

Appeal Decision

Site visit made on 12 August 2024

by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2024

Appeal Ref: APP/A3010/W/24/3343282

Fountain Hill Farm, Gringley Road, Misterton, Nottinghamshire, DN10 4AR

- 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 Mr Stephen Gorrill against the decision of Bassetlaw District Council.
 - The application Ref is 23/00247/FUL.
 - The development proposed is Retrospective car park for cars and secure parking for horse boxes.
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Decision

1. The appeal is allowed, and planning permission is granted for a car park for cars and secure parking for horse boxes at Fountain Hill Farm, Gringley Road, Misterton, DN10 4AR in accordance with the terms of the application Ref 23/00247/FUL and Drawing No PLA001, subject to the conditions in the attached schedule.

Preliminary Matters

2. At my site visit, I was able to see that the car park and horse box parking areas (hereafter referred to as the 'parking area') had been laid out and that a fence and gates had been erected. The appeal proposal is therefore retrospective and I have assessed it on that basis. In my formal decision above I have removed the word 'retrospective' from the description of the proposal since it is not a form of development.
3. A Highways Note and highway plans¹ were submitted with the appeal. The plans show the visibility at the junction of the access drive and the B1403/Gringley Road, a swept path analysis and a proposed widening of the access drive. The Appeals Procedure Guide makes clear that the appeal process should not be used to evolve a scheme, and that what is considered by the Inspector at the appeal stage should essentially be the same scheme as the proposal that was considered by the Local Planning Authority and interested parties at the application stage.
4. Had a condition securing the widening of the access track been necessary and reasonable, it would have been necessary to seek the comments of interested parties in the interests of procedural fairness. However, for the

¹ Highways Note 16 April 2024 Drawing Nos 24011/VIS/001, 24011/SPA/002 Rev A and 24011/SPA/003 Rev A

reasons which are outlined below, I consider that such a condition would not comply with the tests for conditions set out in the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG). In this context, I have not sought further views from interested parties on those plans.

5. A plan² showing proposed landscaping around the boundaries of the parking area was also submitted with the appeal. This does not affect the nature of the appeal development and I have therefore not sought the comments of interested parties on the plan and I do not consider that anyone's interests have been prejudiced by my not having done so. I have taken it into account in my determination of the appeal.
6. During the appeal process, the appellant confirmed that a Certificate of Lawfulness for Existing Use relating to the running of an equestrian livery business from Fountain Hill Farm was issued by the Council on 30 May 2024³. The Council's statement of case also refers to the Certificate. For the avoidance of any doubt, whilst that Certificate establishes the lawful use of the wider site, that is a separate matter from the laying out and use of the parking area which is a matter before me to determine as part of this appeal. I have determined the appeal on that basis.

Main Issues

7. The main issues in this case are:

- Whether the appeal site is a suitable location for the parking area, having particular regard to its effect on the character and appearance of the area;
- The effect on the safety of highway users; and
- The effect on the special architectural and historic interest and setting of Fountain Hill Farm.

Reasons

Character and appearance

8. Fountain Hill Farm is located approximately 0.7 kilometres to the south west of the village of Misterton and is served by an access drive off Gringley Road. The wider site comprises the farm house and its associated agricultural buildings dating from the 18th Century and approximately 14 hectares of grazing land. Fountain Hill Cottage and Fountain Lodge are separate dwellings which are located to the south-west of the farm group and are also accessed via the main drive.
9. The first reason for refusal refers to Policy DM3 (General Development in the Countryside) of the Bassetlaw Core Strategy and Development Management Policies Development Plan Document (2011) (CSDMP). The parking area is not associated with agriculture or forestry and it is not for domestic equine purposes, the wider site being used for an equestrian livery business. On a

² Landscape Proposals 2056 Rev A dated 04/24

³ Reference 24/00372/CTL

plain reading of Policy DM3, it is not directly relevant to the appeal development. I have, however, had regard to the principles set out at paragraphs C(i),(ii) and (iii) in so far as they are relevant to my assessment of the main issues in this case.

