



# Appeal Decision

Site visit made on 8 May 2023

**by M Russell BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19 June 2023**

**Appeal Ref: APP/G2435/W/22/3305732**

**Land on the South East Side Of Limby Hall Lane, Swannington LE67 8QH  
Easting (x) 441372 Northing (y) 316735**

- 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 T Fletcher against the decision of North West Leicestershire District Council.
- The application Ref 21/01967/FUL, dated 13 October 2021, was refused by notice dated 24 March 2022.
- The development proposed is described as 'conversion of agricultural barn and surrounding land to dwellinghouse with alterations and extensions to barn, construction of detached garage and storage building'.

## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. I have been provided with a copy of the Swannington Parish Neighbourhood Plan Submission Version (June 2022). However, I am unaware of the extent to which there may be unresolved objections or requirements for modifications. Therefore, I agree with the Council that very limited weight can be attached to its policies at this stage. Accordingly, I have assessed the proposal against the policies of the adopted development plan referred to in the Council's decision notice.

## Main Issues

3. The main issues are:
  - (i) the effect of the proposal on the character and appearance of the area including landscape character; and
  - (ii) whether the proposal would be susceptible to risks arising from the legacy of coal mining activity in the area.

## Reasons

### *Character and appearance*

4. Limby Hall Lane is a single-track lane with grass verges and no street lighting. Hedgerows generally line roadside boundaries and land to either side of the lane predominantly comprises of fields, paddocks and woodland. Away from the main built footprint of Swannington and in the immediate vicinity of the appeal site there are generally no large buildings close to the roadside boundaries. However, there is a modestly scaled stable building within a nearby field to the

northeast of the appeal site which is partially screened by roadside hedgerow. Overall, the overriding spacious and soft planted characteristics of Limby Hall Lane and the landscape surrounding the appeal site give the area a distinctly rural character and appearance.

5. On my site visit, I observed that work had commenced to convert the former agricultural barn on the appeal site to a dwelling. This existing building is also set well back from the roadside boundary. There is woodland next to the northeastern boundary of the appeal site. However, post and rail fencing lines the boundaries of the appeal site with Limby Hall Lane and alongside the Public Right Of Way (PROW) to the southwest. There is minimal planting along these boundaries. Consequently, the former agricultural barn and its spacious frontage can be readily appreciated in close up views from the road and the PROW.
6. As a result of its considerable height, footprint, bulk and position close to the front boundary, the detached garage and storage building would be a dominant addition to the roadside. The 'anthracite garage doors with glazing', the external staircase, the roof windows and the zinc cladding facing materials would combine to give the building a stark and overtly domestic appearance. As a result, this building would appear incongruous within the prevailing rural context of its immediate surroundings and would unacceptably reduce the spacious attributes of the site frontage. This would be most readily appreciated by passers-by the site frontage and by users of the PROW to the southwest.
7. The prior approval permission<sup>1</sup> relating to the conversion of the former barn to a dwelling represents a fallback position carrying significant weight in respect of this element of the scheme. The proposed extensions to the barn under the appeal proposal would result in a modest increase in the scale of the building over the prior approval.
8. However, from what I have seen the resultant dwelling under the prior approval would incorporate facing materials which would allude to its previous agricultural use. When the extensions before me are considered together with the large, recessed window apertures and vertical black zinc cladding, the combined result would have a bolder residential appearance than the fallback position. This would diminish the visual connection between the dwelling and its agricultural origins. As a result, the building would sit less comfortably within the overriding rural character of this section of Limby Hall Lane than the fallback position.
9. The proposed rear garden would be likely to have a discreet presence and the land to be incorporated to the side of the dwelling would be partially screened by the built elements of the proposals. However, the expanded curtilage to the frontage of the proposed dwelling, beyond that previously approved, would present increased opportunities for residential paraphernalia to be placed forward of the dwelling in public view. This would draw further attention to the increased domestic appearance of the site and would compound the harm already identified.
10. When all the strands of the proposal are considered together, they would have a markedly more imposing and domestic appearance than the fallback position of the prior approval to convert the agricultural building and the subsequent

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<sup>1</sup> LPA Ref 20/00304/PNA

approval of additional surfacing to serve it<sup>2</sup>. This would be harmful to the rural attributes of Limby Hall Lane and its immediate landscape.

