The Planning Inspectorate

Appeal Decision

Hearing held on 22 March 2012
Site visit made on 22 March 2012

by John Woolcock BNatRes(Hons) MURP DipLaw MPIA MRTPI

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

Decision date: 15 May 2012

Appeal Ref: APP/K2420/A/11/2166992
Heath Lane, Bagworth LE67 1DN

- 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 D Price against the decision of Hinckley & Bosworth Borough Council.
- The application No.11/00635/FUL, dated 1 August 2011, was refused by notice dated 13 October 2011.
- The development proposed is an agricultural building.

Decision

1. I dismiss the appeal.

Preliminary matters

2. The address for the appeal site given on the application form is as shown in the above bullet point. However, the Council's decision notice correctly refers to the appeal site as land east of Heath Road. The postcode is the nearest identified by the parties.

3. The *National Planning Policy Framework* (hereinafter the *Framework*) was published after the close of the Hearing and so the parties were given the opportunity to comment in writing. I have taken these representations into account in determining the appeal. The parties agree that saved Policies BE1, NE12 and T5 of the adopted Hinckley & Bosworth Local Plan 2001 (LP) are broadly in conformity with the objectives and principles of the Framework and should be given weight accordingly. The criteria in saved LP Policy NE5 can only be given limited weight because the policy provides for development in the countryside for only three categories of development, and so is at odds with the *Framework's* presumption in favour of sustainable development. The appellant's written submission refers to LP Policy BE21 concerning new agricultural buildings, but this has not been saved.

Main issues

4. The main issues in this appeal are the effects of the proposed development on:

   (a) Highway safety.

   (b) The character and appearance of the area, having regard to relevant policy on development in the countryside.

Reasons

Highway safety

5. The proposed building would replace existing pole barns, one of which is derelict. It would be a more useful building that would provide for more intensive use of the appeal property. Such a use would have the potential to generate significantly more vehicular trips than the current use of the appeal premises. The appeal scheme includes a parking area located off the more north-western of the two accesses to the property off Heath Road. The application drawing indicates that this access would be bounded by a new post and rail fence with a hedge.

6. It was evident from my site visit that the visibility at this north-western access is restricted by roadside vegetation. Current visibility falls well below the Council's standard.[1] The appeal scheme would result in a significant increase in the risk to road user because of the additional number of vehicles likely to use this substandard access. I consider that this would have an unacceptable adverse effect on highway safety. I note that the accident record includes accidents along this part of Heath Road, but not at either of the accesses to the appeal property. However, this is not a consideration which would justify increased use of a substandard access.

7. The appellant considers that this objection could be overcome by the imposition of an appropriate planning condition, either with respect to the access shown on the application drawing, or concerning the use of the other south-eastern access. The appellant acknowledges that the former would be likely to involve third party land. There is nothing before me to indicate that there is a reasonable prospect that a suitable visibility splay to the north-west could be achieved given the different land ownership. Furthermore, there is nothing to indicate how much of the road side vegetation would need to be removed to provide appropriate visibility splays. I am unable to assess the resultant likely impact on the character and appearance of the area. In the circumstances, I do not consider that it would reasonable to impose such a condition.

8. At the Hearing the appellant suggested that a condition could be imposed to require use of the south-eastern access, which is located more centrally along the field boundary with Heath Road. I accept that it might be more feasible to provide appropriate visibility splays here, but again it is not clear what vegetation might need to be removed to do so. More fundamentally, I am concerned that use of this access would result in a significantly different scheme to that considered by the Council. I am not satisfied that other parties would not be prejudiced by allowing the appeal subject to such a condition. It seems to me that consideration of such a revised scheme would properly need to be a matter for the Council to consider in the first instance.

9. On the first main issue, I consider that the proposed development would result in an unacceptable increased risk to those using this part of Heath Road. The harm to highway safety could not be overcome by the imposition of reasonable planning conditions. The proposal would conflict with LP Policies T5, BE1(c) and BE1(g) concerning safety.

[1] Document 5.

