



Appeal Decision

Site visit made on 19 March 2025

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 April 2025

Appeal Ref: APP/X2410/W/24/3350697

Watermead Country Park, King Lears Lake, Wanlip Road, Syston, Leicester, Leicestershire LE7 1PD

- 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 Leicestershire County Council against the decision of Charnwood Borough Council.
 - The application Ref is P/23/1539/2.
 - The development proposed is for a steel storage container.
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Decision

1. The appeal is allowed, and planning permission is granted for a steel storage container at Watermead Country Park, King Lears Lake, Wanlip Road, Syston, Leicester, Leicestershire LE7 1PD in accordance with the terms of the application, Ref P/23/1539/2, and the plans submitted with it including the submitted location plan 1:6500, location plan 1:2500, block plan 1:200 and elevation drawings: RV/001, subject to the following condition:
 - 1) Within three months from the date of this decision, the container shall be raised above the 1 in 30-year flood depths identified within the submitted Flood Risk Assessment, by Roy Lobley Consulting dated 01/08/2024, with a void underneath to allow the unimpeded flow of water during such an event.

Preliminary Matters

2. The proposed storage container has already been installed on the appeal site. This is one of a group of two containers set close together alongside King Lears Lake. Based on the evidence it appears that the more southern of the two containers is the subject of this appeal. As it is already on site, section 73A of the 1990 Town and Country Planning Act applies. I shall take this into consideration within the appeal in reference to the effects of the proposal. Also, as the phrase 'retrospective', and as reference to the location of the proposal, are not descriptions of development I have removed these from the above banner heading to more accurately describe the proposal.
3. The Council's Reason for Refusal (RfR) three relates to flood matters. It finds that the site is in flood zone 3b, that the proposal would be vulnerable to flooding and would not be appropriate to be permitted in this zone. However, the Appellant has since demonstrated that the proposal would be deemed to be water compatible development, by virtue of it being an essential facility for outdoor sport and recreation, in accordance with the National Planning Policy Framework (the Framework), Annex 3. The appellant's Flood Risk Assessment (FRA), submitted in

support of the appeal, demonstrates that the proposal is not a significant flood risk and will not increase flood risk to others.

4. The Environment Agency has recently commented¹ that the proposal would result in a minimal displacement of flood water but has recommended that the container be raised above the functional floodplain to allow water to flow easily across the floodplain. The Council therefore no longer seeks to defend RfR3. I am satisfied that the proposal would be a water compatible use and as such would not present a risk to flooding provided a condition were imposed to require the container to be raised in accordance with the recommendations of the FRA to be resilient to flood risk. As such, I shall not consider this matter further.
5. The Emerging Charnwood Local Plan [2021-2037] (ELP) was submitted for examination in 2021 and hearing sessions are ongoing into April 2025. The Plan will therefore not be adopted until later in the year at the earliest. Those policies most relevant to the appeal appear to be ELP policies C1, EV2 and DS1. Paragraph 49 of the Framework allows me to ascribe weight to emerging policies based on the state of preparation of the plan, the extent to which there are unresolved objections and the degree of consistency to the Framework. Based on the submitted evidence I find that these policies can be afforded significant weight in my consideration of the proposal.
6. Furthermore, RfR4 refers to the loss of biodiversity value, where the Council's ecologist has estimated that the site consisted of other neutral grassland in moderate condition prior to the installation of the container. Policy CS13 of the Charnwood Local Plan – Core Strategy [2015](CS) states that the Council will only support development that results in the loss of ecological features in exceptional circumstances where its benefits clearly outweigh its impact. Furthermore, ELP policy EV6 seeks to protect biodiversity and ecological interests by seeking a 10% Biodiversity Net Gain (BNG).
7. However, the Council states that it had miscalculated the area affected (at 150sqm) where it is instead around 15sqm and this extent of development falls below the policy threshold to require BNG. As such, the Council no longer seeks to defend this RfR. Based on the small area affected and its limited ecological value, as neutral grassland, I concur with main parties that the ecological effects of the scheme would be minimal. Accordingly, I shall not consider this matter further.

Main Issues

8. The main issues are:
 - The effect of the proposed development on the character and appearance of the area, and
 - Whether the proposed container has been placed in a suitable location with regard to the Council's spatial policies.

