



Appeal Decision

Site visit made on 7 July 2023

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 11 September 2023

Appeal Ref: APP/A2470/W/22/3305249

Clonmel Farm, Cold Overton Road, Langham LE15 7JG

- 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 Brian Sampson against the decision of Rutland County Council.
 - The application Ref 2021/1417/FUL, dated 1 December 2021, was refused by notice dated 29 April 2022.
 - The development proposed is the erection of an agricultural building and solar panels.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of an agricultural building and solar panels at Clonmel Farm, Langham, LE15 7JG in accordance with the terms of the application, Ref 2021/1417/FUL, dated 1 December 2021, subject to the following 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:
 - BS/02/AGN/2019 - Location Plan
 - BS/03/AGN/2019 - Block Plan
 - BS/01/AGNOTICE/2019 - Proposed Floor Plan and Elevations
 - 3) No development above ground works shall take place until a scheme of sustainable surface water drainage, including a management and maintenance plan has been submitted to and approved in writing by the local planning authority. Prior to the use of the building commencing, development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.

Application for costs

2. An application for costs was made by Mr Brian Sampson against Rutland County Council. This application is the subject of a separate decision.

Preliminary Matters

3. The proposed solar panels are already located on site in an alternative position to that shown on the drawings for determination. For the avoidance of doubt, the appeal has been determined based on these drawings.

4. The Council's reason for refusing planning permission related specifically to the proposed building and not the intended solar panels. Following my inspection, I see no reason to take a different stance with respect to the acceptability of installing solar panels as proposed and shall formulate the appeal's Main Issue on this basis.

Main Issue

5. The main issue is whether the proposed building is justified, having regard to the size and nature of the agricultural/horticultural operation and the relevant provisions of the development plan.

Reasons

6. Policy SP7 of the Site Allocations & Policies Development Plan Document (October 2014) (SAPDP) relates to non-residential development in the countryside and sets out circumstances where sustainable development in the countryside shall be supported. This includes development essential for the efficient operation of agriculture, horticulture or forestry provided that, amongst other requirements, the amount of new build or alternation is kept to a minimum and would not adversely affect the character and appearance of the landscape.
7. The appeal site which is grassed for the most part and served by perimeter hedgerows, is broadly typical of the wider surroundings. While the majority of the land appears to be well kept, the east of the land adjacent to the field access is cluttered with numerous pieces of machinery, vehicles, cabins, and sheds, in various states of repair.
8. The appellant has submitted detailed information regarding the agricultural/horticultural activities which take place on site including lamb/pig rearing as well as hay, egg, fruit, and flower production. It has been put to me that in order for the efficient operation of the smallholding to take place, storage is required for items including animal feed/bedding, the products of the operation and various pieces of machinery.
9. Having visited the site and considered the full suite of written evidence that is before me, I am suitably satisfied that the above agricultural/horticultural activities are taking place following a seasonal rotation and that the machinery listed is in use on a regular basis. Further, the current storage provisions on site, including various trailers, are not fit-for-purpose and contribute to the unkept appearance of part of the land. In addition, I have no reason to doubt that the lack of adequate storage facilities has left the smallholding vulnerable to weather related issues and thefts.
10. Although the Council has questioned the scale of the proposed building, the appellant has provided a comprehensive list of items which are required to be securely stored on site, which require a total floor area of 177.4 m² and in some instances, not insignificant associated headroom. Given the floor area required for storage would fill approximately 80% of the proposed building and that the building's intended floor coverage equates to less than 1% of the site area, I am satisfied that it would be of an appropriate and non-excessive scale. Indeed, the relevant holding covers a not insignificant extent of agricultural land.

11. Whilst demonstration of financial viability is not a specific requirement of Policy SP7, the appellant has provided financial statements which indicate the existing enterprise is profitable, notwithstanding its somewhat modest turnover. The Council has not substantiated its counter claim that the agricultural/horticultural operation is not financially viable, and I see no clear reason to refute the financial statements before me.
12. The proposed building would be of simple and inherently agricultural design and would be discreetly and sensitively sited adjacent to the site's northern boundary so as not to be unduly prominent. When also factoring in its somewhat modest scale, I find that it would not have a material adverse effect upon the character and appearance of the landscape.
13. For the above reasons, I find that the proposed barn is essential for the efficient operation of the holding and justified, having regard to the size and nature of the agricultural/horticultural operation. The proposal accords with Policies SP7, SP13, SP15 and SP23 of the SAPDP in so far as these policies set out that sustainable development in the countryside will be supported where it is essential for the efficient operation of agriculture, horticulture or forestry and seek to ensure that development is sensitive to the landscape setting, considering siting, scale, and materials. Similarly, the proposal would accord with section 12 of the Framework where it requires that developments function well and are sympathetic to local character and landscape setting.
14. The Council have referenced section 14 of the Framework in its reason for refusal however this section relates to climate change, flooding, and coastal change and is not relevant to the Main Issue of this appeal.

Other Matters

15. The Highway Authority has raised concerns regarding the intensification of use of the substandard existing access for both construction vehicles and ongoing comings and goings associated with the smallholding. While the vehicular access width would be below the Council's standard and no information has been provided about visibility splays, the access is not dissimilar to others in the area, and I have no evidence before me to suggest that the existing access points are not safe. Further, I have been given no reason to conclude that a proposal of this type and scale would result in a significant increase in traffic, such that it would affect highway safety to an unacceptable degree.
16. The current appearance and condition of the site has been brought to my attention. Whilst I agree that the various cabins/sheds and vehicles/trailers on site are less than appealing, the proposal would allow for a sizeable proportion of the site clutter to be appropriately stored in a building which would be satisfactorily in keeping with the rural area. Ultimately, the proposal would be realistically anticipated to improve the overall appearance of the site.
17. I have noted reference by an interested party to the site's planning and enforcement history. However, my considerations are necessarily focussed upon the merits of the planning proposal that is before me for determination which is primarily focussed upon the erection of an agricultural building. I have considered the appeal on this basis. For the avoidance of doubt, I am also satisfied that the suite of plans for the determination offer sufficient clarity as regards the intended placement and composition of the proposed building and associated solar panels.

Conditions

18. I have considered the suggested conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. I have imposed the statutory condition required to set the necessary time limit for development. A condition is required to ensure compliance with the approved plans as this provides clarity. To ensure the development is adequately drained a scheme detailing sustainable surface water drainage is reasonable and necessary to require.

Conclusion

19. For the reasons given above, I conclude that the proposal would accord with the development plan when read as a whole and material considerations do not lead me to a decision otherwise. Therefore, the appeal is allowed.

K Allen

INSPECTOR