



Appeal Decision

Site visit made on 12 September 2023

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 October 2023

Appeal Ref: APP/K0235/W/23/3318305

109 Bedford Road, Willington MK44 3PR

- 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 Fatos Kertoli against Bedford Borough Council.
 - The application Ref 22/02719/FUL, is dated 15 December 2022.
 - The development proposed is the change of use from storage area to hand car wash.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is submitted against the failure of the Council to determine the planning application within the statutory timescale. The Council have advised that, had it been able to do so, it would have refused planning permission for the two reasons set out in Appendix 1 of its statement. I have had regard to this in so far as it provides clarity.
3. From the evidence submitted, and from my site visit, although the appellant contends that the use has not commenced, the proposed development has commenced in that the structures have been erected on site. However, this has no bearing on my assessment of the development before me.

Main Issues

4. The main issues are:
 - Whether the proposed development is in an appropriate location given the settlement strategy; and
 - The effect of the proposed development on the character and appearance of the area.

Reasons

Location of development

5. The appeal site comprises an area of land which wraps around the rear and side of 109 Bedford Road (No 109), accessed off the existing vehicle entrance and car park to the adjacent Hudsons Plant Centre, which is a garden centre and other businesses, including a café, dog groomer, antique centre, and aquatics shop. No 109 is a detached house with a small garden to the rear and parking at the front. From the evidence before me No 109 and the appeal site are both within the same ownership as the garden centre.

6. The site lies outside the settlement boundary for Willington as defined by the Policies Map Inset 37. Accordingly, in planning terms, the site lies in an area defined as countryside.
7. Policy 3S of the Bedford Borough Council Local Plan 2030, adopted 2020 (LP) is the spatial strategy for the area. The policy seeks to guide new development to the identified settlements, whilst also safeguarding the countryside. In general Policy 3S seeks to resist new development in the countryside to help balance the need to accommodate growth and conserve and enhance the countryside.
8. Policy 7S of the LP identifies four other policies, within the LP, which provide exceptions to the general restraint against new development within the countryside, none of which are relevant to the appeal proposal. The fifth exception is through Neighbourhood Plans which, in the case of the appeal site is not relevant as, although the Willington Neighbourhood Development Plan 2020-2030 (WNDP) was made in March 2022, there are no policies which would support the proposed development within the WNDP. Neither is the proposal for an identified community need, which would be supported by Policy 7S.
9. Policy W1 of the WNDP sets the settlement policy area boundary for Willington. The area replicates the Bedford Borough Council map, with the exception of identifying an additional site allocated for new housing. The appeal site lies outside of the settlement policy area and the proposal would, therefore, be contrary to Policy W1.
10. From the evidence before me and from my site visit, I acknowledge that the appeal site forms part of the wider garden centre and was previously used for general storage. The appeal site is, therefore, within open countryside when considering the planning policies but is part of a site which is previously developed land (PDL) when considered against the definition set out in the National Planning Policy Framework (the Framework).
11. Policies 3S and 7S of the LP and Policy W1 of the WNDP do not include any exceptions for the redevelopment of PDL. However, Policy 75 of the LP does allow for redevelopment of PDL for employment purposes, including sui generis uses. This policy is, therefore, consistent with the Framework in supporting redevelopment of PDL.
12. Policy 75 of the LP requires new employment development to demonstrate all six criteria set at v. to x. Although it is on the garden centre site, is only a small portion of the wider garden centre and would pay rent to the garden centre, the appeal proposal is not an extension to, or intensification of, the existing garden centre use. That the car wash would provide a facility for the customers of the garden centre and other businesses would not justify its rural location. The proposal is not justified in connection with the existing business. Although the Council have not raised any concerns with regard to traffic movement and highway safety, the proposed car wash is a use that could be provided within a Settlement Policy Area.
13. Accordingly, although the proposal is for the redevelopment of PDL, does not extend beyond the existing garden centre site, and therefore would not encroach any further into the countryside, it fails to comply with the requirements of Policy 75 of the LP.

14. For the above reasons I find that the appeal site would not provide an appropriate location for the use as it would be located beyond the settlement boundary, having regard to the settlement strategy for the area, and the proposed use would not need to be located within a rural area. The proposal would, therefore, be contrary to Policies 3S, 7S and 75 of the LP and Policy W1 of the WNDP which, taken together, seek to restrict development in the countryside whilst supporting redevelopment of PDL, amongst other development that is justified in the rural areas.
15. The appellant has also drawn my attention to paragraph 85 of the Framework which, in summary, acknowledges that sites may have to be found adjacent to, or beyond, existing settlements. However, paragraph 85 relates to development which is required to meet local business and community needs in rural areas. Although paragraph 85 supports the use of PDL, I have no substantive evidence before me that the appeal proposal is required for a local business or community need and there is no justification for a site to be found beyond the settlement. Accordingly, the proposal would not comply with paragraph 85 of the Framework.

