



Appeal Decision

Site visit made on 20 March 2023

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 14 April 2023

Appeal Ref: APP/B3030/W/22/3309438

Windmill Farm, Eagle Road, Spalford, Newark NG23 7HA

- 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 Marietta Pegg against the decision of Newark & Sherwood District Council.
 - The application Ref 22/00272/FULM, dated 8 February 2022, was refused by notice dated 5 May 2022.
 - The development proposed is a caravan and holiday lodge site including amenities building, associated drainage and roadways.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Marietta Pegg against Newark and Sherwood District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. A Botanical Survey has been submitted with the appeal statement, together with a revised site plan (Ref. 20-1945 2G). The site plan revisions show altered highway arrangements with revised positioning of passing bays/service vehicle areas and other minor revisions.
4. Although this information did not form part of the planning application, under the 'Wheatcroft Principles' established under *Bernard Wheatcroft Ltd v SSE* 1982, it does not fundamentally change the nature of the proposal. For this reason, as well as noting that the Council were able to consider these details before the submission of their appeal statement, I consider that no other interests would be prejudiced by my accepting of this information.

Main Issues

5. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether the location of the proposed development is acceptable, with particular regard to the development plan strategy;

- Whether the proposal would comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding; and
- The effect of the development on biodiversity and a veteran tree.

Reasons

Character and appearance

6. The appeal site is a grassed field, bounded by hedgerows, alongside Eagle Road, lying east of the rural settlement of Spalford. It forms part of a larger holding which includes a dwelling and a fishing pond just beyond the appeal site. A public footpath runs along the western boundary and exits alongside the pond. Immediately to the south is Spalford Leisure Park, an established caravan site which is in separate ownership and is not prominent from the road. To the west of the appeal site is a mixture of paddocks, loosely scattered buildings, and a compound of parked vehicles set deep into the site. To the east are predominantly open fields.
7. Despite the loose cluster of buildings and activity near the appeal site, the wider context of the area is countryside which is predominantly flat agricultural land strongly characterised by hedgerows and groupings of trees with sporadic dwellings and farmsteads. The site lies within the East Nottinghamshire Sandlands Policy Zone: Wiglsey Village Farmlands with Plantations, identified in the Landscape Character Assessment Supplementary Planning Document (SPD). Policy 13 of the Newark & Sherwood Local Development Framework Core Strategy & Allocations Policy (Amended Core Strategy) 2019 (CS) requires development within this zone to conserve what remains of the rural landscape by concentrating new development around existing settlements and creating development which reflects the local built vernacular.
8. The proposed leisure development would comprise pitches for 15 touring caravans, 5 holiday lodges and an associated leisure building. The 2-bedroom lodges would be constructed of shiplap boarding in a light blue stain with shingle roof. The amenity block would be part brickwork, part blue, shiplap, with concrete roofing tiles, and additional hardstanding, pathways and a gravel access road would also be provided.
9. Despite the slight set back in the field and the proposed landscaping, the development would occupy a sizeable area and would be visible from the road at the site entrance, together with more expansive roadside views when the hedgerow is not in leaf. However, unrestricted, close views would be afforded from the public footpath.
10. The degree of development across the site area would contrast starkly with the largely undeveloped nature of the field. The site would potentially serve a relatively large number of visitors, and the visual effect of the range and nature of the permanent buildings and associated infrastructure would be significant. Alongside there would be visual clutter caused by the transient caravans, parked cars, and associated leisure paraphernalia spreading across the site. At night the site illumination which although likely to be muted would cause further visual intrusion.
11. The development, extending close to the roadside, would therefore be conspicuous in its setting and would appear significantly different from the

clusters of rural buildings and other rural activity in this open landscape. It would cause adverse visual harm and would fail to address the landscape actions for this area.

12. The proposed development would have an adverse effect on the character and appearance of the area and would conflict with CS Core Policy 7 and 13, and Policies DM5 and DM8 of the Allocations & Development Management Development Plan Document 2013 (DPD) and the SPD. These seek to protect and enhance landscape character and the visual quality. Additionally, the proposal would conflict with the National Planning Policy Framework (the Framework) which has similar aims.

