



Appeal Decision

Site visit made on 6 March 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th April 2024

Appeal Ref: APP/B3030/W/23/3325972

Woodland, Alverton, Easting 479137 Northing 324493

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Miss H Copley against the decision of Newark and Sherwood District Council.
 - The application Ref is 22/01320/FULM.
 - The development proposed is use of land as woodland amenity area and fishing pond including erection of wooden lodge.
-

Decision

1. The appeal is allowed and planning permission is granted for the use of land as woodland amenity area and fishing pond including erection of wooden lodge, at Woodland, Alverton, Easting 479137 Northing 324493 in accordance with the terms of the application, Ref 22/01320/FULM, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan A001 Rev A; Proposed Block Plan - A002 A; Proposed Floor Plan - PL100; Proposed Elevations - PL101; Proposed Section PL102.
 - 2) The development hereby permitted shall be used solely for personal recreational use, and shall not be used for any other purpose, including commercial fishing or as tourist accommodation.

Preliminary Matters

2. The application has been made on a retrospective basis and I saw works had been undertaken on site, albeit noting that a windmill erected on the land does not form part of the application. However, I have omitted reference to the development being retrospective in the banner and formal decision above as this is not itself an act of development.
3. I have used the address given on the appeal form as the easting and northing coordinates allow for more precise identification of the site's location.
4. A new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. The main parties have had the opportunity to comment on the revised Framework during the course of the appeal. Reference hereafter in the decision is to the December 2023 version of the Framework.
5. Within the context of an appeal under section 78 of the Act, it is not for me to assess whether a material change of use of the planning unit has taken place or not, as raised by the appellant, but to assess the proposal as applied for. However, as part of my assessment I have had regard to points raised

regarding the scale of the development and the Council's comments regarding the intensity of the use and that operational development has taken place in terms of the erection of a physical structure in the lodge.

Main Issues

6. The main issues are i) whether the development would be in an appropriate location, having regard to relevant development plan policy regarding development in the countryside, and ii) the effect on the character and appearance of the area.

Reasons

Site Context

7. The appeal relates to an area of land to the edge of the village of Alverton, principally comprising a pond and small area of woodland located behind existing development along Main Street and separated by an agricultural field. The land to which the appeal relates forms part of a wider holding of agricultural land in the appellant's ownership which spreads out beyond the site and forms part of the open countryside surrounding the village.
8. The site is accessed via an existing track from Main Street. A timber lodge has been constructed next to the pond. It includes a large deck area which is substantially enclosed by an oversailing flat roof supported by posts. Rustic benches carved from large tree trunks were dotted around the pond. The Council described the lodge as having a toilet/washroom, but no such facilities were present at the time of my visit.
9. The application was made for the use of the land as a private amenity space for the landowner, including the use of the pond for fishing. I note an initial suggestion that the use was to include the potential for small scale commercial and/or community events, but it was clarified during the application that the use would be private, and the Council determined the application on this basis.

Location for Development

10. The site lies within the countryside for planning purposes. Policy DM8 of the Allocations & Development Management DPD (July 2013) (the ADM) supports specific categories of development in the open countryside. Although one category is Community and Leisure Facilities, the support in this respect is for publicly accessible facilities to meet demonstrable needs of the community. The private nature of the proposal would not satisfy this criterion, or those relating to tourism development and accommodation. It would not accord with any other criteria of the policy and therefore not be a form of development specifically supported in the countryside under Policy DM8.

Character and Appearance

11. The site falls within the South Nottinghamshire Farmlands Regional Character Area,¹ a predominantly flat flood plain landscape, with some small undulation occurring in places. The landscape is a mix of arable and pastoral farmland, with medium to large scale arable fields and smaller pastures located near

¹ As set out in the Newark and Sherwood Landscape Character Assessment Supplementary Planning Document (December 2013) (the SPD)

villages. Well-maintained hedgerows with trees form the majority of the field boundaries, with woodland also a feature of the area.

