



Appeal Decision

Site visit made on 5 December 2023

by K Allen MEng (Hons) MArch PGCert ARB

an Inspector appointed by the Secretary of State

Decision date: 26th January 2024

Appeal Ref: APP/T2405/W/23/3321913

Mill Lane Farm, Mill Lane, Blaby, Leicester, LE8 4FG

- 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 Claire Cooke of EkoJoe Community Interest Company against the decision of Blaby District Council.
 - The application Ref 22/0989/FUL, dated 6 November 2022, was refused by notice dated 27 March 2023.
 - The development proposed is described as 'EkoJoe is a community interest company intending to transform the site to an organic market garden, creating a hub to support and educate the local community on a healthier lifestyle and sustainability. EkoJoe has a mission to protect the environment, we have a huge local following, and are supported by the local county council who we liaise with frequently to offer our support to some of the most vulnerable members of the local community. We require the change of use to be for agricultural purposes. At present the land is a disused field which has been previously used as a horse paddock. EkoJoe plan to complete the following steps to make this space an organic market garden and wellbeing hub: 1. Level the ground to make it accessible for workers and volunteers, using a no dig method. Adding manure to soil. 2. Securing access to field with wooden fencing and gateway entrance to the field to make it accessible for workers and volunteers. 3. Build a non-permanent structure: poly tunnel measuring 7.3m wide, 3.6m deep, 3m high. This will be positioned on the field. The poly tunnel will be ground level. It will be used to grow fruit and vegetables. 4. Build a non-permanent structure: porta cabin measuring 4.8m length by 10m wide, 3.6m high. This will be positioned on the field. The portacabin will be raised from the ground. It will be used as an ethical farm shop, to sell local produce and refill/reuse station to reduce plastic waste and carbon footprint. Accessed by members of public and volunteers. 5. This will create a community hub focusing on growing your own, zero waste, managing composting and creating a safe community wellbeing space.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal form indicates that the description of development has not changed and as such the description provided in the planning application form has been used in the heading above. Although the Council has used an alternative description, the appellant has made it clear that they do not agree with this description of development which includes for a portaloo. Whilst I note the comments and consultations that have occurred at various stages of the application process with regards to the extent of the proposal, an amended description has not been agreed upon and consulted on. Accordingly, I have used the one given on the original application in the determination of this appeal.

3. Amended plans have been submitted with this appeal which omit the portacabin and portaloo and repositions the poly tunnel. The appeals process should not be used to evolve a scheme. Moreover, the amended plans do not correspond with the description of development and have not been through the consultation process. As such I am not satisfied that all interested parties have had a fair opportunity to comment on the amended drawings and I have not considered them in the determination of this appeal.

Main Issues

4. Therefore, in light of the above, the main issues are:
- whether the development would be acceptable with respect to flood risk;
 - the effect of the development on highway safety; and
 - whether the appeal site would be a suitable location for the proposed development, having regard to local policy.

Reasons

Flood Risk

5. The appeal site lies within flood zones 2 and 3 as defined by the Environment Agency (EA). A Flood Risk Assessment (FRA) has been submitted to support the positioning of buildings on site.
6. The Blaby Joint Strategic Flood Risk Assessment (SFRA) (October 2014) is based on modelling produced in 2010. The EA now considers the SFRA to be out of date with more up to date modelling now available. The FRA relies on data from 2018 while the most recent EA advice utilises data from both 2018 and 2022 and indicates that the poly tunnel would be positioned within flood zone 2. The Poly Tunnel would be considered 'Less Vulnerable' in accordance with Annex 3 of the National Planning Policy Framework (the Framework). Consequently, I am satisfied that this aspect of the proposed development would be acceptable with respect to flood risk.
7. Whilst the drawing Plan Ref 4 indicates that the portacabin would also be located within flood zone 2, neither the FRA nor the EA refer to the portacabin. As such I cannot be sure that the portacabin would be located within flood zone 2 when considering the most recent data or that the development would be safe for its lifetime without increasing flood risk elsewhere as required by the Framework.
8. Consequently, as I am considering the development as originally submitted, due to lack of information I am unable to determine whether the development would be acceptable with respect to flood risk. As such, I must take a precautionary approach and find that the proposal would conflict with CS22 of the Blaby District Local Plan (Core Strategy) Development Plan Document (February 2013) (CSDPD) which seeks to ensure that development is directed to locations at the lowest risk of flooding and that mitigation measures are put in place to reduce the effects of flood water. Similarly, the proposal would conflict with the Framework as set out above.

