



Appeal Decision

Site visit made on 10 October 2023

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th October 2023

Appeal Ref: APP/J0540/W/22/3307733

Cedar House, Sommer Close, Thorney, Peterborough PE6 0FF

- 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 Woodgate Developments against the decision of Peterborough City Council.
 - The application Ref 21/01695/FUL, dated 9 November 2021, was refused by notice dated 10 June 2022.
 - The development proposed is building contractor's yard and building.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of development on the character and appearance of the area;
 - Whether the site is an appropriate location for employment development, having regard to local policies on development in the countryside;
 - The effect of development on best and most versatile agricultural land; and
 - The effect of development on flood risk.

Reasons

Character and appearance

3. The site forms part of a large open field, which is characteristic of the area. When viewed from the adjacent A47, the site makes up part of medium to long distance panoramic views across a largely flat arable landscape, punctuated by boundary vegetation and sporadically located buildings. Although the road reduces the tranquillity of the area to an extent, the site still sits in an overtly rural landscape.
4. The development would introduce a new building, along with associated hardstanding. This would alter the character of the field to a significant degree, inevitably detracting from the open and undeveloped nature of the site.
5. The site currently benefits from prior approval for an agricultural building. The evidence suggests that the landowner no longer intends to deliver this building as there is no current need. Nevertheless, it has been argued that the development would not result in any additional harm over and above what has already been approved.

6. Notwithstanding whether the 'fallback' is likely to be implemented, the development clearly differs from what has been approved. In particular, it includes a single storey office element to one side of the building. The plans also include a sizeable area of hardstanding around the building, which is not identified on those I have been provided for the agricultural building. While both proposals include landscaping on the boundary of the site nearest the A47, the proposal also includes a post and rail fence and hedgerow along the southern extent of the application area. This does not appear present as part of the approved scheme.
7. I saw a few other agricultural buildings scattered sporadically across the landscape in the vicinity of the site. In this regard, they complement the obviously predominantly rural and agricultural character of the area. The main part of the building would share some characteristics with these and be similar to what was approved. However, the attached office element in particular would identify the use as something distinctly different to what exists elsewhere. This feature would be particularly conspicuous in this countryside setting and would clearly set the development apart from other agricultural buildings.
8. The inclusion of the southern boundary fencing would also divorce the site from the rest of the field. There is no existing natural boundary or physical feature in the field itself. While it would continue the line of the rear fence of Cedar House, it would still appear as a somewhat artificial segregation. The creation of small, enclosed plot would also be at odds with the general character of the area, which is of larger rectilinear fields.
9. A building contractor's yard would also have a different operational character to that of an agricultural building. Even if the storage of materials or machinery outside the building could be restricted by condition, the use of the building, including the associated office use, would not function in the same way as an agricultural building in terms of the daily activity at the site, the comings and goings from vans and/or lorries, the potential need for parking by visitors and employees and the need to transport building supplies or machinery in and out of the building. Even if there are some similarities in appearance to what has been approved, there would be a significant difference in character. To that end, the development would introduce a somewhat alien and discordant feature into the countryside that would erode its overtly agricultural character.
10. The proposed landscaping would provide some degree of screening from the road. However, this would not completely hide the proposal nor mitigate the harm caused by introducing such a use into this location.
11. When considered as a whole, the development would result in unacceptable harm to the character and appearance of the area. It would therefore conflict with Peterborough Local Plan (PLP) (2019) policies LP16 and LP27 which seek, amongst other things, to ensure development positively contributes to the character and distinctiveness of the area and is sensitive to its landscape setting.
12. In my view, the distinct characteristics of the use, the inclusion of the incongruous office element, the hardstanding and the containment of the site would all result in more harm than the approved scheme. As such, the potential fallback does not weigh significantly in favour of the development.

