
Appeal Decision

Site visit made on 25 April 2017

by Elaine Worthington BA (Hons) MTP MUED MRTPI

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

Decision date: 18th May 2017

Appeal Ref: APP/R0660/W/17/3169833

Honeysuckle Cottage Farm, Heatley Lane, Broomhall, CW5 8BA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr & Mrs P Hollinshead against Cheshire East Council.
 - The application Ref 16/3612N, is dated 22 July 2016.
 - The development proposed is the retention of an agricultural building incorporating half mezzanine floor.
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Decision

1. The appeal is allowed and planning permission is granted for an agricultural building incorporating half mezzanine floor at Honeysuckle Cottage Farm, Heatley Lane, Broomhall, CW5 8BA in accordance with the terms of the application, Ref 16/3612N, dated 22 July 2016 subject to the following conditions.
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Drawing PH1 Proposed Mezzanine Floor, and Drawing NM/1215/454/001 Site Plan and Illustrations.
 - 2) The building hereby permitted shall be used for agricultural purposes and for no other purpose.

Procedural Matters and Background

2. With the exception of the proposed mezzanine floor, the appeal building has been constructed as applied for and is in use. I have dealt with the appeal on this basis. I have amended the description of development in my formal decision above to delete superfluous words which are not acts of development.
3. The appeal concerns the Council's failure to determine the planning application within the statutory period. However, the Council's statement sets out the reasons why it would have refused the application, had it been empowered to do so. It does not regard the appeal site to form part of an existing operational farming complex and considers that insufficient information has been provided to establish that the building is required for, and ancillary to, the use of the land for agricultural purposes. A previous application¹ for the retention of the appeal building was withdrawn in 2016 on the basis of these concerns.

¹ Reference 15/5633N

4. Although the Council's statement also indicates that the building blocks a public right of way, it has since accepted that this has been formally diverted and that this ground was included in error. As such, I am content that this matter need not be considered as a main issue as part of the appeal. This overall background has led to my identification of the main issue as below.

Main Issue

5. The main issue in this case is whether the building is required for agricultural purposes.

Reasons

6. The appeal site is located in the open countryside as defined by the Borough of Crewe and Nantwich Adopted Replacement Local Plan (Local Plan). Local Plan Policy NE2 states that within the open countryside only development which is essential for the purposes of (amongst other things) agriculture, or other uses appropriate to a rural area, will be permitted.
7. Local Plan Policy NE14 concerns agricultural buildings requiring planning permission specifically. It states that proposals for the erection of agricultural buildings will only be permitted where (amongst other things) the proposal is required for, and is ancillary to, the use of the land for agricultural purposes, and the development is essential to the agricultural operation or to comply with current environmental and welfare legislation and maintains the economic viability of the holding.
8. Paragraph 28 of the National Planning Policy Framework (the Framework) supports the sustainable growth and expansion of all types of business and enterprise in rural areas, including through well designed new buildings, and aims to promote the development and diversification of agricultural businesses. Paragraph 19 of the Framework places significant weight on the need to support economic growth.
9. Honeysuckle Cottage Farm is a registered smallholding with 32 hectares of land. The appellants have operated a part time mixed agricultural business from the appeal property for 25 years. The business is registered with DEFRA as a farm and is in receipt of an annual payment under the Basic Payment Scheme. Activities that take place include the growing of willow, seasonal turkey rearing, hay production (9 acres of grassland are used to produce hay for sale off the farm), and contract heifer rearing. This has taken place since 2015 (between April and October/November) and involves some 35 cattle in calf belonging to a nearby farmer being kept at the site and the calves being raised there before they are incorporated into the farmer's dairy herd. Although no figures are given, the appellants advise that the number of cattle was expanded in 2016. The appellants also sell grazing land to the farmer during the summer (as in situ feed).
10. Section 336 of the Town and Country Planning Act 1990 indicates that agriculture includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur or the purpose of its use in the farming of land), the use of grazing land, meadow land, osier land, market gardens and nursery grounds and the use of woodlands where that use is ancillary to the farming of land for other agricultural purposes. I note the views of local

residents that the appellants are not farmers. I appreciate that the appellants rent land out to local farmers and that the heifer rearing is done on a contract basis. Even so, I regard the activities at Honeysuckle Cottage Farm meet the definition of agriculture in the Act.

11. The financial information that has been submitted by the appellants is limited to invoices and tax returns along with an estimated budget for 2016/17. Nevertheless, in my view it is sufficient to demonstrate that the activities at the appeal site are not undertaken purely for recreation. I have seen nothing in the Local Plan or the Framework to suggest that it is necessary for an enterprise to be economically viable in order for it to be considered as an agricultural use. On this basis, I see no reason to doubt that the appellants operate an existing agricultural enterprise. The Framework supports the sustainable growth and expansion of all types of business and enterprise in rural areas, regardless of their size or profitability.
12. The appeal building is around 18 metres long, 8.5 metres wide and almost 6 metres high to the ridge of the roof. It provides secure, weatherproof accommodation for livestock and storage. In terms of livestock it is used to house pregnant heifers inside for separation and isolation purposes and to allow vaccinations. These measures are required by animal health guidelines, and the appellants advise that the size of the appeal building compiles with the codes of recommendations for the welfare of livestock published by DEFRA. The building is also used seasonally for keeping turkeys under secure cover particularly before culling.
13. In terms of storage it is used for keeping hay and feed and for large equipment and machinery. The proposed mezzanine is to be used for drying willow in a well ventilated store. I saw at my visit that the building houses a livestock pen (which at that time contained a number of calves), agricultural and cattle equipment and vehicles (including an animal feed hopper, tractor, and trailers), as well as feed and hay.
14. There is another existing agricultural storage building adjacent to the appeal building. The Council considered an application² for that building (intended for the storage of willow for weaving, feed and implements) in 2002 and found that it was permitted development that did not require prior approval under the General Permitted Development Order 1995 (GPDO). It measures 16 metres by 10 metres, by 6 metres high.
15. Part 6 of Schedule 2 of the General Permitted Development Order 1995 advises that on agricultural land comprised in an agricultural unit of 5 hectares or more, works for the erection of a building which is reasonably necessary for the purposes of agriculture within that unit is permitted development. As such, it appears that the Council has previously accepted that Honeysuckle Cottage Farm is an agricultural unit. I have seen nothing to demonstrate that circumstances have changed. In fact, the appellants advise that the extent of the enterprise was smaller at that time and has since expanded.

