



Appeal Decision

Site visit made on 22 October 2024

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2024

Appeal Ref: APP/H0520/W/24/3340538

The Barracks Piggery, Milk and Water Drove, Farcet PE7 3DS

- 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 K. T. McPartlin against the decision of Huntingdonshire District Council.
- The application Ref is 23/00694/FUL.
- The development is described as 'Retrospective Application for erection of 1no industrial building and siting of 9no. shipping containers in Class E (g)iii) and B8 Uses.'

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 30 July 2024, the Government published a consultation draft of proposed reforms to the National Planning Policy Framework (the Framework). As the proposed changes do not affect the main issues of this appeal, I have not sought the views of the main parties in coming to my decision.
3. The appeal site evidently has a long and complex planning history. I have been informed that the last use of the site was as a piggery, although this has not been the case for some time. The Council in its officer report refers to the fact that 'the site was previously used as a piggery with agricultural yard and that remains its lawful use', while also in the same document that 'the lawful agricultural use of the site has entirely ceased'. The Council's approach to the use of the site therefore varies with regards to the main issues. The appellant acknowledges that 'the agricultural use of the site had long since ceased by the time the building was erected' in their appeal statement. For the avoidance of doubt, I have proceeded on the basis that the agricultural use has ceased, albeit this is for the benefit of assessing the development and is not a lawful declaration. It is based only on the evidence before me.
4. At present, the site includes a variety of older buildings which were associated with the piggery alongside new buildings and shipping containers which have been erected and used without planning permission. This was after demolition of other buildings used in conjunction with the piggery. The buildings and containers under consideration in this appeal are indicated on the submitted 'Existing Site Plan'¹ and are broadly located in the northeast half of the site. The largest building ('the main building') is formed of a metal clad single-storey structure of green colour which spans much of the northeastern boundary of the site. This building is divided into separate units which evidently host a variety of businesses, while the shipping containers are used

¹ Drawing Number: S-02

for storage. There are also three separate structures formed of converted buildings which are marked in blue on the site plan and clearly identified as excluded from the application.

5. To that end, I have been made aware of an application² for a certificate of lawfulness of existing use or development (CLED) which was referenced in the appellant's statement of case as 'due to be submitted shortly' in March 2024. This CLED relates to those buildings marked in blue on the submitted site plan (units 19, 20, 21, 22 and 23). The appellant's final comments submitted in July 2024 confirmed this was subsequently submitted to the Council, and I was informed at my site visit that the CLED was close to being finalised.
6. I understand that delays were experienced by the Council through staffing issues, although the CLED application was not submitted at the time of the appeal being lodged. After issuing a deadline for updates on this matter, I was provided with information by the Council on 22 November 2024 which advised that it considers that the evidence submitted on the balance of probabilities, including a sworn declaration of the appellant, supports the continued use for a period in excess of 10 years for the majority of the site. However, further clarification is still required on unit B06. It then recommended to omit unit B06 from the application and re-draw the red line to confirm this.
7. At this time, I still do not have an approved CLED before me, nor do I have a timescale for this to be finalised. As such, as I made clear to the main parties, I have determined the appeal based on the evidence before me at this time, with appropriate weight given to any material considerations.

Main Issues

8. The main issues are as follows:
 - The effect of the development on the character and appearance of the area;
 - The effect of the development on the living conditions of occupiers of Rose Cottage;
 - Whether the appeal site is in a suitable location having regard to the relevant policies of the development plan and Framework
 - Whether the site is at an unacceptable risk of flooding;
 - Whether the vehicular access is safe and suitable for all users and any effects on highway safety; and
 - The effects of the development on biodiversity.

Reasons

Character and Appearance

9. The appeal site is surrounded on two sides by agricultural fields and a dwelling to the east. The B1095 road provides access from the south at two points and beyond that are further expanses of open countryside. Built form in the area is generally limited to farmsteads and detached dwellings, while tree lined fields

² 24/00974/CLED

and long-range views across flat topography give the area a strong rural character.