10. Paragraph C(i) of Policy DM3 requires that proposals for new equine facilities should demonstrate that other more suitable sites are unavailable. The Council contends that there would be more suitable areas for the parking of cars, horse trailers and horse boxes to the south of the access drive.
11. The appellant is familiar with the operational needs of the equestrian business, and I must determine the appeal based on the location of the site that is in the scheme before me. That other sites may be more suitable is a matter to which I can give limited weight in the determination of this appeal.
12. The planning application indicates that 12 parking spaces are proposed, together with an area for horse trailer and horse box parking for which no numbers are specified. At the time of my site visit, there were five trailers, four horse boxes, and four cars parked on the parking area.
13. The appeal site is within the Mid-Nottinghamshire Farmlands Policy Zone 02:Walkeringham of the Bassetlaw Landscape Assessment (2009). That document states that the condition of the landscape is poor and its sensitivity is low. The landscape actions include concentrating new development of appropriate design and scale around existing settlements in order to conserve what remains of the open rural landscape. Small scale woodland to contain and soften new development is also supported, particularly at Misterton and Walkeringham.
14. When leaving Misterton on Gringley Road, the land rises gradually towards the south affording long distance views of Fountain Hill Farm. The parked vehicles are open to view against the backdrop of trees along the access drive and the woodland planting in and around the site. At closer distances, the parked cars and horse trailers and boxes can be discerned more clearly. However, due to its limited scale and distance from Gringley Road, the parking area does not materially reduce the openness of the wider landscape which is a feature of the landscape character area. When approaching along the access drive, the hedges and trees on both sides provide a degree of screening.
15. At my site visit, I also viewed the appeal site from the canal towpath which is a public right of way accessed via the B1403 canal bridge in Misterton. Again, due to the presence of mature hedgerows and trees to the south of the appeal site, views of the parked vehicles were largely screened. Whilst appreciating that reduced leaf cover would result in vehicles being more visible at other times of the year, the main focus when walking along the towpath is the canal. I consider that the parking area is not harmful to the enjoyment of people using the towpath, or the canal itself.
16. However, when approaching the parking area entrance from the access drive, the galvanised metal palisade fence and gates contrast markedly with the rural backdrop of the countryside to the west and appear as a harsh and intrusive feature. The raised embankments on the north and west

boundaries also emphasise the visual impact of the changes to the landform at closer distances.

17. The extent of the visual impact will vary according to the number and size of parked vehicles. The appellant's Landscape Proposals include a native hedge mix for the west, north and east boundaries of the car park which would assist in mitigating the impact of parked vehicles when viewed from longer and closer distances on Gringley Road. I am satisfied that the visual impact of the fence at closer distances could be ameliorated by the use of a darker paint colour and additional planting. This can be secured by means of a planning condition and is necessary to make the development acceptable in planning terms.
18. Due to the presence of parked vehicles, there will be a degree of visual impact which would not be fully mitigated by the proposed planting at certain times of the year. However, I am satisfied that the impact is localised and that the openness and rural character of the area between Misterton and Fountain Hill Farm has not been eroded. As such, the parking area does not have a wider adverse impact on the characteristics of the Mid-Nottinghamshire Farmlands.
19. The existing car park surface is unbound and low key, and appropriate for the scale of the use. However, it would be appropriate to secure further details of the layout of the parking area which could be secured by means of a planning condition.
20. Drawing matters together I conclude that, subject to conditions, the parking area is in an appropriate location having regard to its scale and design and these aspects would accord with CSDMP Policy DM3 C(ii). I deal with highway matters which relate to paragraph C(iii) later in my decision. The appeal scheme would not undermine CSDMP Policies DM4 and DM9 in so far as they seek to ensure that new development respects its wider surroundings in relation to landscape character and enhances the distinctive qualities of the landscape character policy zone.
21. The Misterton Neighbourhood Plan (2019) (NP) also forms part of the development plan. The proposal would not conflict with NP Policy 1 which requires that development should not adversely affect the character and appearance of the village and the natural assets of the parish.

Safety of highway users

22. The number of vehicle movements on the access drive is generated by the customers of the equestrian livery business, together with the occupiers of Fountain Hill farm house, Fountain Hill Cottage and Fountain Lodge. Whilst there is nothing in the evidence to confirm the status of the caravan site which is outside the red line of the appeal site, representations indicate that it can accommodate three caravans which will also generate some additional movements.
23. The Council's statement of case indicates that provided that the volume and frequency of vehicle movements has not been affected by the car park, the Highway Authority has no objection and that the formation of passing places, concerns about the entrance or drainage would only become relevant if the

construction of the car park has increased the traffic using the entrance off Gringley Road and the access drive.