Location

13. DPD Policy DM8 is permissive of tourist accommodation in the open countryside if it meets a tourism need, is appropriate rural diversification and can support local employment, community services and infrastructure. Alongside, CS Core Policy 7 supports sustainable tourist accommodation which helps realize the tourism potential of the District, supports tourism needs, complements existing attractions, or addresses shortfalls in provision. The policy contains criteria to be met for development in the countryside, including supporting an existing attraction, a functional need to be in the countryside, is an appropriate expansion of a tourism or visitor facility and supports local employment. The policy also requires proposals to be acceptable in terms of design, layout and their impact on local character. These policies are broadly consistent with the Framework which, among other things, promotes a prosperous rural economy through enabling sustainable rural tourism and leisure developments which respect the character of the countryside.
14. The appeal site is some distance from Spalford, settlement with no identified facilities to support the tourism facility. Even if there was a need to visit Spalford, the absence of a footpath and streetlighting along Eagle Road would limit access unless footpaths across fields are taken. The nearest bus stop is some distance away along Eagle Road and would not be accessible to all occupants, and in any event only provides limited services. Although some occupants may plan to be self-sufficient during their stay, occupants would have to predominantly rely on private vehicles to access the proposed site and visit shops and facilities.
15. The site seeks to provide holiday accommodation for those seeking a quiet retreat and to use the nearby fishing pond. However, the proposed accommodation would be disproportionately large in relation to the number of anglers that could fish at any one time. Therefore, a significant proportion of the occupants are likely to travel to seek out other attractions/activities.
16. The proposal would complement other fishing facilities and camping sites in the immediate area, as well as provide a base to more extensive leisure and holiday offers in the wider area. In this regard, the proposed development would contribute to meeting a need set out in the D2N2 Visitor Accommodation Strategy 2017 and related reports covering Derbyshire and Nottinghamshire. This details a strong demand for year-round non-serviced holiday accommodation and people wanting to feel remote and spend a relaxing break in the countryside. It also highlights the shortage of caravan and camping provision despite a growing demand.

17. Despite the support offered by D2N2 and noting that tourism and leisure industry growth is also a priority for the Council, it is still necessary to ensure that accommodation is in the right location to meet an identified need. It cannot support every proposed tourist development within this area and does not take primacy over the development plan. Some occupants will seek a rural escape and will look for local fishing sites and this development would achieve this. However, whilst these attractions may be desirable for many, it has not been adequately demonstrated that there are not more suitably located sites which are in more accessible locations both in terms of services and facilities, and other tourist attractions. Also, whilst D2N2 identifies a shortage of the proposed form of accommodation across its extensive study area, there is no adequate evidence of a shortage in this immediate area.
18. Therefore, to conclude against the planning policies, the development would help realise the tourism potential of the District and complement and enhance existing attractions. However, the site is remote from services and facilities and with only limited on-site attractions, visitors would rely extensively on private vehicles to access other places. Furthermore, there is no adequate evidence that there is a demand for this type of accommodation in this location. Therefore, in my view, the locational or functional tourism need has not been clearly demonstrated. Also, whilst this could be considered a rural diversification of an existing fishing facility, the scale of accommodation goes well beyond that required to cater for the size of pond.
19. There would be marginal support to local employment and spending in the local area, and opportunities for increased tourism but those benefits would be small and not sufficient to justify the development. Furthermore, as I have already found harm to the character and appearance of the area, the development would also fail to accord with a key part of CS Core Policy 7.
20. The proposed development is not in an acceptable location with particular regard to the development plan strategy. It would therefore conflict with CS Core Policy 7 and 13 and Spatial Policy 7, and DPD Policies DM5 and DM8, as well as the Framework.

