own merits.
21. I have been directed to planning applications at The Old Piggery and Manor Farm whereby the Council approved changes of use to commercial in close proximity to the appeal site. Limited details have been provided in respect of these planning approvals however, I note that the first involved a prior approval application and the second was granted permission in 2006 against a different development plan. Therefore, neither is directly comparable to the appeal proposal.
22. I acknowledge that the NPPF requires significant weight to be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development, and that

² Planning Reference: 03/01655/FUL

decisions should support a prosperous rural economy through the sustainable growth and expansion of all types of business in rural areas. I accept that the proposal could support the diversification of an existing agricultural business; that it would re-use an existing building that is no longer required for agricultural purposes; that it would generate employment opportunities; provide jobs for construction workers during the conversion works; and could contribute to the rural economy if workers were to use the local café for their lunch. However, these benefits do not outweigh the harm I have identified in respect of the site not being a suitable location for employment development, and its conflict with paragraph 85 of the NPPF.

Conclusion

23. For the reasons given above, the proposed development would conflict with the development plan as a whole 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