24. There is nothing in the evidence to indicate that the parking area has increased the number of vehicle movements to and from the site. Furthermore, any permission can be made subject to a planning condition to restrict the use of the parking area to the customers and visitors associated with the equestrian livery business only.
25. In these circumstances, a condition requiring the widening of the access drive is not necessary or reasonable, nor would it directly relate to the appeal development. It would not meet the tests for conditions set out at paragraph 56 of the Framework and in the PPG.
26. It follows that the Council's draft condition 2 requiring that the access road should be constructed in accordance with tracked plans that demonstrate that unrestricted two-way flows by vehicles including horse trailers and horse boxes can be achieved at the access onto Gringley Road is also not justified by the evidence.
27. Overall, my conclusion is that the parking area would not adversely affect the safety of highway users and I find no conflict with CSDMP Policy DM3 paragraph C(iii) which requires that equine facilities should not exacerbate highway safety problems.

Effect on listed buildings

28. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard is paid to the desirability of preserving the setting of listed buildings or any features of special architectural or historic interest which they possess. Paragraph 205 of the Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
29. Due to the separation distance between the parking area and the Grade II listed Gringley Road Farm House, they are not viewed in conjunction with one another and there is no harm to the special architectural and historic interest or setting of that property.
30. Fountain Hill farm house is a Grade II listed building which is set back from Gringley Road with its principal elevation facing south towards Fountain Lodge and the countryside beyond. Its elevated position and the open land around it emphasise its status as the principal building on the former farm complex. The open character of the land to the north and south of the access drive contributes to its rural character and setting, and thereby to its significance as a designated heritage asset.
31. When travelling along Gringley Road towards Misterton, the mature trees on the road frontage, around the garden curtilage and adjoining woodland largely screen views of its principal elevation and the curtilage buildings. Whilst that could change at different times of the year, due to the separation distance between the house and the appeal site and the intervening vegetation, the house and the parking area are not viewed in conjunction with one another.

32. The curtilage farm buildings are closer to the parking area but are separated from it by the access drive and the fence and vegetation on the parking area's southern boundary. Nonetheless, I am mindful that when leaving Misterton, the open and uninterrupted views across agricultural land towards the farm house and curtilage buildings contribute to their overall setting, and thereby to their significance. The intervening parking area causes some harm to that setting, and that leads to conflict with CSDMP Policy DM8 which states that proposals that fail to preserve or enhance the setting of a heritage asset will not be supported.
33. In my view, the harm would be less than substantial and at the lower end of that scale. However, that heritage harm attracts substantial importance and weight in the balance. Paragraph 208 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that harm should be weighed against the public benefits of the proposal. I return to that balance below.

Other Matters

34. Representations have been made in support of and against the appeal development by interested parties. Most of the matters raised have been dealt with in the main issues above.
35. The scale of the equestrian business is not a matter before me in the determination of this appeal and nor is the amount of grazing land available. I note that the equestrian use at Fountain Hill Farm has evolved over recent years, but my determination of the appeal is based on the current circumstances of the site and the details of the scheme before me.
36. The maintenance of the shared access drive is a civil matter between the relevant parties, and not something on which I can comment as part of this appeal.
37. The Council has raised no objection to the appeal development in relation to the amenity of adjoining occupiers and I see no reason to disagree with that position. Noise and disturbance from moving vehicles is likely to be more focused on the parking area rather than being dispersed through the wider site. However, there is sufficient separation distance between the parking area and Fountain Hill Cottage so that noise and disturbance from the parking and manouvering of vehicles is unlikely to cause material harm to the living conditions of the occupiers.
38. Furthermore, a condition restricting the hours of use can also be imposed which will enable the time of vehicle movements and any associated noise and disturbance to be controlled.

Heritage balance

39. The convenience of parking trailers and horse boxes at the parking area is a private benefit to the livery customers. However, there are public benefits arising from the safe and effective management of car parking within the site and ensuring that there is no indiscriminate parking on the access drive, or the highway verges on Gringley Road. Given the open landscape character where indiscriminate parking would be unsightly and potentially harmful to

the setting of the listed buildings, that is a tangible public benefit to which I attach significant weight.