Suitable location

13. PLP Policy LP2 establishes a settlement hierarchy. Any sites that sit outside the hierarchy, such as this, are classed as open countryside in policy terms and development is limited to a small number of exceptions. Of relevance to this appeal is development which is in accordance with Policy LP11.
14. Policy LP11 Part E deals with the rural economy. This allows for the expansion of an existing employment use *on its current site*. The evidence suggests that some business activity may take place from the appellant's home, which sits adjacent to, but separate from, the site. Although it is indicated that building supplies are occasionally delivered and stored at the house, it would be reasonable to assume that it is mainly administrative functions that take place there. In addition, there is correspondence which confirms that a separate yard is rented elsewhere for storage.
15. Therefore, although the site is adjacent to where some business activity may take place as incidental to the dwelling, the field is *not* part of the 'current site' of the business. As such, the policy does not provide any support for the development in this location.
16. Notwithstanding this, criterion u. of Policy LP11 requires the construction of a new building to be supported by a robust business plan which demonstrates the demand for the business and that the facilities provided would constitute a viable business proposition on a long-term basis. The appellant has provided some information about the nature of the business, the expectations for it and the need for the development in operational terms. This information, while helpful context, does not constitute a business case as envisaged by the policy, nor does it demonstrate why the development needs to take place in this particular location. The development does not therefore comply with this aspect of Policy LP11 in any event.
17. Policy LP4 also allows for employment proposals outside 'General Employment Areas', business parks and allocations where certain criteria are met. In the first instance, the policy requires a clear demonstration that there are no suitable or appropriate sites or buildings in allocated sites or existing settlements. The appellant has not sought to do this. The broad argument made is that as the site is adjacent to where the existing business operates from, it is imperative that the proposal is located next to its existing location.
18. I am not persuaded this is the case. The development would provide both office and storage space. It would be reasonable to assume that the activities which currently take place elsewhere would, or could, be transferred to this location. This calls into question the need for the development to be located adjacent to the dwelling. In any event, no evidence has been provided which demonstrates why an existing site or premises that provides scope for both storage and office space could not provide the same benefits as the proposal, or that such opportunities do not exist in otherwise acceptable locations.
19. The proposal would allow for storage. The appellant suggests this would be instead of storing materials at his home. However, there is little evidence as to the scale or extent of this activity. There is other correspondence which suggests that a small yard is rented to store equipment not in the vicinity of the dwelling. It would appear therefore, that the business is already able to utilise storage elsewhere. Even if this were not the case, I see no reason why

this would necessitate a location in the open countryside in lieu of any evidence of alternative locations.

20. Policy LP4 also allows for the expansion of existing businesses subject to other criteria. Again, in the context of this policy, I do not consider this to constitute the expansion of an existing business which is currently located in the countryside. Whatever administrative functions take place within, there is nothing to suggest that what takes place from the dwelling is anything more than incidental to its residential use. Furthermore, the evidence suggests that at least some of the storage function takes place elsewhere. With no evidence to the contrary, it may be reasonable to assume the storage yard is in an existing employment location and thus the business is not run entirely from a countryside location. The proposal does not therefore comfortably fit into the expectations of the policy for an expanding business. Accordingly, this part of Policy LP4 provides no justification for the development in this location.
21. It should be noted that both policies LP4 and LP11 variously require employment land in the countryside to be compatible with the landscape in which it would be situated and not have a significant adverse impact on the character and appearance of the area. Given my conclusions above, the development would fail these requirements in any event.
22. In conclusion, the development would conflict with PLP policies LP2, LP4 and LP11 which, amongst other things, seek to direct employment development to existing settlements, business parks or allocations.

Agricultural land

23. The site is in an area of Grade 2 agricultural land. It is therefore classed as the 'best and most versatile agricultural land' (BMVAL). Policy LP11 Part F states that such land should be protected and development affecting the land will only be permitted if it meets all three of the exceptions listed. There is no evidence that it is necessary to use BMVAL to accommodate the development, either through a lack of existing employment sites or availability of lower grade land. The proposal therefore fails the first exception.
24. Some of the appeal site is to be removed from the field but given over to grass. This does not suggest that the effect on BMVAL has been minimised through design. This is also contrary to Policy LP11.
25. In terms of the potential fallback position, the agricultural building would affect the supply of BMVAL. However, as discussed above, the plans relating to the agricultural building do not show any hardstanding, demarcation of the remainder of the site or separation from the remaining part of the field. Therefore, it is possible that the remaining land could still be put to some agricultural use at some point. The fallback is therefore less harmful than the proposal in this respect.
26. While a relatively small part of the overall field, it is not entirely clear why it is unable to be farmed. It is roughly rectangular in shape and is quite wide. Without clear evidence to the contrary, it does not appear that it would be unduly difficult for farm vehicles to manoeuvre in the space. However, in considering the weight given to any conflict with policy, I have still had regard to these arguments and the potential fallback.

