



Appeal Decision

Site visit made on 2 November 2020

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2020

Appeal Ref: APP/R4408/W/20/3256233

Land at Thurlstone Road, Penistone S36 9EF

- 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 Lee Hinchliff against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2019/1415, dated 8 November 2019, was refused by notice dated 21 February 2020.
 - The development proposed is loose boxes for agricultural purposes.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether or not the proposal represents an appropriate development in respect of flood risk;
 - The effect of the proposal on green space; and
 - The effect of the proposal on the character and appearance of the area.

Reasons

Flood risk

3. The appeal site is part of a field on the western edge of Penistone, within a larger landholding in the appellant's ownership. The site is entered by a gated track from Thurlstone Road, which drops down slightly to a roughly rectangular plot alongside a barn built under an earlier planning permission (the 2019 permission/barn)¹. The proposal is to erect a block of five loose boxes facing the existing barn, to provide accommodation for livestock.
4. The appeal site is shown on the Environment Agency (EA) flood map for planning as being within Flood Zone 3, an area with a high risk of flooding, and indeed in consultation with the EA the Council considers the site to be within Zone 3B, the functional floodplain. Local and national policy in respect of flooding is set out in Policy CC3 of the 2019 Barnsley Local Plan (the BLP) and Chapter 14 of the National Planning Policy Framework (the Framework).

¹ LPA reference 2018/1198

5. Policy CC3 seeks directing new development away from sites where it would be at an unacceptable risk of flooding from any source, or where it would give rise to flooding elsewhere, and to ensure that only water compatible development or essential infrastructure is located within the functional flood plain. It also indicates that development proposals in Flood Zones 2 and 3 should be accompanied by evidence of the sequential test and, if appropriate, the exception test. This is in line with the requirements of Paragraphs 158 to 163 of the Framework and advice in the Planning Practice Guidance.
6. The appellant accepts that the site is within, or close to, the functional flood plain. A short Flood Risk Assessment accompanied the planning application, although this was a resubmission of that submitted in respect of the earlier application for the barn. Based on the evidence before me, I have no particular reason to dispute the appellant's comments in his appeal statement and in correspondence with the Council that there has been no flooding of the appeal site 'in the last few decades'. Regardless of this however, both the development plan and the Framework are clear that the sequential test should be carried out for development proposals in Flood Zones 2 and 3, and that development should not be permitted if there are reasonably available sites appropriate for the proposed development with a lower probability of flooding.
7. There is no evidence before me that any sequential test has been carried out in respect of the proposed development. I recognise that the area of search for alternative sites may need to be relatively limited for certain agricultural uses than for many other purposes. However, I note in this regard that in correspondence with the Council, before the application was determined, the EA pointed out that there are other areas within the appellant's wider land holding which do not fall within Flood Zone 3B.
8. In the absence of any sequential test information, and evidence that the proposed use can or should be carried out safely in an area at high risk of flooding, I cannot conclude the proposal represents an appropriate development in respect of flood risk. It therefore conflicts with Policy CC3 of the BLP, which seeks to reduce the extent and impact of flooding, and with the requirements of the Framework relating to flood risk.

Green space

9. The appellant has provided a brief history of the use of the site. This indicates that apart from a period between (approximately) 2008, when it fell into disuse, or at least limited use, and 2018 when he began to carry out various improvement works, it has been used for a variety of agricultural purposes including keeping cattle and growing hay for around a century. Nonetheless, it forms part of a green corridor along the River Don between Penistone and Thurlstone and is within an area of land designated as Green Space within the BLP. The appeal site is also included in the Council's Green Space Register because of its amenity value as a neighbourhood green space.
10. The appeal site is private land and there is no suggestion that there are public access rights or that it has been given over to public uses at any point. Policy GS1 of the BLP, which seeks to retain and protect green spaces for the contributions they make to amenity, recreation, wildlife or biodiversity, does not distinguish between public and private land. It does however recognise that there may be certain cases where a loss of green space should be permitted, including for small-scale facilities needed to support or improve the proper

function of the green space. The Council acknowledges that before the 2019 permission was granted the appeal site's last known use was for agricultural purposes. I infer from this, and from the granting of the 2019 permission, that it is of the view that the 'proper use' of the site includes agricultural purposes.

