



Appeal Decision

Site visit made on 23 July 2025

by **F Wilkinson BSc (Hons), MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 August 2025

Appeal Ref: APP/B3030/W/25/3364660

Fiskerton Lodge, Bleasby Road, Fiskerton, Nottinghamshire NG25 0XJ

- 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 and Mrs P Milton against the decision of Newark & Sherwood District Council.
 - The application reference is 24/01983/FUL.
 - The development proposed is replacement dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would accord with the development strategy for the area having regard to its size and scale and effect on the character and appearance of the countryside.

Reasons

3. The appeal site is not in a settlement or village and in line with Spatial Policy 3 of the 2019 adopted Newark and Sherwood Amended Core Strategy (the CS) the proposal would be development in the open countryside. Policy DM8 of the 2013 adopted Allocations and Development Management Development Plan Document (the DPD) limits development in the open countryside to the specified types. This includes replacement dwellings, which should normally be of a similar size, scale and siting to that being replaced.
4. The proposed dwelling would be substantially larger than the existing dwelling in its current form. Nonetheless, planning permission¹ and prior approval² have recently been granted for two extensions to the dwelling. Based on the evidence before me, I am satisfied that there is a greater than a theoretical possibility that these developments would be built. Additionally, the appellants have provided details of two side extensions to the existing dwelling that would benefit from permitted development rights³. There is nothing before me to indicate that the existing dwelling has since had its permitted development rights removed. Based on the submitted evidence, with these adjoining extensions, while the proposed dwelling would still be larger, it would not be to a significant extent at least at ground floor level. However, it would have a greater floorspace at first floor level.

¹ Reference 25/00122/HOUSE

² Reference 25/00121/HPRIOR

³ EXP/00261/18

5. Consequently, notwithstanding the lower eaves height and only a relatively small increase in ridge height, the proposed dwelling would appear bulkier in terms of its form and massing. In both spatial and visual terms, the proposed dwelling would be clearly larger than the existing one. In that respect, it would not be of a similar size and scale to the dwelling to be replaced, as normally required by Policy DM8.
6. The site falls within an area defined in the Newark and Sherwood Landscape Character Assessment (LCA) as the Trent Washlands Regional Character Area and within Landscape Policy Zone 9, Bleasby, Fiskerton and Morton Village Farmlands. Key characteristics described in the LCA include a generally flat landscape with some gently undulating areas; mixed farming area with pasture concentrated around settlements and roads; isolated farms and narrow winding roads; historic villages characterised by red brick and pantile roofed buildings. The overall landscape action for the policy zone is to conserve. This includes promoting measures for reinforcing the traditional character of farm buildings using vernacular styles and conserving the historic character and setting of the villages of Bleasby, Fiskerton and Morton, where new development should respect the scale, design and materials used traditionally.
7. A number of these characteristics are apparent in the landscape in which the site is set. The site is located within a relatively flat agricultural area but with gently undulating countryside apparent. There are scattered individual dwellings, including farmhouses with associated agricultural buildings. The narrow winding roads are generally bounded by tall hedgerows which restrict views across the landscape. Fields are commonly enclosed by hedgerows.
8. With the existing dwelling, the red brick and pantile outbuilding to the front and the two agricultural buildings to the rear, one of which has been converted to residential use, the site is experienced as a small farmstead on a stand-alone site in the countryside. It is surrounded by open fields and there is no obvious or consistent architectural building style or scale for dwellings in the general vicinity.
9. The site and the existing dwelling are largely obscured from roadside views other than at the entrance due to boundary vegetation and the characteristic tall roadside hedgerows. The proposed dwelling would be on a similar footprint and although it would have a slightly higher ridgeline, it would also be mainly obscured from roadside views.
10. The principal elevation that would face the site entrance would be more traditional in character and appearance, being two storey brick with a slate roof, consistent with the existing dwelling. From this vantage point, it is this elevation that would be seen in the same context as the red brick and pantile roof outbuilding to the front of the site. The more contemporary rear of the proposed dwelling would not be obvious in views from the entrance due to the screening provided by the front part of the building. Consequently, from this vantage point, the proposed dwelling would not be significantly different to the existing one in terms of its overall form.
11. The existing dwelling is visible in views from the public right of way (PRoW) which runs to the north east, north and north west of the site at a distance of around 114 to 165m as identified by the appellants. The proposed dwelling would also be visible in such views where its more contemporary rear elevations and greater depth would be apparent. However, the proposed materials, sloping roof and limited fenestration on the north and west elevations would help to reduce the

scale and massing of the building when seen from the PRow. The more traditional outbuilding to the front of the site would still be clearly apparent and would not be dominated by the proposed dwelling. Furthermore, from vantage points along the PRow, the proposed dwelling would be seen in the same views as the larger agricultural building to the rear, which includes timber boarding on its gables from eaves height and a large expanse of corrugated roof. This would help to moderate the perceived scale of the proposed dwelling.