¹ Environment Agency, Nick Wakefield, 31 October 2024

Reasons

Character and appearance

9. The appeal site is a small parcel of land alongside King Lears Lake, within Watermead Country Park, a Nature Reserve. The site forms part of a long finger of land that sits between the lake and the Grand Union Canal. Alongside the site a grassed embankment and footpath forms a buffer between the lake and the appeal site. Behind the site is a hedgerow, which includes mature trees, that visually separate the canal from the lake. The wider area consists of a wide range of waterways in a green sylvan setting. Prior to the installation of the storage container, it seems that the site would have made a positive contribution to the character and appearance of the surrounding area.
10. The site is within the open countryside, set away from nearby built form. It is within the Birstall/Leicester/Thurmaston Green Wedge which provides a buffer of green space between the urban edges of Thurmaston and Birstall. The site is within the Watermead Wetlands- Character area 10, of the Council's Landscape Character Assessment. This area is characterised as having an urban presence felt through glimpses of development on all boundaries. The area consists of a relatively flat valley floor occupied by the River Sour, the Country Park, and its associated waterways forming a popular recreational resource.
11. The container is a utilitarian feature, painted dark green with a mural on its most public facing side. It is somewhat at odds with the surrounding sylvan landscape, forming an adverse effect on the character and appearance of the surrounding area. Furthermore, I am cognisant that the adjacent footpath and surrounding area is well used by a range of recreational purposes due to the site's position within the Country Park. Nonetheless, the proposal is small-scale in form and is screened from the canal by the hedge. Furthermore, whilst evident from around some parts of the edge of the lake it is framed in local views by the planting behind, tempering its overall visual impact. As the proposal is small and affects only local views, the overall effect on the surrounding landscape character is calibrated as modest only. Furthermore, the applied mural adds some interest to the structure reducing the overall harmful effect of the feature further.
12. Accordingly, the proposed container would not materially erode the sylvan setting of the site, retaining the area's open character, thus it would not demonstrably harm the area's landscape character. Accordingly, the proposal would comply with CS policy CS2, CS11 and CS12, LP saved policy EV/1 and ELP policies C1, EV2 and DS1. These seek, among other matters, for development to recognise the important role the countryside plays in the landscape setting of settlements and for development to protect landscape character and reinforce a sense of place. Furthermore, the proposal would comply with the Framework in recognising the intrinsic character and beauty of the countryside.
13. However, LP Saved policy CT/1 of the Borough of Charnwood Local Plan (LP) relates to general principles in the countryside. Therefore, these weigh neither for, nor against, matters of character and appearance.

Suitability of location

14. The appeal site is within the open countryside for policy purposes. CS policies CS1 and CS11 seek to direct most growth towards Leicester and requires development to maintain the separate identities of the towns and villages. LP Saved policy CT/1 in relation to land outside of the defined Limits to Development seeks to strictly control development. This policy supports small scale development in the countryside where it would not cause a significant environmental impact and where it would be for improved facilities for recreation and leisure uses. ELP policies C1 and DS1, among other matters, seek to direct most growth towards Leicester and only allow development in the countryside that would be small scale.
15. The appellant identifies that the container is used to store equipment for the Windsurfing and Stand up Paddleboard Club. The Club assert that it needs the storage container as its membership has increased substantially after the covid pandemic. It is explained that the location was selected in collaboration between the Club and the Senior Ranger for Watermead and the Head Ranger for the County Parks Service. The facility provides a demonstrable benefit to users of the club that weighs in favour of the proposal. This garners support from CS policy CS11, in supporting the provision of community services and facilities that meet proven local needs.
16. The appeal site is within a countryside location. However, the installed storage container represents small-scale development and would not result in an increased flood risk or cause substantial ecological impacts; thus, it would not result in a significant environmental impact. It would also not materially erode the area's character and appearance. Furthermore, the proposed development would be located alongside a lake placing a required water-based recreation equipment storage facility adjacent to its intended area of use. This would therefore further the promotion of improved facilities for recreation in satisfaction of LP saved policy CT/1.
17. Accordingly, the proposal would meet the needs of its users, would be in close proximity to the watercourse it is associated with and would therefore be located within a suitable location to address its purpose. Consequently, the proposal would accord with CS policy CS11, LP saved policy CT/1 and ELP policies C1 and DS1. These policies include seeking to protect green infrastructure and whose other objectives include those set out above. Whereas CS policy CS1 relates to the Council's development strategy for the district. This focusses on the provision of housing and employment development within settlements and is therefore not relevant to the proposal.

Other Matters

18. An interested party has raised concerns that members of the club drive their vehicles along pedestrian and cycleways causing danger to other users and park on the banks of the lake causing damage. It is also stated that other adjacent lakes are served by car parks and should be used instead of King Lears Lake. These raise issues that are only indirectly connected to the proposal. These relate to the behaviour of club members and the wider public, that would be more appropriately addressed by the County Council, who own and manage the area.

Conditions

19. I have considered the use of conditions in line with the guidance set out in the Planning Policy Guidance. A condition is imposed to ensure that the storage container is sufficiently raised above the functional floodplain to comply with the appellant's FRA, to maintain its functionality and to make the development acceptable in planning terms. I find three months, rather than one month as sought by the Council, to be a realistic timeframe for the club to mobilise for the work to be undertaken. This is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the approval and implementation of this matter before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.

Conclusion

20. The proposal would accord with the development plan, when taken as a whole, and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the above reasons, the appeal is allowed.

B Plenty

INSPECTOR