Flooding

21. The site is within Flood Zone 2 and 3 and DPD Policy DM5 and the Planning Practice Guidance (PPG) require a Sequential Test to demonstrate that there are no reasonably available sites in lower risk Flood Zones. The revision to the PPG allows the Sequential Test search area to be defined by local circumstances relating to the catchment area for the type of development proposed. In this regard, the appellant justifies the 15-mile radius search area by predominantly focussing on being in the centre of an area noted for fishing. However, whilst there are alternative fishing and other recreational facilities in this area, and it is clearly desirable for the appellant to live nearby, it is not clear why an overly restrictive 15-mile radius is the cut-off point or why there is a particular need for this type of development around Spalford. Also, given the extent of these Flood Zone areas, a wider search area would be required to genuinely steer the development towards lowest risk areas.
22. Notwithstanding the unjustified, small search area, only a few sites at a lesser risk of flooding have been identified. Whilst I recognise that sites close to urban areas have been discounted and sites need to provide access to fishing, there is inadequate information to robustly show how sites have been identified and

why they have been discounted. For example, dismissing sites based on cost alone is not reason for discounting.

23. The proposal therefore has not adequately demonstrated that there are no sequentially preferable alternative sites. For the sake of completeness, however, I go on to consider the Exception Test. The Environment Agency (EA) accepts the mitigation proposed in the updated Flood Risk Assessment (FRA) regarding the raised ground floor levels, but highlight that there would be no dry access and egress during a breach event due to the topography of the site. In this regard, the EA had previously suggested a roadway height of 7.43m AOD to ensure a safe, dry refuge for any touring caravans.
24. Although I have been provided with some figures for raising ground levels, I have no revised site plan identifying the levels throughout the site, including showing details of the elevated road levels. Indeed, the revised site plan continues to show the floor level of lodges and roadway to be 7.2m. The site would be open for much of the year and even with lower occupancy rates over winter, site occupants could experience flooding. Even with a site-specific flood warning/evacuation plan secured by condition, without detailed clarification of the levels, I have no adequate evidence that it would ensure safe access and egress during a flood event and therefore pass the Exception Test.
25. The proposal would not comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding. It would therefore also conflict with CS Core Policy 9 and 10 and DPD Policy DM5 which in this regard reinforce the aims of the Framework.

Biodiversity and veteran tree

26. The botanical survey identifies that part of the site qualifies as a Nottinghamshire Local Wildlife Site (LWS) for dry acid grassland. This includes grassland to the west of the proposed access track and a wedge of land on the opposite side of the track which widens out towards the main body of the site. Although the site plan has been adjusted to avoid disturbance of the grassland on the western side of the track, the relocation of the passing and service bays as well as other elements of the development to the eastern side would considerably impact on the valued grassland.
27. The identification of a significant site area qualifying as a LWS must be afforded appropriate weight. DPD Policy DM7 states that on sites of local importance, planning permission will only be granted where the need for development outweighs the need to safeguard the nature conservation value of the site. Even considering the revised site plan and proposed management regime, the development would impose ecological harm to make way for significant elements of the proposal resulting in the partial loss of the valued grassland. Given that I have found harm arising from the principle of the proposed development, the requirement of Policy DM7 has not been met.
28. The appellant does not dispute that the oak tree near to the site entrance is identified as a veteran oak tree. The Route Protection Area (RPA) suggested by the appellant's arboriculturist is based on an estimate of the trunk diameter. However, although the appellant states that the RPA provided is above the requirements for the tree, in the absence of detailed measurements, including factoring in the multi-stemmed nature of the tree and using Natural England

guidance for the buffer zone around veteran trees, there is inadequate evidence to demonstrate that the development would not adversely affect it.

29. The development would therefore have a harmful effect on the biodiversity of the site and a veteran tree. There would be conflict with CS Core Policy 12, DPD DM5 and DM7, together with the Framework, which seek to protect and enhance an area's biodiversity and protect natural features of importance.

Conclusion

30. I have had regard to other concerns raised by interested parties. However, as I am dismissing the appeal on other grounds it has not been necessary to consider these matters further.
31. For the reasons given above, the proposal would conflict with the development plan, when read as a whole. Material considerations, including the Framework, do not indicate that a decision should be made other than in accordance with the development plan. Having considered all other matters raised I therefore conclude that the appeal is dismissed.

G Bayliss

INSPECTOR