

**LAND AT JUNCTION OF
NEWARK ROAD AND COXMOOR ROAD,
SUTTON IN ASHFIELD**

**AGRICULTURAL EVIDENCE
ON BEHALF OF
THE APPELLANT
BY**

TONY KERNON BSc (Hons) MRICS FBIAC

LPA Ref: V/2022/0629

PINS Ref: APP/W3005/W/24/3350529

VOLUME 3: SUMMARY

December 2024





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Volume 3: Summary

S SUMMARY

The Witness

S1 This evidence has been prepared by Tony Kernon.

The Council's Decision

S2 The Council's putative Reason for Refusal No 2 is that **"the loss of best and most versatile agricultural land [is] contrary to paragraph 180 of the NPPF"**. (Paragraph 180 is now paragraph 187 in the NPPF (December 2024)).

S3 The Statement of Case expands on this, identifying that planning decisions are required to take account of the economic and other benefits of BMV land, and that the loss conflicts with the NPPF. It is accepted by the Council that the loss of some BMV may be inevitable in allocating land for housing.

Land Quality Affected

S4 The Council's Statement of Case identifies that 20.7 ha of BMV will be lost. That is not correct. The quantum of BMV land within the Appeal Site is 19.2 ha, as confirmed in the ALC submitted with the application.

S5 The land quality of most of the Appeal Site is Subgrade 3a "good" quality, with some poorer quality 3b land, and some non-agricultural land.

Relevant Considerations

S6 The Council's decision notes that the decision taker must recognise the economic and other benefits of BMV land. The Council does not set out any evidence on this matter, nor does it ascribe any weight to the benefits, or ascribe any weight to the harm.

S7 As a preliminary comment it is clear that land quality was recognised. The Appellants provided an ALC report as part of the application. Paragraph 187 of the NPPF does not place a bar on the use of BMV, it requires only that the benefits be recognised. They were. To that extent, therefore, there was no conflict with the NPPF paragraph 187.

S8 That notwithstanding, I have endeavoured to quantify these economic and other benefits. They are minor. The economic benefit of the Appeal Site, should the land be capable of yielding at "high" performance, would be about £4,000 - £4,400 per annum compared to developing on poorer quality land instead. The other benefits, measured in terms of food

production, would be about 23 tonnes per annum of cereals. The UK produces over 20 million tonnes per annum of cereals.

- S9 The Appeal site is suitable only for cereal crops and combinable arable break crops, or agri-environmental management. It is used for such purposes. The land will have a minor impact on the two farms involved (1% and <5%).
- S10 The Council's decision rests solely on the NPPF paragraph 187. The impact on the economic and other benefits of BMV land are not quantified and will need to be weighed in the balance with the economic and other benefits recognised by the Council in the Statement of Case. This will then be a matter of planning balance.
- S11 The Reason for Refusal does not go on to suggest that poorer quality land is available could be used in preference, although the likelihood that this will not be available is acknowledged in the Statement of Case. My analysis of historic decisions and emerging allocations shows that:
- generally land of poorer quality is not likely to be available;
 - the Council has not been giving significant weight (or any weight) to the loss of BMV in historic decisions;
 - the Council does not appear to be giving weight to the potential loss of BMV land in its proposed allocations;
 - the Council is allocating sites that are shown as Grade 2, and therefore land quality is outweighed by other factors.
- S12 From my analysis and research, the use of land potentially of BMV quality will be inevitable should development take place to the north, east or south of the settlement of Sutton and inevitable to meet the emerging plan development needs. The evidence indicates that the land quality of the Appeal Site is likely to be some of the poorest available.
- S13 The actual impacts, in terms of economic and other benefits, of using this land for non-agricultural development, are minor.

Conclusion

- S14 Land quality is not a matter to which the Council appears to give much, or any, weight in its historic decisions or future proposals.

- S15 In so far as the economic or other benefits of the BMV land within the Appeal Site are concerned, these are limited. They are insignificant in a national or regional context. In a local context the adverse economic effect of circa £4,000 - £4,400 per annum will need to be weighed against the economic benefits, but such small impacts seem unlikely to warrant much or any weight in the planning balance.
- S16 The Council recognises, in its Statement of Case, that development of BMVAL may be inevitable in allocating land for non-agricultural development within the Borough. My analysis of the land quality of the land around the settlement concludes that the use of BMVAL seems inevitable, and therefore I agree with the Council.
- S17 Having agreed that the use of BMVAL is inevitable, research indicates that the Appeal Site is some of the poorest quality available. Sub-grade 3a, which covers most of the Site, is the lowest grade within the BMV definition.
- S18 In practice the Council has accepted the loss of BMVAL in development management decisions, and has not given that loss much or any weight, so far as we can ascertain. The same is true for the proposed allocations, including land on the provisional maps shown as Grade 2, where land quality has not been a consideration given much or any weight in site selection so far as we can ascertain.
- S19 In these circumstances the weight to be accorded to the use of BMV land on this site should be limited.



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