² Reference P01/1284

16. The appellants confirm that the building considered to be permitted development has been in use for 15 years and is still used for the storage of agricultural equipment, bedding and feed. They advise that it is already full and too small to accommodate larger items of machinery or livestock. This corresponds with my own observations on site.
17. The appellants are planning their retirement³ and wish to concentrate on working the smallholding and expanding the operation of the enterprise. The appeal building allows the contract heifer rearing business to continue, but also facilitates the expansion of that part of the business to 70 livestock in the future as anticipated by the appellants. Their future business plan also includes the rental of a further 10 acres of land nearby, the possible purchase of a further 20 acres of land, and the possibility of expanding into beef rearing.
18. Bringing matters together, I am satisfied that the appeal building appears to be used for agricultural purposes. There is a clear intent to continue to operate a farming business from the land and nothing to suggest that there is no realistic potential for the business to grow. Even taking into account the existing building constructed under permitted development rights, the appeal building is required to serve the appellants' own land (albeit that some of this is rented out and that the heifer rearing is done on a contract basis). It is not unduly large in relation to the size of the holding, or in relation to the amount and size of the livestock, machinery, equipment, hay and feed that are associated with the management of the enterprise.
19. Thus, I am satisfied that the appeal building is appropriate for meeting the needs of the rural enterprise described by the appellants and is required for, and is ancillary to, the use of the land for agricultural purposes. It also seems to me that the building is essential to the agricultural operation of the holding, and to comply with the welfare legislation in relation to the livestock detailed by the appellants. Furthermore, its retention at the appeal site can only help to maintain the economic viability of the holding in the longer term.
20. In terms of the other criteria set out in Local Plan Policy NE14 although it is higher than the other existing barn, the appeal building is closely related to the existing agricultural buildings on the site and is not prominent from the road or the surrounding countryside. As such, it is satisfactorily sited in relation to the existing buildings and has no adverse impact on the landscape. The building is of a simple agricultural design and function and is sympathetic in terms of its appearance and materials. There is some planting on the boundary which provides screening and overall it appears inkeeping with its rural setting and causes no harm to the character and appearance of the surrounding area.
21. It has not been put to me that the building fails to make adequate provision for the disposal of foul and surface water drainage, or for access and the movement of machinery and livestock. It is located away from nearby dwellings and is not detrimental to the amenities of the occupiers of any nearby existing residential properties. Finally, the building is not of a design or construction which makes it easily convertible to residential use. The Council raises no objections to the building with regard to any of these matters. Based on the information before me and my own observations on site, I am also content that it causes no harm in any of these respects.

³ From the truck sales business where they are both currently employed but which is soon to close

22. The Council advises that the existing storage building constructed under permitted development rights is currently the subject of enforcement investigation with regard to concerns it has not been erected as approved. Reference is also made to other potentially unauthorised buildings on the wider site, issues over the curtilage of the dwelling and the ownership of land. I appreciate that these are ongoing and escalating, but they are not part of the scheme before me. I have considered the development on its own planning merits based on the evidence before me, and am content that my decision would not preclude the Council's ongoing investigations in these regards or prejudice their outcomes.
23. Local residents refer to the potential for the use of the building for HGVs and engineering works associated with the appellants' current employment. I note that permission was granted in 1993 for the parking of an HGV at the appeal property. That said, the appellants confirm that that permission is no longer required, and I am conscious that the use of the appeal building for such a purpose would need planning permission. Besides, such a use, and indeed any alternative use of the appeal building, would be precluded by the imposition of a condition to limit its use to agricultural purposes as suggested by the parties.
24. I am also aware of local residents' concerns regarding the retrospective nature of the planning application and Mrs Hollinshead's role as a local councillor. However, these are not reasons to resist development that is not harmful.
25. I therefore conclude on the main issue that the building is required for agricultural purposes. Thus it aligns with Local Plan Policies NE2 and NE14 and the advice in the Framework.

Conclusion and Conditions

26. For the reasons set out above, I conclude that the appeal should be allowed.
27. The Council has suggested a number of conditions which I have considered in light of the advice in the National Planning Practice Guidance. Since the appeal building has already been built, a condition regarding the commencement of development is not appropriate.
28. Because the mezzanine floor has not been constructed, it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. However, as the building is substantially complete, there is no need for a condition to control the times and days of construction work and deliveries at this stage.
29. In order to protect the character and appearance of the surrounding area and having regard to the Council's policies for the open countryside and agricultural buildings, it is necessary to restrict the use of the building to agricultural purposes only. However, in the absence of any particular justification, I see no need to limit the permission to only those uses stated in the planning application.

Elaine Worthington

INSPECTOR