11. The construction of five loose boxes as proposed would inevitably lead to the loss of some of the green space within the site. The Council is of the view that the 2019 barn is of a sufficient size to allow for the storage of machinery, hay and any livestock which may be brought onto the site for grazing, and that therefore there is no need or justification for the proposed loose boxes. At the time of my site visit the open fronted bays of the 2019 barn were basically full, being used for the storage of hay and two farm vehicles. It also contained a substantial number of large bags of logs, which the appellant has stated have come from the clearance of trees within the wider site, and are being stored in the barn temporarily.
12. The appellant has indicated that space which would be freed up by the sale and subsequent removal of the logs will be needed in due course for further hay storage. In any case, based on my observations the large open space within the 2019 barn does not seem well-suited to the more intimate animal care purposes such as welfare, lambing, calving and veterinary use which the proposed loose boxes are intended to accommodate, and therefore in my view there is an adequate justification for the purpose of the development. I do not accept the Council's somewhat circular argument that there is no justification for the building at present as there are no livestock on the land, given that the purpose of the development is specifically to facilitate the keeping of livestock on the land. The proposed structure would provide five loose boxes on a footprint of approximately 19.2m by 8.6m, which does not amount to development on an excessive or unacceptably large scale.
13. Taking all of these points together, I consider that the development would be a small-scale facility needed to support or improve the proper function of the site, which in this case includes the keeping of livestock. I conclude that it would have an acceptable effect on the green space, and would therefore comply with Policy GS1 of the BLP which seeks to prevent the loss of green space other than in certain specific circumstances.

Character and appearance

14. The proposed building would be obscured by the 2019 barn from the parts of Thurlstone Road closest to the appeal site entrance. It would however be visible in longer public and private views from further west towards Penistone Leisure Centre, and across the open field to the east (used for caravan storage) from the area around the bus stop close to Talbot Road. However, in these views it would be seen alongside the 2019 barn. The use of blockwork walls, steel panel roof and Yorkshire boarding cladding would give it a suitably agricultural appearance, and in its general design it would broadly complement the nearby 2019 barn. Precise details of finishes, colours etc. were not included in the planning application or appeal statement, but these are matters which could be addressed by the imposition of an appropriate condition had the proposal been acceptable in all other respects.
15. I conclude that the development would have an acceptable effect on the character and appearance of the area. It would therefore comply with Policy D1 of the BLP, which among other things seeks to ensure that development

respects local character and expresses its use through appropriate composition, scale, form, proportions and arrangement of materials, colours and details.

Other Matters

16. I note the Council's comment that 'the plans show a stable style structure which appears to be designed for horses'. I have not been provided with any guidance as to what loose boxes which would be suitable for accommodating both cattle and sheep but excluding horses might look like, although I have already found that the appearance of the proposed block would be acceptable. It is not stated explicitly, but it could be inferred from their comment that the Council is in fact concerned that the proposal is intended for a purpose other than that which has been stated. However, there is no substantive evidence for this, and the appellant has stated that he does not own or use any horses. In any event, use of the land for equestrian purposes beyond turning horses out for grazing would be likely to be a material change of use of the site requiring planning permission. This point does not therefore weigh against the current proposal.
17. Finally, the appellant has suggested that the use of the site as an agricultural holding would benefit the economy of the borough. This point is not central to the disputed matters in this appeal, and I have not been provided with any evidence of the extent to which it might do so. However, based on the relatively small size of the holding as a whole and the numbers of livestock which could therefore be accommodated, it seems unlikely that it could make anything other than a very small contribution to the local economy. Any wider economic benefits which may arise from the scheme would therefore carry only very limited weight in support of the proposal, and would not outweigh the other harm which I have found.

Planning Balance and Conclusion

18. The proposal would not result in a harmful loss of green space, and would be acceptable in terms of its effect on the character and appearance of the area. A lack of harm in these respects is a neutral factor which does not weigh in the scheme's favour. Any economic benefits arising from the scheme would be modest, and would carry very limited weight in favour of the proposal.
19. However, the appeal site is in the functional flood plain, an area with a high risk of flooding, and there is no evidence before me to justify permitting the development to go ahead in such a location. This is a matter which carries considerable weight against the scheme.
20. The proposal therefore fails to comply with the development plan as a whole. For this reason, the appeal is dismissed.

M Cryan

Inspector