
Appeal Decision

Site visit made on 14 February 2017

by Susan Heywood BSc(Hons) MCD MRTPI

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

Decision date: 11 April 2017

Appeal Ref: APP/P1805/W/16/3164585

Rose Cottage Farm, Seafeld Lane, Portway, Worcestershire B48 7HN

- 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 Avaro (Midlands) Ltd against the decision of Bromsgrove District Council.
 - The application Ref 16/0115, dated 9 February 2016, was refused by notice dated 8 June 2016.
 - The development proposed is change of use of poultry sheds into storage use (Class B8).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since refusal of the planning application the Council have adopted the Bromsgrove District Plan (BDP) 2011-2030 (adopted January 2017). Policies referred to in the reason for refusal have therefore been replaced by policies in that plan.
3. I note concerns expressed regarding the Council's notification of the appeal. There seems to have been a delay in the Council notifying interested parties of the appeal with the result that those parties were only given a period of two weeks in which to make representations. However, I have received a number of responses to this notification letter and I have taken these into account in the determination of this appeal. No responses were received after the deadline for submission of the representations. I have also taken into account all those representations received by the Council in their determination of the application. As the appeal is dismissed, I am satisfied that there is no prejudice to any party from the apparent procedural irregularity regarding notification of the appeal.

Main Issues

4. The appeal site lies within the Green Belt. The main issues in this case are therefore as follows:
 - i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and relevant Development Plan policies;
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- ii) the effect of the development on the living conditions of occupiers of existing and proposed properties nearby;
- iii) whether the location of the development would be in accordance with local and national policy aimed at directing development to the most sustainable locations;
- iv) if the proposal is inappropriate development, whether the harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal would be inappropriate development

5. Policy BDP4.4 sets out that new buildings in the Green Belt will be considered inappropriate except in a number of circumstances. These reflect, albeit with some differences, Government policy set out at paragraph 89 of the Framework. However, the proposed development concerns the re-use of four existing former poultry sheds. Paragraph 8.33 of the BDP states that the Council intend to use the policy at paragraph 90 of the Framework. Paragraph 90 states that the re-use of buildings is not inappropriate development provided that the buildings are of permanent and substantial construction and that the development preserves the openness of the Green Belt and does not conflict with the purposes of including land in Green Belt.
6. The buildings are constructed of concrete block walling to the ground floor with a timber frame and cladding above. Two structural surveys have been submitted, the first with the application and an updated survey accompanying the appeal. Although the buildings have a number of defects, both surveys and the assessment by the Council's Building Control officer confirm that the buildings have no significant structural problems. I am therefore satisfied that the buildings are of permanent and substantial construction in themselves. I address the matter of suitability of the buildings for the proposed use later in this decision.
7. The proposal would include the creation of a large turning area on an existing grassed area adjoining the southern end of building 1 and the creation of two parking spaces per unit on the existing grassed areas within the site. Whilst the additional hard surfacing would not in itself harm openness, as the land would remain open and unbuilt upon, the use of these areas by vehicles would result in harm to openness, albeit intermittently when vehicles are using the hard surfaced areas. I accept the appellant's argument that the extent of the loss of openness would be limited. However, any such impacts preclude the consideration of the proposals under the exceptions in paragraph 90 of the Framework.
8. I acknowledge that the previous use may have harmed openness through the use of the hard surfacing areas and outdoor storage. Nevertheless, that use is no longer in operation and I address the weight to be given to the fall-back of a re-use for a poultry business below.
9. I note that the appellant suggests that I should consider a previous plan, originally submitted to the Council, which involved the use of only the existing hard surfacing areas for parking and circulation. However, this proposal

resulted in objections from the Council's Highway Engineers. To adopt this plan in the appeal would prejudice the Council and any other parties who may have wished to comment on the proposals shown on that previous plan. I have therefore considered the appeal on the basis of the amended plan considered by the Council.

10. As the proposal would harm the openness of the Green Belt it does not fall to be considered under the exception in paragraph 90 of the Framework relating to the re-use of buildings. It would therefore constitute inappropriate development which is, by definition, harmful to the Green Belt. In line with the Framework substantial weight is given to the harm by reason of inappropriateness together with the harm to openness.