11. A condition requiring a detailed landscaping scheme would be unlikely to make the development acceptable. This is because the planting required would need to be extensive to provide screening next to the post and rail boundaries which sit alongside the roadside and the PROW. New planting would also be likely to take a significant period of time to fully establish. Therefore, in the early years following its completion, the development would be likely to be highly visible to passers-by. Even in the longer term, the scale of the buildings, materials incorporated and close proximity of the development to publicly accessible routes would mean that planting would be unlikely to fully assimilate the proposals into their immediate rural surroundings.
12. My attention has been drawn to dwellings off Main Street, Swannington<sup>3</sup>. I accept these buildings, their curtilages and residential paraphernalia within them are appreciable in long range views from Limby Hall Lane. However, those dwellings are closely associated with the main built form of the settlement of Swannington. They do not persuade me that the site-specific design and layout of the proposals before me and their more immediate relationship with the roadside on Limby Hall Lane would positively reflect the prevailing rural attributes of the lane.
13. I conclude, the proposal would have a significantly harmful effect on the character and appearance of the area including the landscape to which the harm would be moderately adverse. In this regard, the proposal would conflict with the design, context and landscape requirements of Policies D1 (Design of New Development) and S3 (Countryside) of the North West Leicestershire Local Plan (2021). The proposal would also conflict with paragraphs 130 and 174 of the National Planning Policy Framework (The Framework) which seek that developments are sympathetic to local character including landscape setting and recognise the intrinsic character and beauty of the countryside.

*Whether susceptible to risks arising from the legacy of coal mining activity*

14. The Coal Authority (CA) has identified that the site falls within a defined 'Development High Risk Area' and considered that the coal mining information which accompanied the planning application did not adequately address the impact of coal mining legacy on the proposed development.
15. The Coal Mining Risk Assessment (April 2022) (CMRA) before me, which post-dates the Council's decision, indicates the potential presence of unrecorded shallow coal workings beneath the surface of the site. Three rotary boreholes have been subsequently drilled to investigate the underlying geology. The appellant suggests that this was done following consultation with the CA to confirm the acceptability of the scope of works. From what I have seen, the investigation recorded a single shallow coal seam beneath the site and this seam was proven to be intact within all three boreholes.
16. The appellant suggests that the CA has indicated that the CMRA is within their 'Closure Report'. However, no detailed correspondence is before me to demonstrate that the CA is satisfied that its previous objection has been

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<sup>2</sup> LPA Ref 20//01456/FUL

<sup>3</sup> LPA Ref 18/00487/FUL

overcome and that there would be no significant risk from workings within this seam or that no remedial works are necessary.

17. Furthermore, the appellant suggests that given the fallback position of the prior approval to convert the former agricultural barn, the investigation was only focussed on the proposed garage and storage building. However, such a stance fails to address whether the extension or alternative materials proposed would necessitate any works to the foundations of the building, for example as a result of any extra loading. In those respects, I cannot be certain that the proposed conversion is like-for-like with the fallback position in terms of its potential relationship with any coal workings beneath the surface of the site. In the absence of any written verification on the CMRA and investigatory boreholes from the CA, it is also unclear whether they considered further work would be required in this regard.
18. Whether or not the CA had no objections to the development at Main Street, Swannington<sup>4</sup> following intrusive drilling on that site, I cannot be certain that the same would apply in this instance having regard to the site-specific circumstances identified. Therefore, it is also unclear whether the appellant's proposed condition would comprehensively address any potential concerns raised by the CA.
19. I conclude, it has not been robustly demonstrated that the development would not be susceptible to risks arising from the legacy of coal mining activity in the area. In that regard it has the potential to conflict with Paragraph 183 of the Framework. Even if I were to reach an alternative conclusion, this would not in any case overcome the harm identified under the first main issue.

### **Other Matters**

20. The appellant contends that the large, glazed panels on the proposed dwelling would result in clear improvements over the prior approval permission in terms of levels of internal daylight and solar passive gains. I also accept that there would be benefits for the quality of life for future residents in terms of usable outdoor amenity space and that there would be the potential to achieve biodiversity net gains through a landscaping scheme. Even so, such benefits would not be of a magnitude sufficient to justify the harm identified under the main issues.

### **Conclusion**

21. The proposal would harm the character and appearance of the area and would conflict with the development plan taken as a whole. I have also found that it has not been robustly demonstrated that the development would avoid any unacceptable risks arising from the location of the proposal within a coal mining legacy area. The other material considerations in this instance do not indicate that the decision should be made other than in accordance with the development plan.
22. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

*M Russell* INSPECTOR

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<sup>4</sup> LPA Ref 18/00487/FUL