27. The policy requires the land to be restored to its former use when the development has ceased its useful life. This could be achieved by condition in the event the appeal were allowed. However, for this to be applicable, the other criteria must also be met which is not the case here. The development would therefore result in the loss of BMVAL contrary to the requirements of PLP Policy LP11.

Flood risk

28. The site is located within Flood Zone 3. Although classed as a 'less vulnerable use,' both national and local policy still require development which is at a high risk of flooding to be subject to a sequential test. Again, the appellant has not sought to carry this out on the basis that it is imperative development is carried out here and thus no other sites would be suitable. As set out above, there is no substantive evidence to suggest that the same proposal cannot be delivered elsewhere. While there may be some operational benefits for the appellant, these do not constitute a robust justification for not considering alternative sites.
29. I have had regard to the Flood Risk Assessment (FRA) submitted with the application and what it has to say about the probability of flooding and mitigation that would be necessary. Nonetheless, the first hurdle for any application is the sequential test, which the proposal fails to address. I have also noted the FRA's comments in this regard. However, concluding that there is no land within the site at a lower risk of flooding does not 'pass' the test. Moreover, that large parts of the district are within Flood Zone 3 does not remove the requirement to consider areas which are at a lower risk of flooding.
30. I have no information as to how this issue was considered regarding the approved agricultural building. However, it is inevitable that the consideration of the sequential approach and potential for alternative sites would differ for an agricultural building. As such, the fallback does not mean the sequential approach does not need to be adopted in this case.
31. The proposal therefore conflicts with PLP Policy 32 which requires development at high risk of flooding to demonstrate a sequential approach to flood risk.

Other Matters

32. I have found that the development would conflict with the development plan as a whole with regard to the strategy for employment land, character and appearance, BMVAL and flooding.
33. As discussed above, I have had regard to the potential fallback position. The evidence suggests some doubt as to whether this would ever be implemented. Nevertheless, the agricultural building provides no support for the development in terms of the Council's employment or flood risk policies. The agricultural building was considered to be consistent with the requirements of the General Permitted Development Order. The proposal before me is for a different use which must be considered against the provisions of the PLP. Furthermore, I also have found that the development would be more harmful than the agricultural building in terms of the impact on local character.
34. The weight I have given to conflict with BMVAL policy is tempered to an extent by the scale and nature of the site and the potential fallback, which would theoretically remove some of the land in any event. Nonetheless, the

development would still be more harmful than the fallback in this respect and thus this factor still weighs against the development. This also does not alter the conflict with other policies which carry substantial weight. The potential fallback does not justify the development.

35. The development would provide some benefits for the appellant in terms of providing office space, an area for storage and being close to their current dwelling. I have also noted the information relating to existing projects and aspirations and expectations for the growth of the business and why new accommodation is considered vital to facilitate this.
36. However, none of this justifies allowing a use such as this in an open countryside location without the necessary justification required by policy. There is no clear evidence that any expansion of the business must take place in the vicinity of the appellant's home, that activities which take place there cannot be carried out elsewhere, or that the same economic benefits associated with the development cannot be achieved elsewhere in a policy compliant location. I do not accept that because agricultural developments of a similar appearance have been allowed here or elsewhere that this justifies an employment use contrary to the provisions of the development plan. While it may be intended for the building to be energy efficient, this does not alter my overall conclusion. Proximity to the main road network is acknowledged, but this does not set the site apart from other 'acceptable' locations or justify a countryside location.
37. I acknowledge that the National Planning Policy Framework supports a prosperous rural economy. However, there is no suggestion that this should be achieved at the expense of development plan policies or strategy. A lack of identified harm in relation to matters such as highways or biodiversity are neutral factors which weigh neither for nor against the development.
38. In conclusion, there are no material considerations that would lead me to a decision other than in accordance with the development plan.

Conclusion

39. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee

INSPECTOR