Sustainability of the location

11. The Framework encourages economic growth in rural areas and recognises, at paragraph 29, that opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Nevertheless, local planning authorities are encouraged to support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport. Policies BDP22 and BDP1 1.4 (a) both require development to be in accessible locations well-served by public transport. Furthermore, one of the core planning principles in the Framework is to manage patterns of growth to make the fullest possible use of public transport, walking and cycling.
12. The appellant states that the site is located a short distance from the M42 motorway and within easy access of Redditch and Bromsgrove such that the site is easily accessible by cars and lorries from the wider road network. However, no information is provided relating to the accessibility of the site by other modes of transport. Given the isolated location of the site, in the countryside away from any settlement, it is unlikely to be well-served by alternative transport choices. Accordingly, most trips to the site would be likely to take place by private vehicle.
13. It is argued that the previous use of the buildings as poultry units generated a greater number of traffic movements than the proposed use. However, the evidence for this is limited and is contested by local residents, including the former unit manager of the poultry farm. The only traffic generation figures provided for the proposed use refer to one or two daily trips by 7.5 tonne trucks. Moreover, this only relates to the log storage operation. The appellant's statement indicates that 'at least one of the buildings' has a potential tenant who wishes to store logs which are processed at a different site. The appeal details are not clear in terms of the amount of floorspace required for this use. Such a level of movements would appear low for the use of all four of the buildings, even taking into account the constraints on the likely uses due to the physical characteristics of the buildings (a matter I address further below). I therefore give limited weight to the suggested reduction in traffic movements to the site.
14. I conclude on this matter that the location of the site would conflict with policy BDP22 and BDP1 1.4 (a) and with one of the core planning principles in the Framework. This adds some further weight against the appeal.

Living conditions

15. The existing dwelling at Rose Cottage lies close to the site boundary to the west and its main rear windows overlook the proposed roadway and turning area at close proximity. I understand that planning permission has also been granted for the conversion of the existing barn and stable within the courtyard to the south to residential use. That permission has not been implemented although it remains extant. Access to the proposed storage buildings would entail heavy goods vehicle movements passing through the courtyard in close proximity to the properties which are proposed to be converted, particularly the stable building.
16. Even the level of movements suggested by the appellant of one or two vehicles per day would be undesirable given the close proximity of the courtyard buildings and the site access. As stated above, traffic movements over and above the suggested level would be likely if all four of the buildings were in use for storage purposes. A higher level of vehicular movements would also result in harm to the living conditions of the occupiers of Rose Cottage having regard to the relationship between the rear windows and circulation and turning areas within the site. I appreciate that the appeal site and Rose Cottage are in the same ownership, but this may not always be the case and it is nevertheless important to ensure that satisfactory living conditions for existing properties is maintained. I also accept that Rose Cottage was subjected to the activity from the previous use, but a historically undesirable situation does not provide sufficient reason to revert to such a situation once more. Furthermore, I address below the likelihood of that previous use re-commencing.
17. I note that the Council's Regulatory Services officers raised no concerns regarding the proposal from a noise / nuisance perspective. However, I am of the view that the conflict between commercial vehicles and residential properties in such close proximity to each other would be undesirable and would be likely to cause harm to the living conditions of the occupiers of the existing and proposed properties. This would conflict with BDP policy BDP1 1.4 (e) which states that regard will be had to compatibility between uses and the impact on residential amenity. This matter adds a moderate amount of weight against the proposal.

Other considerations

18. The Framework states that inappropriate development should not be approved except in very special circumstances. In support of the claim that very special circumstances exist in this case, the appellant states that there is a need for storage floorspace to assist the rural economy and protect and create new jobs. It is argued that these sizable buildings are vacant and could be put to this beneficial use.
19. Policy BDP15 seeks to encourage development that contributes to diverse and sustainable rural enterprises including rural diversification schemes. Paragraph 8.164 of the BDP explains that the Council will favourably consider small-scale rural business which is appropriate to local employment needs. However, the policy and justification point out that development within the Green Belt will need to establish very special circumstances, despite the support in the policy. Paragraph 28 of the Framework also states that planning policies should support sustainable growth and expansion of all types of business and enterprise in rural areas.