40. Effective and efficient parking arrangements will also support the contribution made by the equestrian business to the local economy, a matter to which I also give moderate weight in favour. Indeed, the Council acknowledges in its officer report that a car park may now be an operational requirement of the business.
41. There would be conflict with CSDMP Policy DM8 in relation to heritage assets. However, in my judgement, the public benefits of the appeal development outweigh the heritage harm that I have identified. As such, the appeal development would accord with the provisions of the Framework in relation to heritage assets.

Conditions

42. I have considered the draft conditions submitted by the Council against the advice in paragraph 56 of the Framework and the PPG. In the interests of precision and enforceability, I have amended the proposed wording where necessary.
43. There is a strict timetable for compliance with conditions 1, 2 and 3 because permission is being granted retrospectively, and it is not possible to use negatively worded conditions to secure the approval and implementation of the necessary details before the development takes place. The conditions will ensure that the development can be enforced against if the requirements are not met. The landscaping condition has been worded so that if the planting is not implemented within the prescribed time period, the use must cease until such time as the work has been done.
44. Condition 1 is necessary in the interests of the character and appearance of the area. Whilst I note the appellant's concerns about the timescale for its implementation, I consider that 9 months is justified to secure the planting scheme in a timely manner.
45. Condition 2 is necessary to secure details of the suitable treatment of the palisade fence and gates in the interests of the character and appearance of the area. As there is scope for some flexibility over the details to be agreed with the Local Planning Authority, I have not sought the views of the main parties on this additional condition and I am satisfied that no-one's interests are prejudiced by not having done so.
46. Condition 3 requiring the details of the layout of the parking area, including manoeuvring space and its accessibility for disabled users is reasonable and necessary in the interests of good planning and to meet the requirements of the Public Sector Equality Duty. The Council's draft condition indicates that the layout should incorporate 12 spaces which is the number set out on the planning application form and has therefore been included in the condition.
47. Condition 4 is necessary to restrict the use of the parking area to customers and visitors associated with the Fountain Hill Farm equestrian business and to limit the hours of use. This is in the interests of highway safety and the amenities of adjoining occupiers.

48. Whilst I note the appellant's request that exceptions will need to be made for parking in the case of out of hours emergencies, that would be likely to generate noise and disturbance at hours when ambient noise levels are likely to be lower. Such situations are in any case likely to require proximity to the horses and parking within the main equestrian stable/yard area should be possible at these times. I consider that the exception is not necessary.
49. For the reasons already explained, the Council's draft condition requiring alterations to the access drive does not meet the test for conditions in the Framework and the PPG and I have not imposed it.

Planning Balance and Conclusion

50. Drawing matters together, there are public benefits arising from the parking area that outweigh the heritage harm identified. It will not adversely affect the safety of highway users. Subject to conditions, the impact on the character and appearance of the area is localised and does not have a material adverse impact on the wider landscape. I conclude that the development accords with the development plan, read as a whole.
51. For the reasons outlined above and having had regard to all other matters raised, the appeal is allowed.

Sarah Housden

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Unless within a period of nine months of the date of this decision all planting comprised in the approved details of landscaping as shown on the drawing titled 'Landscape Proposals' has been implemented, the use of the parking area shall cease, until such time as the landscaping scheme has been implemented.

Any trees or plants which within a period of 5 years from the completion of the planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 2) No later than 3 months from the date of this permission, details of the colour and finish of the palisade fence shall be submitted to and approved in writing by the Local Planning Authority. The work shall be carried out in accordance with the approved details no later than nine months from the approval of the details and shall be maintained in that condition in perpetuity.
- 3) No later than 3 months from the date of this permission, plans showing the layout of 12 no. car parking spaces and spaces for the storage of trailers and horse boxes and manoeuvring arrangements shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include:
 - (i) details of the layout of the site;
 - (ii) parking spaces of such size and siting as to be suitable for use by disabled people; and
 - (iii) the means of defining parking spaces.

The work shall be carried out in accordance with the approved details no later than nine months from the approval by the Local Planning Authority. and shall be implemented on site to the satisfaction of the Local Planning Authority and remain in situ for the lifetime of the development.

- 4) The parking area hereby permitted shall not be used for purposes other than the parking and storage of vehicles associated with the equestrian use at Fountain Hill Farm and shall be used by cars only between the hours of 06:30 and 20:30, and by horse trailers and horse boxes only between the hours of 09:00 and 20:00 on any day.