10. The appeal site is bound by a mix of trees and an informal and unsightly mix of mesh, reclaimed panels and metal fencing. The main building is somewhat reflective of modern agricultural buildings given its green colour and simple form, but the roller shutters give it an industrial appearance which is not reflective of the rural location, while its width covers much of the northeastern boundary of the site. As such I disagree that it enhances the site, as proposed by the appellant, and would only screen views of parked cars from the north. Although it is set back from the entrance of the site which reduces its visibility from those vantage points, its industrial character jars with the rural qualities of the local area.
11. Furthermore, there is a spread of shipping containers throughout the yard which are formed of steel and of a stark industrial appearance which are incongruous to the area. This is compounded by the abundance of vehicles parked in a haphazard manner throughout the site which leads to an unsightly and informal internal arrangement. Although the appellant advises that allowing the appeal could formalise parking arrangements through a planning condition, it is not clear how this could work given the circumstances of the site.
12. Taken together, the characteristics of the site are harmfully impacting upon the rural character of the area. This is contrary to policies LP10, LP11 and LP12 of the Huntingdonshire's Local Plan to 2036 (LP) (adopted May 2019). These seek, among other things, to ensure development recognises the intrinsic character and beauty of the countryside. The development is also contrary to paragraph 135 of the Framework which advises development should be sympathetic to local character and history, including the surrounding built environment and landscape setting.

Living Conditions

13. A detached dwelling known as Rose Cottage is located to the east of the appeal site. That site includes outbuildings to the rear, while the dwelling itself is located adjacent the main vehicular entrance to the appeal site.
14. Due to the unauthorised use of the site, there are no formal opening hours in force. However, the opening hours of the site displayed on a sign at the site evidently indicate that it operates on Monday to Saturday 06:00 to 22:00 and Sundays and bank holidays 06:00 to 20:00. I observed on the site visit vehicles came and went on a fairly regular basis. Evidently, this includes heavy goods vehicles. Current uses of the units include vehicle repair and recovery which include the use of lighting, power tools and potentially noxious substances and fumes. Although formalising opening hours could alleviate these issues, this would only limit the number of hours that it is a problem. In the meantime, lighting, noise from vehicles and power tools and odours is having a materially harmful impact to adjacent residents. I note this is referenced in the comments of interested parties, and a lack of enforcement action being taken historically is not evidence of a lack of harm.
15. Moreover, the surface of the yard is formed of a mix of compacted earth, hardstanding and hardcore. This may be kicked up by larger vehicles in particular and there is nothing before me to indicate that suitable measures

are in place to prevent harmful impacts of dust to both adjacent residents and indeed users of the site.

16. Taken together, I am not satisfied that the development is not harmful to adjacent residents with particular regard to noise, odour, dust and artificial light. This is contrary to policy LP14 of the LP which states that a proposal will be supported where a high standard of amenity is provided for all users and occupiers of the proposed development and maintained for users and occupiers of neighbouring land and buildings. This includes matters relating to noise, obtrusive light, air pollution, odour and dust.

Whether Suitable Location

17. The appeal site is located outside of the village of Farcet and is therefore considered to be in the countryside for development management purposes. I note this is not disputed. Policy LP10 of the LP advises that in this scenario, development in the countryside will be restricted to the limited and specific opportunities as provided for in other policies of this plan. It also requires development to seek to use land of lower agricultural value in preference to land of higher agricultural value, recognise the intrinsic character and beauty of the countryside and not give rise to noise, odour, obtrusive light or other impacts that would adversely affect the use and enjoyment of the countryside by others.
18. Linked to LP10, policy LP19 advises on such opportunities in the countryside. These include for new business development, the expansion of an existing business, and farm diversification. The Council advises that they consider that the lawful agricultural use has entirely ceased, which excludes consideration of the development against the latter two. As such, the development was assessed against the criteria relating to new business development, although it has ruled out the relevance of criterion a, b and c based on the circumstances of the site. Based on all that I have seen and read, I see no reason to dispute this approach.
19. Criterion d of policy LP19 relating to new business development involves the reuse or replacement of existing buildings as set out in policy LP33. The main building is a replacement and is therefore subject to criteria a, parts i to iii, and must ensure that the 'proposal' would lead to a clear and substantial enhancement of the immediate setting and the position of the replacement buildings within the site should be considered comprehensively so that it is located where it would have the least possible adverse impact on the immediate surroundings, the wider landscape and the amenity of the users of existing buildings nearby.
20. Given the piggery had not been in use for some time, it reasonable to assume that the buildings were redundant or disused. However, there is little evidence before me of the condition of the previous buildings which occupied this position. Satellite imagery is given by both main parties, although this only shows the condition of the roofs which is difficult to ascertain in any event due to the poor quality of the images. Criteria a.i, ii and iii are therefore not satisfied. Moreover, I have already concluded that the development has harmed the character and appearance of the area and the living conditions of occupiers of Rose Cottage.

21. Taken together, the appeal site does not constitute a suitable location for the development. This conflicts with policies LP19 and LP33 of the LP for the reasons given above.

