



## Appeal Decision

Site visit made on 10 June 2019

by **Gary Deane BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 July 2019

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**Appeal Ref: APP/B3030/W/19/3225450**

**Moor Farm, The Annexe, Moor Lane, Thorney NG23 7DG**

- 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 and Mrs Willows against the decision of Newark and Sherwood District Council.
  - The application Ref 18/01694/FUL, dated 5 September 2018, was refused by notice dated 28 November 2018.
  - The development proposed is the erection of a replacement dwelling.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a replacement dwelling at Moor Farm, The Annexe, Moor Lane, Thorney NG23 7DG in accordance with the terms of the application Ref 18/01694/FUL, dated 5 September 2018, subject to the conditions set out in the schedule to this decision.

### Procedural matters

2. Notwithstanding the site's address given in the above heading and my decision, which is taken from the application form lodged with the Council, most of the evidence refers to the appeal property as Moor Farm Cottage. For consistency, I, too, shall refer to it as Moor Farm Cottage.
3. Since the Council's decision, planning policy has been updated at both the national and local levels. In February 2019, the Government published an updated revised National Planning Policy Framework (the Framework) and in March 2019 the Council adopted its Amended Core Strategy (ACS). The ACS has replaced the policies of the Newark and Sherwood Local Development Framework Core Strategy, which are identified in the reasons for refusal. The main parties have had the opportunity to address both the Framework and the ACS through the appeal process.

### Main issue

4. The main issue is the effect of the proposed development on the character and appearance of the local area with particular regard to the significance of the appeal property as a non-designated heritage asset and the size and scale of the replacement dwelling.

## Reasons

### *Character and appearance: non-designated heritage asset*

5. Moor Farm Cottage is a detached 2-storey house that stands towards one corner of the site, which has an established landscape setting within the countryside. Consequently, there is a spacious feel and a verdant quality to the site, which positively contributes to the rural character of the local area.
6. Although not listed, Moor Farm Cottage has a distinctive pattern of brickwork in its northeast elevation where the headers and stretchers are alternated, which is called Flemish bond. It is a historical and architectural cue to the original building as a pair of modest farm workers cottages that date from the 1800's. As the northeast elevation of Moor Farm Cottage faces the road, it is a noticeable feature of the building in the local street scene. While the Council has referred to several other aspects of the existing building and its ties with the local area in their appeal evidence, my view is that Moor Farm Cottage has some value of local interest due to its Flemish bond brickwork. Therefore, it should be regarded as a non-designated heritage asset (NDHA). In weighing applications that affect NDHAs, the Framework states that a balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset. AMS Core Policy 14 echoes this approach.
7. While the Flemish bond brickwork provides some historical and architectural interest, parts of the northeast elevation have been repointed, which subdues the extent to which this feature it can be experienced and appreciated. In addition, the building itself, which appears to be typical example of its type, has been heavily modified through various alterations and extensions, not all of which have respected its character and appearance. These changes diminish the significance of the Flemish bond brickwork, which cannot reasonably be described a particularly fine example, and the existing building as a NDHA given that its original form, features and appearance appear to have been significantly altered. Consequently, I attach no more than modest significance to Moor Farm Cottage as a heritage asset.
8. Nevertheless, the Framework notes that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. In that context, the loss of the existing building, as proposed, would run counter to this part of national policy. The appeal scheme would also be at odds with the expectation in Policy DM9 of the Council's Allocations and Development Management Development Plan Document (DPD) that all development proposals affecting heritage assets should secure their continued protection or enhancement.
9. According to the appellants, the property has recently flooded and several attempts to resolve problems of damp have not proved successful. I saw ample evidence of damp and smelt its presence in a number of ground floor rooms. That problems associated with water ingress within the property provide unsatisfactory living conditions for the appellants and would deter prospective tenants is not in any doubt. I am advised that the property has been left unoccupied for the last 12 months due to these problems. If that situation continues, it is possible if not likely that Moor Farm Cottage would remain empty with an increased risk that it would fall into disrepair.