12. The Council's SPD identifies the landscape condition as very good, being visually unified with few detracting features. Its sensitivity to change is considered moderate, with views being intermittent due to the networks of mature hedgerows. The overall approach of the SPD is to conserve the landscape.
13. The site generally reflects this landscape character, notably the woodland surrounding the pond; the large, gently undulating fields to the north, west and south and smaller fields to the east next to the village. There is a general absence of development within the countryside immediately surrounding the site, though I am aware of the large development pending at Kilvington Lakes to the other side of Flawborough Road.
14. The Council criticises the enlargement of the pond by the appellant as a 'man-made' feature in the rural landscape, and the 'overly domesticated' appearance of the site due to the lodge, decking and benches.
15. On site, I observed a pond which, if man-made, has developed a decidedly natural appearance, fringed with reeds and heavily screened by the woodland, which filters views from the dwellings on Main Street. The lodge itself has a low profile, flat-roofed design that reduces its overall massing and prominence in these limited views. I saw that the timber facades still appeared relatively new and bright at my visit, but these would be expected to weather down over time and appear less strident in colour, further softening its visual impact. The benches are formed from large tree trunks, with an overtly rustic character. From what I observed, I am not persuaded that their form, number or limited visibility could be said to 'domesticate the site' as argued by the Council. Rather, the use of timber throughout the construction is a sustainable material choice and one which respects the rural character of the site.
16. The lodge, but not the pond, can be briefly glimpsed from Flawborough Road to the north. From my observations, drivers would not notice the lodge as a prominent building in the landscape when driving along the road, due to the height and density of the roadside hedgerow, and walkers have limited views should they stop and observe from a single field gate. Even then, the lodge is seen amid a substantial backdrop of trees and does not appear as an isolated building intruding into an open tract of land. In this regard, the visually unified landscape character of the area is not adversely affected, nor is there any loss of field pattern, hedgerows or woodland.
17. On the contrary, the site is connected to the appellant's wider land, which I saw has been the subject of significant tree planting, as has the existing woodland surrounding the lodge. Although a long-term project, the expansion of the woodland would only serve to further integrate the pond and lodge into the wider landscape and minimise their visual impact.
18. The evidence of ongoing woodland restoration on the land also entails a level of regular activity on and around the site. In this respect, the small scale use of the site for private leisure activity, including fishing, would not represent a significant intensification of the site or a fundamental departure from its existing rural character.

19. For these reasons, I conclude that the appeal scheme preserves the landscape character of the area, and no conflict arises with Core Policies 9 and 13 of the Amended Core Strategy (March 2019) (the ACS), Policies DM5 and DM8 of the ADM, which together require development to achieve a high standard of sustainable design that both protects and enhances the natural environment and positively addresses landscape conservation and enhancement aims for the area.

Other Material Considerations

20. The proposal is for a small scale, private use of a modest area of land for recreational purposes, including fishing which is inherently suited to a countryside location. Indeed, the Framework recognises that undeveloped land can perform many functions, including recreation². Compared to a larger, commercial tourism or leisure facility for which there is potential support under Policy DM8, such as that approved nearby at Kilvington Lakes, the appeal scheme has very limited impact in terms of its scale, and although not within a settlement, the scheme generally accords with Spatial Policy 3 of the ACS in terms of being appropriate to the proposed location, small scale in nature and not detrimental to the character of the area.
21. Moreover, the features and topography of the site mean it is unsuitable for use as part of a wider arable field and has instead been the subject of woodland restoration and expansion of the pond, which are likely to generate modest, but nonetheless positive outcomes in terms of habitat creation and overall biodiversity, in accordance with the aims of Core Policy 12 of the ACS and Policy DM7 of the ADM. I note the points raised about potential removal of trees to facilitate the pond extension, but the evidence before me in this respect is not conclusive, as the Council separately accepts there is more tree cover now than at other times in the past. On this evidence, I have no basis to ascribe harm in the planning balance in terms of tree loss.
22. The Council has not opposed the appeal scheme on the basis of harm to neighbours' living conditions. The distance to the nearest dwelling is some 100 metres, separated by a field and visually screened by the woodland. Given the private nature of the use, which could be secured by condition, I am satisfied that the development would not lead to substantial levels of activity that could give rise to noise or disturbance that would harm neighbours' living conditions.
23. The site is accessed via an existing track from Main Street. I saw visibility in both directions is good and the gate is set back sufficiently to allow vehicles to pull in safely from the carriageway to open it. The level of traffic associated with the private use of the site would be limited and would not pose a risk to highway safety.

Planning Balance

24. The particular nature and location of the appeal development does not gain direct support under Policy DM8, and in this respect there is conflict with the development plan. However, this harm is tempered as I have found that the particular characteristics of the development and use of the site are not inappropriate within this specific countryside location and would generally be consistent with the overarching policy for rural areas advocated by Spatial

² Paragraph 124(b)

Policy 3 of the ACS. The proposal would also enable positive use of the land for recreation, as advocated by the Framework.

25. I have also found that the scale and form of the development is appropriate to its location and preserves the landscape character of the area and would also accord with the Framework in recognising the intrinsic character and beauty of the countryside.
26. Though not essential, the presence of the lodge would help the landowner with ongoing restoration of the woodland. This would generate modest, but nonetheless positive outcomes in terms of green infrastructure and biodiversity which are consistent with key aims of the Framework.
27. Overall, these material considerations, taken together, weigh sufficiently in favour of the proposal to outweigh the conflict with Policy DM8 and justify a decision other than in accordance with the development plan in this case.

Conditions

28. As development has already been carried out, a time limit condition is not necessary. However, a condition setting out the approved plans is required to define the permission and provide certainty. It is also necessary to restrict the development to personal recreational use, as use for commercial purposes may lead to a material change in character and give rise to unanticipated impacts in terms of noise, traffic generation and ecology. Such a restriction on use means it is not necessary to further restrict the permission personally to the appellant.

Conclusion

29. For the reasons set out, I conclude that the appeal should be allowed.

K Savage

INSPECTOR