Flood Risk

22. The appeal site is located within flood zone 3a according to the flood risk mapping from the Environment Agency (EA), which advises that locations in flood zone 3 have a high probability of flooding. The proposed formalisation of use on the site would fall into the less vulnerable category as per Table 2³ of the Planning Practice Guidance (PPG) section on flood risk.
23. Policy LP5 of the LP states that a proposal will only be supported where all forms of flood risk, including breaches of flood defences or other defence failures, have been addressed. It goes on to advise that the sequential approach and sequential test should be applied and passed, having regard to actual and residual flood risk and including consideration of the impact of climate change. This approach aligns with paragraph 165 of the Framework which advises that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).
24. The appellant has referred me to guidance from the 2010 Strategic Flood Risk Assessment (SFRA), which advises that this version of the SFRA took into account flood defences and 'general market housing'. This is because evidently the 2017 SFRA did not factor in flood defences. However, the development does not include housing. Moreover, the PPG is clear⁴ that initially, the presence of existing flood risk management infrastructure should be ignored, as the long-term funding, maintenance and renewal of this infrastructure is uncertain.
25. I have had regard to the submitted Flood Risk Assessment⁵ (FRA). This advises that despite being in flood zone 3, flood defences in the area lower the risk of flooding on the site to be very low. However, it is unclear as to how this conclusion has been reached. This is particularly in light of the requirement of policy LP5 of the LP to include breaches of flood defences in assessments. Moreover, the FRA points out that in flood zone 3a, a less vulnerable use such as that of the appeal site would require the sequential test (ST) is passed if the local authority requires. Although it did not object to the scheme, this is also imparted by the EA. In this case, the Council does require the sequential test is passed, which the FRA advises it considers to be passed on the basis that it involves replacement of an existing industrial building with a new dwelling. However, it is clear that no dwellings are proposed. Moreover, the last use of the site was agricultural which is not classified as previously developed land.
26. The Council advises that there are numerous other sites in areas of lower flood risk and others that either have planning permission or are in the application process. I note the appellant considers that there are no comparable sites in the vicinity that offer the same level of facilities as the appeal site. However,

³ Paragraph: 079 Reference ID: 7-079-20220825

⁴ Paragraph: 024 Reference ID: 7-024-20220825

⁵ MTC Engineering: 3023 – FRA – March 2023

there is nothing substantive before me on this matter and the onus is on the developer to provide this evidence.

27. Taken together, the evidence before me is lacking and I am not satisfied that the development, being in an area of high risk of flooding, could not be avoided by directing it towards areas of lower risk. This is contrary to policy LP5 of the LP, which states that a proposal will only be supported where all forms of flood risk, including breaches of flood defences or other defence failures, have been addressed. The development is also contrary to paragraph 165 of the Framework which advises that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).

Access and Highway Safety

28. The appeal site evidently includes two vehicular access points from the B1095, although the only one shown on the site plan is located towards the southeast of the site. I observed on the site visit this was generally used by vehicles coming and going to and from the site. The B1095 has a 50 miles per hour (mph) speed limit and includes bends to the northwest and southeast of the main entrance of the appeal site. I have had regard to the comments of the Cambridgeshire County Council (CCC) highways development management team, which advises that visibility from the access would require a setback of 2.4m and a visibility distance of 140.7m to the northwest and 152m to the southeast. These were adjusted based on the interpretation of speed data carried out by the appellant.
29. However, the maximum distance that could be achieved is 111m northwest and 56m southeast based on the existing characteristics of the site. These are demonstrated on the submitted plan appended⁶ to a statement of common ground. Both constitute significant shortfalls to ensure the safe egress from the site. Although the possible visible distance to the northwest could be improved if the boundary fence were realigned, this would still fall considerably short. Views to the southeast could not be improved given the land reducing the visibility is not under the appellant's control.
30. Furthermore, given the use of the site, the data before me indicates that larger vehicles would constitute a significant number of the proportion of visits. A submitted drawing⁷ demonstrates numerous scenarios involving a refuse vehicle and panel van entering and exiting the site alongside how these manoeuvres could be accommodated together.
31. Longer vehicles would require sufficient space within the site to enable them to turn and exit the site in a forward gear. The drawing showing a refuse vehicle performing this manoeuvre indicates it is feasible, although the turns appear tight to existing obstacles such as the existing structures. Moreover, I observed an irregular arrangement of parked vehicles within the site which could further prohibit this turn being completed safely. This would be of further concern with an articulated lorry which would be of increased length over the refuse truck. This is not shown on the relevant plan.
32. Furthermore, the refuse truck entering the site turning left from the near side of the road would require it to encroach on the wrong side of the road,

⁶ P22-2730-TR-01

⁷ P22-2730-TR-02

increasing the risk of collision with oncoming motorists. The remaining space left to pass the panel van in this scenario at the site entrance also appears very tight and the more likely scenario would involve the refuse vehicle waiting on the highway while the van exited. This would disrupt the free flow of traffic. For the refuse truck to leave the site to the southeast, it is shown on the plan that this would also require encroachment on to the wrong side of the road, further increasing the risk of collision to oncoming motorists.