10. The Council is critical of the appellants in failing to clearly show that the building could not be made more habitable in ways other than by standard damp proof treatment that has been carried out or that any remedial works would be prohibitively expensive. As a general point, I agree that prevention and treatment of damp can often be addressed in a number of ways and that a suitable investigation with appropriate expertise is a good starting point. In my experience, a structural survey and detailed costs estimates sometimes accompany a proposal to justify the loss of a building. However, the site is within Flood Zone 3, which has the highest risk of flooding. The existing building also occupies a relatively low ground level. In those circumstances, I can understand the appellants' reluctance to incur further expense, which could be very significant, given that the problems associated with water ingress appear to relate primarily to the position of the building rather than to detailed design considerations.
11. To briefly recap, Moor Farm Cottage should be regarded as a NDHA due to its Flemish bond brickwork although its significance as a heritage asset is modest given the repointing, alterations and extensions that have taken place. These considerations diminish the weight to be attached to the building's loss. The condition of the building and its suitability for use as a dwelling is also affected by water ingress that appears to derive principally from its relatively low level position within a high flood risk area. Nevertheless, the building remains worthy of retention unless there is an acceptable replacement scheme in place.

*Character and appearance: size and scale of the replacement dwelling*

12. DPD Policy DM8 deals with development in the open countryside. It notes that to minimise the visual impact on the countryside and maintain a balanced rural housing stock, replacement dwellings should normally be of a similar size, scale and siting to that being replaced. The inclusion of the word 'normally' indicates that at least some flexibility can be applied to reflect local circumstances.
13. Compared to the existing dwelling, the replacement building would be more substantial in built form with a larger floor area and footprint. It would not be similar in size and scale to its existing counterpart to which DPD Policy DM8 refers. However, with a relatively low eaves level, varied ridgeline and the first floor accommodation set into the roof space, the new dwelling would keep a relatively low profile and have a modest presence within the site. Although the siting of the new dwelling would also differ to the existing building, its position set back into the main body of the plot and behind established vegetation would minimise its visual impact within the countryside.
14. The replacement building would not look disproportionately large or out of place among the highly varied built form in the local area. It would stand comfortably within a good-sized plot and provide a high quality home with ample space for gardens and parking. While the finished dwelling would be sizeable, it would also be compact in layout thus avoiding any strong sense of sprawl. With the opportunity for further landscaping within the site, the spacious and verdant qualities of the local area and its rural character would be maintained. Since the proposal would be compatible in its context and provide a high quality new home, it would not conflict with the main purposes of DPD Policy DM8, which relate to the visual impact of the replacement dwelling and its effect on the rural housing stock.

### *Other considerations*

15. In contrast to the existing dwelling, the proposed replacement would be located and designed to be both flood resistant and flood resilient. The finished floor level of the new addition would be some 0.63m ODN above the ground level of the existing building with the electrics placed at a high level. These and other measures to reduce flood risk and its effects are set out in the appellants' Flood Risk Assessment. Providing a high quality home in a landscaped setting that takes into account ground levels and its position within an area of high flood risk weigh significantly in favour of the appeal scheme.
16. The new dwelling would be occupied by the appellants, which would allow them to stay close to and support other members of their family and to assist with the family run business nearby. Closure of the existing access off Clifton Lane would also bring about improvements to highway safety. While these benefits and those associated with additional planting could equally apply if Moor Farm Cottage were to be retained and occupied, that prospect seems limited given the circumstances laid out in the evidence before me.

### *Conclusion on the main issue*

17. Overall, the benefits of the proposal are considerable and the case to replace Moor Farm Cottage, as proposed, is both strong and persuasive. Given the modest significance of the existing building as a heritage asset, the benefits associated with the proposal clearly outweigh the harm caused by the loss of a NDHA. On the main issue, I therefore conclude that the proposed development as a whole - demolition and replacement - would be in keeping with the character and appearance of the local area. As such there is no material conflict with AMS Core Policy 14, DPD Policies DM5, DM8 and DM9 or the Framework. These policies generally aim to safeguard heritage assets, protect the countryside and seek to resist uncharacteristic forms of development.
18. In reaching this conclusion, I have taken into account the examples of replacement dwellings at Swinderby Road, South Scarle and Brown Wood Lane, Thorney to which reference is made. I have, however, assessed the proposal on its own merits and find it to be acceptable for the reasons given.