Character and appearance

10. The existing buildings are set close to the high roadside hedge, which limits their impact on the wider countryside. The proposed building would be set further into the field and would occupy what is currently an open area. It would be a large building, some 17.9 m long, 12.2 m wide, with a roof ridge height of 5.8 m. Woodland to the north of the appeal site would provide some screening, but the proposed building would be apparent from the road and the footpaths located on lower land to the south-east of the appeal property. The footpaths in this vicinity form part of an attractive recreation area. It was suggested by the appellant at the Hearing that additional landscaping would limit views of the proposed building from these vantage points. However, the local topography would make it difficult to screen the building by new planting. In any event, the building would be likely to be visible during the time new planting matured. Notwithstanding that agricultural buildings are a feature of the countryside, I consider that the proposed building would, by reason of its siting and size, erode the openness of this part of the countryside, and so would harm the landscape. This is a matter to be balanced against the benefits of the proposal, which I come to later.

11. On the second main issue, the proposal would harm the character and appearance of the area. There is nothing to indicate that this harm could be overcome by the imposition of landscaping conditions along the lines of that provided for in LP Policy NE12. I find that the proposed development would not accord with the aims of LP Policy BE1(a), which states that planning permission would be granted where the development complements or enhances the character of the surrounding area.

Planning balance

12. I am required to decide this appeal having regard to the development plan, and to make my determination in accordance with it, unless material considerations indicate otherwise. I have found that the proposal would harm highway safety and would conflict with relevant LP Policies concerning safety. The *Framework* states that decisions should take account of whether safe and suitable access to the site can be achieved for all people. The harm and policy conflict arising from the first main issue are sufficient, having regard to the benefits of the proposal outlined below, to justify dismissing the appeal.

13. The proposed new building would also harm the character and appearance of the area and would be at odds with LP Policy BE1(a). The *Framework* identifies an economic, a social and an environmental dimension to sustainable development. The extent to which the proposed building would contribute towards a prosperous rural economy is therefore a consideration to be weighed against the harm I have identified. However, there is limited evidence before me about the existing enterprise. The appellant's registration with the Rural Payments Agency adds little to the information before the Hearing about the enterprise.[2] The statement supporting the application refers to Mr Price's principal source of income being from two main enterprises; beef cattle rearing, and breeding cob horses in partnership with his brother-in-law. The statement refers to land owned at Heath Road (12.5 acres) and Barlestone Road (12 acres), with the majority of the total of 52.4 ha (129.5 acres) referred to rented elsewhere. However, there are no details before me about the tenure of this land, or how the partnership operates.

[2] Document 3.

14. I acknowledge that the proposed building could provide for over-wintering livestock, but the evidence adduced does not provide a convincing case that the likely benefits of the proposal to the enterprise and to the rural economy would be sufficient to outweigh the harm to the rural landscape. My reservations in this regard tip the overall planning balance even further against allowing the appeal.

Conclusions

15. The evidence indicates that the appeal scheme does not represent sustainable development to which the presumption in favour cited in the *Framework* would apply. I have taken into account all other matters raised in evidence, but have found nothing to outweigh the main considerations that lead to my conclusions. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Woolcock
Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Richard Wright	Area Planning Officer.
Cllr Christopher Boothby	Ward Councillor.
Cllr Ozzy O'Shea	Ward Councillor.

FOR THE APPELLANT:

Alec Statham	Agent.
Stephen Clarke	Sansom Clarke.

DOCUMENTS SUBMITTED AT THE HEARING

Document	1	Council's letter of notification of the Hearing and list of persons notified.
Document	2	Record of attendance.
Document	3	Letter from Rural Payments Agency, dated 21 February 2011, to Darren Price confirming registration as a contact for a business.
Document	4	Policy 21 National Forest *Core Strategy*, adopted December 2009.
Document	5	Extract from *The 6Cs Design Guide*, including Table DG4 Visibility Splays.
Document	6	Heath Road Bagworth Accident Record.
Document	7	Schedule of Suggested Conditions Document.

SCHEDULE OF PLANS

Plan	A	Location Plan, scale 1:2500 R3DDL Job Ref:11.28.
Plan	B	OS extract showing access, fence, parking and building footprint.
Plan	C	Ground floor plan and elevations for General Purpose Farm Building, scale 1:100.