33. A further drawing⁸ demonstrates an articulated lorry and panel van passing one another at the site entrance as well as the former entering and exiting the site. This again shows that the lorry would have to enter the wrong side of the road to turn left into the site, while the left turn out of the site has not been shown. Moreover, the existing gates to the site are set back approximately 6.95m from the highway edge, while these should be some 18-20m to accommodate an articulated lorry pulling clear of the highway as it waits to enter the site. This would further hinder the free flow of traffic on the highway and increase the risk of collision. This set back would also decrease the amount of usable space for larger vehicles to manoeuvre within the site to exit in a forward gear.
34. I note the appellant does not dispute these limitations with the access, but that this situation would be improved over the existing scenario and conditions could be attached to any subsequent grant of planning permission. However, there is nothing before me to indicate that any of the aims of the conditions could be achieved given the limitations of the site. This would therefore not be a reasonable condition to attach to a grant of permission.
35. To conclude on this main issue, the proposal does not achieve a safe and suitable access for all users while it also constitutes an increased risk of collision and danger to highway safety. This is contrary to LP17 of the LP, which states that a proposal will be supported where it incorporates appropriate space for vehicle movements, facilitates accessibility for service and emergency vehicles and incorporates adequate parking for vehicles and cycles. The development also conflicts with paragraph 114 of the Framework, which advises that development should ensure that safe and suitable access to the site can be achieved for all users and paragraph 115 which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, which in this case I have concluded that there is.

Biodiversity

36. The development involved the erection of the main building for which several trees and hedgerows were evidently removed. The Council agrees that the site overall would have had low ecological value prior to this occurring, with the boundary treatments the only contributors in this regard. I note the appellant's argument that there is no 'requirement' to provide net gains for biodiversity; paragraph 180(d) of the Framework is phrased to advise that decisions 'should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity...' Be that as it may, the removal of the trees and hedges has harmfully impacted on the biodiversity of the site with no net gains. This cannot therefore be said to comply with the Framework in this regard.

⁸ P22-2730-TR-03

37. Although the appellant advises conditions could be secured to provide for said net gains of biodiversity, given the position of the main building tight to the rear boundary of the site, it is unlikely sufficient landscaping could be incorporated to secure these net gains. I note the appellant states the same in their statement of case⁹.
38. As such, the development is contrary to policy LP30 of the LP, which states that a proposal will be required to demonstrate that all potential adverse impacts on biodiversity and geodiversity have been investigated. The development is also contrary to paragraph 180 of the Framework as previously discussed.

Planning Balance and Conclusion

39. I have found that the unauthorised development has caused harm to the character and appearance of the area; the living conditions of adjacent residents; the spatial distribution of development in the LP; cannot demonstrate a safe and suitable access and is harmful to highway safety; and has harmfully impacted on biodiversity without suitable mitigation. Taken together, these factors weigh considerably against the scheme.
40. I have considered the correspondence from the Council relating the CLED, although this does not cover the whole site. In any event, the CLED is not before me, nor do I have a reasonable idea of when it could be completed. As such, it is worthy of moderate weight in the planning balance insofar as the Council seemingly agrees that some of the structures within the appeal site are likely lawful. However, the main building and several shipping containers still require approval, and their presence contributes to the harms I have identified.
41. I acknowledge that there are benefits to the development. These generally contribute to the economic and social objectives in the Framework in the pursuit of sustainable development, including the support of the combination of small business, hobbyists and a charity which are tenants at the site. However, although it is claimed that the dismissal of the appeal and refusal of permission could displace several businesses, the Council has already advised that other units are available in the relevant sequential tests. Although the appellant states that the lack of facilities means that rents are inevitably lower than those of larger and/or more established sites, there is nothing before me to substantiate this claim. From my observations on the site visit, the main building appeared very similar to other buildings normally erected for this purpose in industrial or commercial areas.
42. I have found that the development conflicts with the development plan as a whole as well as the advice in the Framework and relevant supplementary planning documents. The benefits are not sufficient to outweigh that conflict. Accordingly, for the reasons given, I conclude that the appeal is dismissed.

C McDonagh

INSPECTOR

⁹ Paragraph 4.8