### **Conditions**

19. I have considered the Council's suggested conditions in the light of national policy and guidance and taken into account the appellants' response to and their approval of the pre-commencement conditions.
20. In addition to the standard time limit condition, it is necessary to impose a condition that requires the development to be carried out in accordance with the approved plan for certainty. To ensure the satisfactory appearance of the development, conditions are imposed requiring details of external materials, boundary treatment, earthworks and landscaping.
21. A condition is imposed to require the demolition and removal of the existing dwelling before works start in relation to its proposed replacement. This arrangement reflects the development sought and avoids the potential of both dwellings remaining on the site, which would be contrary to countryside protection policies. A condition is also attached to require a survey of the existing building prior to work starting to record any information for the purpose of historical understanding.

22. In the interests of highway safety and to ensure the structural integrity of the highway, further information is required in relation to the closure of the existing access off Clifton Lane and with regard to the materials and specification of the access to serve the new dwelling. To minimise the effect of flooding on future occupiers, the measures outlined in the appellant's Flood Risk Assessment should be implemented. A condition to this effect is therefore imposed. Details of surface and foul water disposal are also required to ensure that the site is properly drained, which is covered by a condition.
23. The Planning Practice Guidance states that conditions restricting the future use of permitted development (PD) rights will rarely pass the test of necessity and should only be used in exceptional circumstances. Such circumstances apply in this instance because some changes to the replacement dwelling or the introduction of outbuildings within the site might affect the character and qualities of the local area. To safeguard these interests, PD rights do not include extensions, roof alterations or garden buildings. A condition to this effect is therefore imposed.
24. Where necessary, I have amended the Council's suggested conditions for clarity and to more closely reflect national policy.

**Conclusion**

25. For the reasons set out above, I conclude that the appeal should be allowed.

*Gary Deane*

INSPECTOR

**Appeal Ref: APP/B3030/W/19/3225450**  
**Moor Farm, The Annexe, Moor Lane, Thorney NG23 7DG**

**Schedule of conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: Ref F2867-A1-01A.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until there has been submitted to and approved in writing by the local planning authority, a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the dwelling hereby approved is occupied. Development shall be carried out in accordance with the approved details.
- 5) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. Where appropriate, these details shall include: vehicle parking layout; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, refuse storage units, signs, lighting); retained landscape features and proposals for restoration, where relevant; renewable energy installations, where relevant; water features, where relevant; and an implementation programme. Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers and densities where appropriate; and an implementation programme.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the completion of the development hereby permitted or in accordance with the programme of implementation previously agreed in writing by the local planning authority. All new tree plantings shall be positioned in accordance with the requirements of British Standard BS5837: 2012, *Trees in Relation to Construction: Recommendations*. Any trees, shrubs, hedges or plants which within a period of 5-years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 7) No demolition or development shall take place until details of a programme of historic building recording has been submitted to and approved in writing by the local planning authority. The recording shall thereafter be carried out in accordance with the approved details.



- 8) No development shall take place until details of any earthworks have been submitted to and approved in writing by the local planning authority. These details shall include: the existing and proposed finished levels or contours to be formed, showing the relationship of proposed mounding to existing vegetation and surrounding landform; and the proposed and existing functional services below ground (eg drainage, power, communications cables, pipelines indicating lines, manholes and supports). Development shall be carried out in accordance with the approved details.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out within Classes A, B or E of Part 1 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order), without the prior approval of the local planning authority.
- 10) No development shall take place in respect of the replacement dwelling hereby approved until the existing dwelling has been demolished and all materials removed from site.
- 11) Before the access to serve the development hereby permitted is used by any vehicle, that part of the access extending from the highway boundary for a minimum distance of 5 metres into the site shall be surfaced in accordance with a scheme that has been previously submitted to and approved in writing by the local planning authority.
- 12) The dwelling hereby permitted shall not be occupied until a vehicular crossing of the highway verge on Top Road is available for use and constructed in accordance with a specification that has been previously submitted to and approved in writing by the local planning authority.
- 13) No development shall take place until a scheme to close the existing access to the site off Clifton Lane has been submitted to and approved in writing by the local planning authority. That access shall be closed in accordance with the approved details.
- 14) No development shall take place until a scheme for the disposal of foul water and surface water from the site, which includes details of sustainable drainage measures and a programme for implementation has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented in accordance with the approved details and programme.
- 15) The development hereby permitted shall be carried out in accordance with the recommendations set out on pages 13 and 14 of the Flood Risk Assessment prepared by RM Associates dated October 2018, Version 1. The approved measures shall be completed before the dwelling hereby approved is occupied.