



Appeal Decision

Site visit made on 5 December 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 December 2024

Appeal Ref: APP/A3010/W/23/3319621

24B Gringley Road, Misterton, Nottinghamshire DN10 4AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Parfitt against the decision of Bassetlaw District Council.
 - The application Ref 22/01542/FUL, dated 14 November 2022, was refused by notice dated 13 January 2023.
 - The development proposed is described as a “proposed agricultural storage unit”.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party’s interests have been prejudiced by my taking this approach. Where I have referred to a specific paragraph and footnote of the Framework, the numbering used is that of the revised version.

Main Issues

3. The main issues are:
 - whether the proposal is in a suitable location having regard to flood risk, and
 - whether the proposed development is necessary for agricultural purposes in the specific location proposed, and its effect on the character and appearance of the area.

Reasons

Flood Risk

4. The appeal site is located within Flood Zone 3. Regardless of the flood risk vulnerability classification of the proposed development, the Framework and Planning Policy Guidance (PPG) aim to steer development to areas with the lowest probability of flooding through the application of the sequential approach. Policy DM12 of the Bassetlaw District Local Development Framework Core Strategy and Development Management Policies DPD Adopted December 2011 (CS) reinforces this requirement.

5. Paragraph 174 of the Framework advises, among other things, that applications for some minor development should not be subject to the sequential test and the exceptions are listed in footnote 60.
6. While the appeal proposal has a footprint of less than 250sqm and is required for non-residential purposes, it is a wholly new building that does not comprise an extension or change of use. Therefore, it does not meet the exceptions listed within footnote 60 of the Framework and a sequential test is required. In the absence of such, it cannot be safely concluded that there are no other sites for the proposed development which are at lower risk of flooding.
7. Notwithstanding the sequential test requirement, the appellant contends that the building is linked to the operational requirements of the site and cannot be located elsewhere in a lower risk flood zone. However, the flood map at Fig 4 within the Supporting Statement shows land within the appellants ownership, edged blue, in flood zone 1. Consequently, there is little substantive evidence to demonstrate that the same proposal cannot be delivered on land with a lower probability of flooding.
8. The PPG is clear and advises that even where a flood risk assessment shows the development can be made safe throughout its lifetime without increasing risk elsewhere, the sequential test still needs to be satisfied¹. Therefore, a condition requiring a flood evacuation plan for the building would not negate the need for a sequential test.
9. For these reasons, I conclude that the proposed development is not in a suitable location having regard to flood risk, contrary to CS Policy DM12 and the requirements of the Framework, as set out above.

Whether the development is necessary for agricultural purposes, and its effect on the character and appearance of the area

10. The appeal site lies within the countryside, to the rear of properties that front Gringley Road. The Landscape Character Assessment – Bassetlaw, Nottinghamshire August 2009 identifies the appeal site within the Idle Lowlands Landscape Character Area, specifically Idle Lowlands Policy Zone 1. The area has a strong, open character of predominately flat topography and arable farmland, divided mostly by drainage ditches, with some hedgerows. The appeal site contributes to the character of the area, as a result of its flat topography, relatively open landscape and boundary hedgerows.
11. CS Policy DM3 applies to general development in the countryside and seeks to support, among other things, appropriate rural economic development proposals. Development for new agricultural buildings will be supported, among other things, where they can demonstrate that the building is necessary for agriculture in the specific location proposed.
12. Notwithstanding the appellant's suggestion that this policy is not consistent or substantially the same as the Framework, it is, nevertheless, broadly consistent with the overarching sustainability aims of the Framework, in particular paragraph 84, which seeks to enable the development and diversification of agricultural businesses.

¹ PPG Paragraph: 023 Reference ID: 7-023-20220825

13. The appeal site is a registered agricultural holding of just under 5 hectares, which has an agricultural holding number, ref 32/174/0024, and is currently used for cattle grazing and silage cutting. The Council's delegated report noted cattle were grazing on the appeal site during their visit. The Town and Country Planning Act 1990 includes the use of land as grazing land within the definition of agriculture.
14. At the time of the planning application, there appeared to be some ambiguity in respect of the use of the appeal site. However, the appellant has confirmed the reference to growing maize for testing and research is a future aspiration.
15. The proposed development is required to store equipment associated with the agricultural use of the site. The Supporting Statement, submitted with the planning application, listed the equipment. It includes a Massey Ferguson Tractor, Four Blade Plough, Flail Mower and Rotary Cultivator. Moreover, the development applied for, as included on the planning application form, is described as an agricultural storage unit.
16. Consequently, based on the evidence submitted, the scale of the development proposed and the balance of probabilities, the appeal site is in agricultural use and the proposed development is necessary for agricultural purposes, in connection with the land in which it is to be sited.
17. Although sited away from the site access, polytunnel and No 24B, the proposed development would be located adjacent to the north easterly field boundary, close to a cluster of trees and properties that front Gringley Road. Its position within the appeal site would maintain the open character of the wider area.
18. The field boundary is substantial, comprising trees and other vegetation and, together with the adjacent cluster of trees, it would partially screen the proposed development. There would be limited views of the proposed development from the rear of the properties fronting Gringley Road, as a result of its siting and orientation of the properties. Furthermore, there would only be limited views of the proposed development from Gringley Road, as a result of its siting and the screening provided by the properties, trees and vegetation.
19. Views of the proposed development from the footpath located broadly to the south west of the site, would largely be against and alongside the back drop of the properties fronting Gringley Road, the field boundary and cluster of trees. Having regard to the low-lying topography of the site, surrounding vegetation and field boundaries, wider views would be limited.
20. Consequently, having regard to its intended use and the amount of land which it would be associated with, the proposed development, which is necessary for agricultural purposes, would conserve the existing field boundary and the open landscape of the appeal site and wider area. As such, it would not harm the character and appearance of the area.
21. A suitably worded condition could control the colour and finish of the external cladding, in order to ensure the materials and finishes would be visually appropriate and respect the character and appearance of the area.
22. For these reasons, the proposed development is necessary for agricultural purposes in the specific location proposed and would not harm the character and appearance of the area, in accordance with CS Policy DM3. It would also accord with CS Policies DM4 and DM9 and Policy 1 of the Misterton

Neighbourhood Plan 2018-2035 Referendum Version August 2019. Collectively, these seek, among other things, that development respects its wider surroundings and landscape character, the scale, design and form of the proposal is appropriate for its location and setting, is sensitive to its landscape setting and does not adversely affect the character and appearance of that part of the village in which it is located. It would also accord with the Framework, which seeks, among other things, to enable the development and diversification of agricultural businesses and ensure developments are sympathetic to local character.

Other matter

23. The appellant contends the appeal proposal is required to maintain an economically viable agricultural holding. However, there is limited substantive evidence relating to the extent to which the holding would rely upon the development, as proposed, for its viability. This benefit therefore carries limited weight in favour of the scheme.

Conclusion

24. For the above reasons, I conclude that, while the proposal is necessary for agricultural purposes in the specific location proposed and would not harm the character and appearance of the area, the harm I have identified in respect of flood risk is determinative and outweighs the benefit referred to above. Therefore, the appeal proposal would conflict with the development plan as a whole. There are no material considerations that indicate I should conclude other than in accordance with it. Consequently, the appeal is dismissed.

S Pearce

INSPECTOR