Character and appearance

16. The immediate character of the area is rural and the garden centre, and other businesses, are accommodated within buildings that would not be uncommon in a rural area. Beyond the appeal site and on the opposite side of the road are open fields. The garden centre currently has a neutral effect on the rural character of the area.
17. The proposal includes the siting of a bright green cabin to provide an office, WC and waiting room, construction of bright green and dark green metal fence panels to the sides of the appeal site and rear of No 109, and the erection of a four-bay car wash canopy with grey metal posts and bright green canopy covers.
18. The proposed structures are lower in height than the dwelling at No 109 and the adjacent building on the garden centre site and have a smaller footprint than many of the other buildings on the garden centre. However, the colour finish of the buildings and structures within the garden centre are more subdued with greys, white and wood colours. The colour finish of the car wash structures, albeit green, is a bright green rather than one which would blend in with the context and character of the rural area, existing buildings, and the trees beyond the site. The colour finish of the car wash structures is incongruous, fails to improve the character and quality of the area, and is not appropriate to the context of the area as required by Policy 29 of the LP.
19. Moreover, although the structures are not excessive in scale, the canopy structure extends forward of the front of the existing dwelling. Due to its height, colour, and massing, it is a more prominent structure than the front boundary wall, gates and existing business advertising signs, when viewed from Bedford Road. The land is self-contained in that it is enclosed in fences and a gate; however, although the self-containment would reduce the visual impact of the structures it would not conceal them as the structures extend above the fence and wall and are visible through the front gate.
20. Due to the position at the front of the site the car wash structures are not read alongside the other buildings on the garden centre other than the house. The

car wash structures are not well related to the other structures within the garden centre either in terms of position or colour finish. Although not excessive in scale, due to their position, height and colour finish the car wash structures are visually different, prominent, and alien structures and are more urban in character and appearance than the other buildings on the garden centre. Moreover, unlike the other businesses on the site, the car wash facility would not appear as part of the garden centre, other than sharing an access.

21. From the evidence before me the previous use of the site was screened from view by the boundary treatments to the site and did not have the same visual impact as the appeal before me. Moreover, the appellant also accepts that the appeal site was under-used. The appeal proposal before me would have a significantly greater visual impact than the previous use. Moreover, as a use which is not required to be in the countryside, the car wash structures would urbanise this part of the site to a significantly greater extent than the previous use.
22. In my judgement the car wash structures, due to their position forward of the existing buildings and the height and colour finish, would urbanise and erode the rural character and would, therefore, have a harmful effect on the character and appearance of the area.
23. The proposal would, therefore, conflict with the requirements of Policies 28S, 29 and 30 of the LP which, taken together, seek to ensure development is of a high quality, has a positive relationship with, and contributes to, the surrounding area and respects context, whilst also seeking to resist development which fails to improve the character and quality of an area.
24. Although the development would not result in coalescence between the settlements the proposal, due to its incongruous nature, would conflict with Policy W9 of the WNDP which seeks to ensure that development does not compromise the open character of the landscape between Willington Village and the village of Cople.

Other Matters

25. As an appeal against non-determination the appellant has sought to respond to the noise concerns raised by the Council under the previous planning application. However, this issue has not been raised by the Council in this appeal. Consequently, as I am dismissing the appeal on the main issue above, I have not considered this matter further.
26. That there is not a significant adverse impact on the other existing businesses on the garden centre site, highway safety, parking, biodiversity, flood risk or drainage, subject to appropriately worded conditions, are also neutral matters and do not outweigh the harm identified.
27. That the car wash structures have been in situ for approximately two years and the Council have not sought to pursue formal enforcement action, as detailed by the appellant, is not material to my consideration of the main issues above and is a separate matter between the main parties. Moreover, that the car wash has not been operational is not determinative in this Section 78 appeal.
28. The benefit of additional employment of four full time employees on the site and the rental income from the use of the site by a new business, rather than as storage for the garden centre, are both positive benefits. However, I have

no substantive evidence that the garden centre and café would not remain functioning without the car wash. I have therefore given moderate weight to the employment and economic benefits. However, the weight to these benefits, even considering the current economic climate and the need for recovery since the Covid pandemic, would not outweigh the harm I have found.

Conclusion

29. For the reasons given above I find that the proposal is contrary to the development plan as a whole and the Framework. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

K Townend

INSPECTOR