12. The south elevation would not have the same sloping roof and would have more extensive glazing. However, views of this elevation would be restricted by the roadside and field boundary hedgerows which would likely still provide some screening during winter months given the density of planting.
13. The proposed dwelling, by its design and size, would be quite different from the existing one. However, this is not to the extent that it would appear as an out of scale or incongruous form of development in the area. Additionally, the site would still be perceived as a small farmstead on a stand-alone site in the countryside.
14. My attention has not been drawn to any notable views and vistas that the site would lie within. Given the separation distance from Fiskerton and that the tall hedgerows in the area foreshorten views across the landscape, the proposed development would not harm the village's rural setting.
15. The supporting text to Policy DM8 of the DPD explains that the requirement for replacement dwellings to normally be a similar size, scale and siting to that being replaced is in the interest of minimising visual impact on the countryside and maintaining a balanced rural housing stock. For the reasons given above, while the replacement dwelling would be of a greater size and scale, this would not have a harmful visual impact on the countryside. There is nothing in the evidence before me to suggest that the proposal would not maintain a balanced housing stock.
16. For the reasons given, I conclude that the proposal would not undermine the development strategy for the area having regard to its size and scale and effect on the character and appearance of the countryside. I therefore find no conflict with the requirements of Policy DM8 of the DPD as summarised above. There would also be no conflict with Core Policies 9 and 13 of the CS, Policy DM5 of the DPD and Policies FCM1 and FCM5 of the Fiskerton cum Morton Neighbourhood Plan (NP) where they seek to protect local distinctiveness and landscape character and Policy FCM6 of the NP which seeks to protect views of Fiskerton cum Morton.

Other Considerations

17. The appellants set out that the proposed dwelling would be constructed as a self-build, stating that it has been designed by them for their occupation, with the help of the project architect. The proposal is advanced on the basis that, as a self-build dwelling, it is exempt from the mandatory biodiversity net gain (BNG) requirement. In my view, a planning obligation under section 106 of the Town and Country Planning Act 1990 (as amended) would be the most appropriate method of ensuring that the development is a self-build house. However, no such completed obligation has been provided.
18. The Council took the view that in the event the application was to be supported, a condition could be attached to ensure that the development was constructed as a self-build dwelling in accordance with the Self-build and Custom Housebuilding Act

2015 (as amended), and subject to this, the proposed development would be exempt from the BNG requirement. The Council suggested wording for such a condition in its appeal statement.

19. While acknowledging the comments made by the parties on the enforceability of this condition, I remain concerned that there are issues with its enforcement. For example, in terms of knowing for certain that the person building the house will live in it means that any enforcement action would likely not be possible until the house is completely built and occupied. If the Council did not consider that the occupier was a person who had primary input into the design and took enforcement action, to comply, that occupier would have to get the person who built the house to return to live in the property. It would be impractical and unreasonable to require this. I therefore do not consider that the condition, in this instance, would meet the tests of the Framework.
20. While I note the condition submitted by the Council that was used in an appeal decision to allow two self-build dwellings, that case will have turned on its own individual facts and planning merits. As I do not have the full details of that case or the evidence on which the decision was made, I cannot be certain that it is directly analogous to this appeal.
21. It may be appropriate in exceptional circumstances for a negatively worded condition requiring a planning obligation before certain development can commence. However, it has not been demonstrated that an exceptional circumstance exists, such as clear evidence that the delivery of the development would otherwise be at serious risk.
22. Consequently, there is no mechanism in place to ensure that the new property would be a self-build dwelling. On this basis, the BNG exemption would not be secured with any degree of certainty. The proposed development would therefore be liable to provide BNG.
23. The appellants' Bat Survey Report identifies two bat boxes as an enhancement measure. This may well give a small biodiversity gain on the site. However, it is not possible from the submitted evidence to establish the pre-development biodiversity value of onsite habitat and so there is no clear indication that this would meet the mandatory 10% BNG requirement. Given the uncertainties around the baseline, this is not a matter that can be resolved through the standard biodiversity gain condition as there is no indication that it is capable of being successfully discharged.
24. In the absence of an appropriate planning obligation to secure the development as a self-build dwelling, the requirements of BNG are relevant to the proposal and it has not been demonstrated that these have been met. The proposal would therefore fail to meet the statutory provisions of Schedule 7A of the Town and Country Planning Act 1990 (as amended) requiring development to deliver a BNG of 10%.
25. It may well be the case that the proposal would not harm the living conditions of other residents and would not result in an unacceptable impact on highway safety or put future occupiers at risk from flooding. However, a lack of harm is neutral in the planning balance. The absence of objection does not in itself render the scheme acceptable.

Planning Balance and Conclusion

26. I find that the proposal would accord with the development plan in respect of the development strategy for the area having regard to size and scale and effect on the character and appearance of the countryside. However, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.
27. The submitted evidence is not sufficient for me to conclude that the BNG objective would be met. For the reasons given above, it is not something that can be addressed by a planning condition. This is a matter that is sufficiently weighty, as a material planning consideration, to require a decision other than in accordance with the development plan.
28. Consequently, I conclude that the appeal should be dismissed.

F Wilkinson

INSPECTOR