Highway Safety

9. The appeal site is located off of The Ford which is closed to motorised vehicles, except for access. The Ford then joins, Mill Lane, a narrow adopted, unclassified road with no separate footpaths or lighting. There are numerous Public Rights of Way (PROW) in the area as well as a number of stables. In addition, Blaby Cemetery is located a short distance to the south, with access required via Mill Lane.
10. The information submitted with the original application indicates that the proposal would provide numerous activities on site and would be open to members of the public as well as volunteers. No information has been provided as to the expected numbers visiting the site and the associated trip generation. Given the aspirations of the proposal it would be reasonable to assume there would be an evident intensification of use of the surrounding road network.
11. The proposal does not include for any offroad parking provision or alterations to the surrounding road network. Whilst the appellant indicates that it would be encouraged to access the site on foot or by bike, there is no mechanism before me which would secure this. As such, it is likely that at least some of the site's users would arrive via private motorised vehicles with parking on Mill Lane. Accordingly, due to the intensification of use of the surrounding narrow roads and the prevalence of pedestrians, cyclists, and horse riders in the area, I am satisfied that the proposal would lead to an increase in potential conflicts on the highway, detrimentally affecting highway safety.
12. Therefore, without further highways information pertaining to the original proposal, I conclude that the proposal would harm highway safety. It would conflict with Policy CS10 of the CSDPD and Policy DM8 of the Blaby District Local Plan (Delivery) Development Plan Document (February 2019) (DDPD) where they collectively require appropriate measures to be taken to mitigate the impacts of the development and ensure that it is adequately supported by infrastructure, including parking and servicing provision. There would also be conflict with the Framework, where it requires development to create places that are safe and secure, which minimise the scope for conflicts between pedestrians, cyclists, and vehicles.

Location

13. CSDPD Policy CS1 outlines how growth will be managed within the district, primarily focusing development within urban locations. However, CSDPD Policy CS18 provides support for small scale employment and leisure development within the countryside, subject to consideration of its impacts, including the sustainability of its location. CSDPD Policy CS10 and DDPD Policy DM8 seek to position development within accessible locations, reducing reliance on private motor vehicles and promoting walking, cycling and public transport.
14. The appeal site is located in the countryside outside of the adjacent settlements of Blaby and Glen Parva. There are no public transport routes which provide direct access to the appeal site. However, there are bus services within walking distance in Blaby. Whilst I have concluded above that the proposal would result in the intensification of use of the surrounding road network and that some of the site's users would arrive via private motorised vehicles, there are numerous pedestrian/cycle routes to the appeal site from Blaby, Glen Parva and South Wigston. Given the number of routes and the

relatively short distances between the surrounding settlements and the appeal site, I am satisfied that there are adequate alternatives to travel via private motorised vehicles.

15. Therefore, I conclude that the appeal site would be a suitable location for the proposed development, having regard to local policy. In terms of its location, the proposal would accord with Policies CS1, CS10 and CS18 of the CSDPD and Policy DM8 of the DDPD where they seek to control development within the district by identifying where growth and development should be focussed and ensuring development would be accessible.

Other Matters

16. The proposal would support local residents to build confidence, skills and improve their mental health as well as providing access to affordable fresh food. However, I have not been provided with any details regarding the implementation of these initiatives. As such, the social benefits do not outweigh the harm identified above.

Conclusion

17. While I am satisfied that the proposal would be in an accessible location, for the reasons given above, I conclude that the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework and the benefits of the scheme, that would outweigh that conflict. Therefore, the appeal is dismissed.

K Allen

INSPECTOR