20. The Council raise concerns regarding the suitability of the buildings for the proposed use. The first structural survey states that the timber structure within each building supports walkways and cage supports at first floor level and these are sited some 2.2 metres above ground floor. Each building has closely spaced internal timber support posts at ground floor level. It is clear from the first structural survey that removal of the first floors of the buildings would require an alternative method of supporting the roofs. The appellant has subsequently confirmed that the existing first floor structures would remain and storage would take place at ground floor only. However, the limited headroom at ground floor level and the close spacing of the timber supports is likely to limit the type of storage which would be possible within the buildings.
21. No evidence is provided relating to the approximate amount of floorspace which may be taken up by the storage of logs, or any benefits which would ensue to the proposed tenant's business. No details are provided regarding any potentially suitable storage uses for the buildings which are not used for log storage. Whilst the application forms state that two jobs would be created by the proposal, there is no information regarding the nature of those jobs or how the development would meet local employment needs, in line with policy BDP15. The appellant's evidence is vague and generalised on this point. Thus, whilst the re-use of the buildings would be likely to result in some economic benefits and this would be in accordance with policy BDP15, the lack of specific information in this regard leads me to give only a moderate amount of weight in favour of the appeal to the possible economic benefits of the proposal.
22. I accept that the proposal would result in a visual improvement to the buildings. However, the buildings have a low-key agricultural appearance and are not unsightly within the wider rural environment. Consequently, the visual improvement to the buildings adds only a limited amount of weight in favour of the proposal.
23. The appellant states that the proposal could be put to an unrestricted poultry use, or could accommodate other livestock, leading to greater environmental impacts and greater harm to existing and proposed residential properties. However, the Council point out that the buildings have not been used for some time for agricultural use. It is clear that they would require some investment in order to bring them up to a suitable standard to re-use for these purposes and there is nothing before me to demonstrate that this is a likely fall-back position. This therefore provides only limited weight in favour of the appeal.
24. It is also stated that permitted development rights exist under the prior approval procedure to use the buildings for a number of purposes. However, the appellant accepts that this would only relate to up to 500 square metres of the buildings and would not therefore allow the conversion of the entire complex of four buildings as is proposed in this appeal. This does not therefore add weight in favour of the appeal.
25. The appellant states that the storage of logs in the buildings would remove the need for outdoor storage either at the proposed tenant's existing site or at the application site. No evidence is presented regarding the level of outdoor storage at the proposed tenant's existing site or the impact that may be having on the surrounding area. Furthermore, whilst the appellant states that there was outside storage at the site in the past, this is not currently an issue and I have addressed the likelihood of the previous use re-commencing above.

Conditions could be imposed to ensure that outdoor storage did not take place if I were minded to allow the appeal. This matter does not therefore add weight in favour of the appeal.

26. Local residents have raised highway safety concerns regarding the use of surrounding roads in connection with the proposed use. North Beoley Residents' Association also refers to accidents occurring near to the site, although I have no information relating to the causes of those accidents. The Council's Highway Engineers raised no objections to the proposal, once it had been amended to accommodate turning vehicles within the site. However, I note the narrow, winding nature of the lanes surrounding the appeal site. The suitability of the surrounding highways for the proposed use would depend to a large extent on the level of traffic generated. I have indicated above that I have limited information relating to the proposed storage uses, other than the storage of logs. I have also stated that the traffic generation suggested by the appellant would appear to be low for the use of all four of the buildings. However, I have insufficient information before me in this appeal to enable me to reach a conclusion regarding any highway safety implications of the proposal. As this matter is not determinative in this appeal, I have not added further weight against the appeal from this matter. However, that does not preclude the Council from considering this matter further in any future application should they consider it necessary.

Whether very special circumstances exist

27. I have found that the proposal would constitute inappropriate development in the Green Belt and that it would result in harm to the Green Belt's openness. Inappropriate development should not be approved except in very special circumstances. These will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The Framework establishes that substantial weight should be given to any harm to the Green Belt. The lack of accessibility of the site's location and the impact on living conditions both add further moderate weight against the appeal. The proposal would conflict with policies BDP22 and BDP1 1.4 (a) and (e).
28. On the other hand, a moderate amount of weight in favour of the appeal is given to the economic benefits and the proposal would comply with policy BDP15. Limited amounts of weight in favour of the appeal derives from both the visual improvement to the appearance of the buildings and from the potential fall-back use for agricultural purposes.
29. In terms of sustainable development, the proposal would contribute to the economic role of sustainability. However, paragraph 6 of the Framework states that the policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means. Green Belt policy is incorporated within these paragraphs.
30. Overall, having considered all matters raised, I conclude that the harm to the Green Belt by reason of inappropriateness and other identified harm is not clearly outweighed by other considerations, either individually or cumulatively. Consequently the very special circumstances necessary to justify the development do not exist.

31. Having regard to the relevant policies drawn to my attention, on balance I conclude that the proposal would fail to comply with the Development Plan and the Framework as a whole and would therefore not constitute sustainable development. Consequently, the appeal is dismissed.

Susan Heywood

INSPECTOR