The Planning Inspectorate

Appeal Decision

Site visit made on 20 November 2012

by E A Simpson JP BA(Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10 December 2012

Appeal Ref: APP/K2420/A/12/2178944
land at Valley Fields Occupation Lane, off Markfield Lane, Thornton, Coalville, Leicestershire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Mrs Margaret Ashby against the decision of Hinckley & Bosworth Borough Council.
- The application Ref 11/00755/FUL, dated 30/07/2011, was approved on 15/12/2011 and planning permission was granted subject to conditions.
- The development permitted is change of use of land from agricultural to mixed agricultural and equestrian land and retention and erection of associated buildings (part retrospective).
- The conditions in dispute are Nos.4, 6 and 7 which state that: 4) within 3 months of the date of the decision notice, the stables, storage building and field shelters illustrated on plan numbers 40 and 50 received by the Local Planning Authority on the 16/09/2011 shall be removed; 6) no buildings or structures, including any temporary buildings or structures, other than those approved by this consent, shall be erected within the application site as shown edged red on plan no.P60; and 7) the development hereby permitted shall only be used for personal use and shall not be used in connection with a riding school/livery yard or any other business or commercial use.
- The reasons given for the conditions are: 4) in the interests of the visual amenity and to protect the character of the countryside, in accordance with Policy NE5 of the adopted Hinckley and Bosworth Local Plan; 6) to reduce proliferation of development on the rural landscape in the interests of the visual amenity and character of the countryside, in accordance with Policy NE5 of the adopted Hinckley and Bosworth Local Plan; and 7) to ensure that the use of the site is not to the detriment of highway safety and the requirements of Policies NE5 and T5 of the adopted Hinckley and Bosworth Local Plan.

Decision

1. The appeal is allowed and the planning permission Ref.11/00755/FUL for change of use of land from agricultural to mixed agricultural and equestrian land and retention and erection of associated buildings (part retrospective) on land at Valley Fields Occupation Lane, off Markfield Lane, Thornton, Coalville, Leicestershire granted on 15/12/2011 by Hinckley & Bosworth Borough Council is varied by deleting conditions nos.4, 6 and 7 and substituting for them the following conditions:

   4) Within 3 months of the date of this decision letter, the 2 Shetland pony mobile shelters and 2 horse mobile shelters shown on plan 40 shall be relocated in accordance with the proposed re-siting of these structures shown on plan 60. The mobile goat shelters shown on plan 40 received by the Local Planning Authority on the 16/09/2011 shall be removed;

6) No buildings or structures, including any temporary buildings or structures, other than those approved by this consent and located in accordance with plan 60, shall be erected within the application site as shown edged red on plan 10.

7) The development hereby permitted shall be for the stabling and grazing of horses and other livestock and shall not be used for the purposes of a riding school/livery yard or any other business or commercial use.

Main Issues

2. The main issues in this case are: a) the impact of the proposals on the visual amenity of the site and surrounding countryside; and, b) the impact on highway safety.

Reasons

Conditions 4 and 6

3. The appeal site lies within a valley where land between the appeal site and Markfield Lane, together with land on the opposite side of Markfield Lane, is used for the keeping and stabling of horses. While some of those fields and their associated stables are quite well screened by hedges, much of the appeal site is open to wider public views and an uncontrolled proliferation of buildings and structures within an area with extensive public access would have a detrimental visual impact contrary to Local Plan Policy NE5 which seeks to protect the countryside for its own sake.

4. The conditions aim to impose a degree of control over the location of the various buildings and other structures on the appeal site and the avoidance of an uncontrolled proliferation of structures is clearly appropriate here. The wording of condition 4 is imprecise in that the intention was not to remove all of the 6 structures shown, but rather to relocate those that required planning permission in the positions as set out on plan 60, together with the additional structures to be permitted. The permitted structures as shown on plan 60 comprise 1 stable and store (plan 70), 1 hay store (plan 80) 2 Shetland pony field shelters (plan 90) and 2 horse shelters (plan 100). These latter 4 shelters are on skids.

5. In addition to these permitted buildings and structures, I saw that there were also two smaller 'goat shelters' on skids located close to the permitted group of buildings. These were not the subject of the approved planning application as the appellant was under the impression that they did not require express permission from the council. The effect of condition 6 would be to prevent the siting of these two smaller structures on the site; structures that will be needed to house goats in the winter and when they are in kid.

6. The appellant clearly has a need for these two smaller shelters for goats, and if located close to the permitted structures as at present their visual impact could not be said to amount to a material harm to the appearance of the countryside. However, that would not be the case if such structures were to be allowed to proliferate across the site. In view of the number of buildings and structures already permitted by this permission it is appropriate that any additional structures on the appeal site should only be permitted following a planning application submitted to, and express permission granted by, the council.

7. Notwithstanding that conclusion, condition 6 is clearly defective in that it makes reference to a red line on plan P60 when that plan neither shows the total extent of the appeal site nor contains any red line, and that has subsequently been acknowledged on behalf of the council. Condition 6 should be reworded to include reference to plan 10, which shows the whole appeal site edged in red, as well as plan 60 which shows the positioning of the approved buildings and structures as set out in paragraph 4 above.

8. It is not possible, by way of this appeal, to grant planning permission for the 2 additional goat shelters as sought by the appellant. Condition 4 needs to be reworded to refer to the re-siting of the Shetland pony shelters and mobile horse shelters shown on plan 40 in accordance with plan 60, and the removal of the two goat shelters. Reference to plan 50 should be deleted as it relates to a previous proposal not granted planning permission.

Condition 7

9. The junction of the Valley Fields Occupation Lane with Markfield Lane is substandard firstly in terms of width, which is insufficient for two vehicles to pass, and secondly, in terms of visibility in a north-easterly direction for the drivers of emerging vehicles. In addition, traffic approaching from the north-east is travelling downhill, thus increasing normal stopping distance requirements on a length of road subject only to the national 60 mph speed limit.

10. No improvements to this access were proposed as part of this planning application and a condition restricting commercial activities, which could otherwise result in an increase in the volume of traffic attracted to this site and therefore vehicular use of this substandard junction, is justified on the grounds of highway safety.

11. For the appellant, concern was raised that as the animals were used for a business purposes that took place off-site i.e. the animals were housed on the site but taken off-site to shows and other activities, that this condition would prevent that existing activity. While it is not the appellant's intention to operate a commercial activity from the site, a future owner may wish to do so and that possibility needs to be addressed. However, condition 7 could be reworded to ensure that the use of the site is appropriately controlled without preventing the animals on the site being taken by the appellant to shows and other events.

Conclusion

12. The planning permission as originally granted by the council was subject to 8 conditions. Other than those the subject of this appeal, it was not alleged by the appellant or the council that any of those uncontested conditions failed the 6 tests set out in the guidance at paragraph 14 to Circular 11/95.

13. For the reasons given above I conclude that the appeal should succeed. I will vary the planning permission by deleting the disputed conditions and substituting others.

E A Simpson

Inspector