
Appeal Decisions

Site visit made on 23 May 2017

by Elizabeth Jones BSc (Hons) MCTP MRTPI

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

Decision date: 11 July 2017

Appeal A Ref: APP/Z2830/C/16/3167881

Land East of Banbury Lane, Park Farm, Culworth

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Culworth Grounds Farm Partnership against an enforcement notice issued by South Northamptonshire Council.
- The enforcement notice was issued on 10 November 2016.
- The breach of planning control as alleged in the notice is without planning permission, the erection of an agricultural building in the general position of one granted consent under planning permission reference S/2014/0880/FUL.
- The requirements of the notice are: i) Alter the building so as to comply in all respects with the consents issued under reference S/2014/0880/FUL and S/2014/2388/COND OR; ii) Demolish the agricultural building and remove its constituent elements from the site.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Appeal B Ref: APP/Z2830/C/16/3167871

Park Farm, Land East of Banbury Lane, Culworth

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Culworth Grounds Farm Partnership against an enforcement notice issued by South Northamptonshire Council.
- The enforcement notice was issued on 10 November 2016.
- The breach of planning control as alleged in the notice is without planning permission, the erection of an agricultural building in the general position of one granted consent under planning permission reference S/2015/0944/FUL.
- The requirements of the notice are: i) Alter the building so as to comply in all respects with the planning permissions issued under reference S/2015/0944/FUL and S/2015/1572/COND OR; ii) Demolish the agricultural building and remove its constituent elements from the site.
- The period for compliance with the requirements is 6 months.
- The appeal is proceeding on the grounds set out in section 174(2) (a) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Appeal A and Appeal B on ground (a)

Background and Main Issues

1. The appeal site comprises a number of agricultural buildings set back from Banbury Lane at the end of a track. The rear boundary of the site comprises mature trees and vegetation. The general topography in the area is undulating open fields. To the south of the site lies a stone barn. The site lies within a designated Special Landscape Area (SLA).
2. Appeal A concerns the erection of a pig rearing barn (hereafter referred to as building A) granted planning permission on 13 November 2014 Ref: S/2014/0880/FUL for the "*erection of a building for the rearing of pigs*". A subsequent planning permission Ref: S/2014/2388/COND for "*Condition 5 [material samples] application for approval of details submitted pursuant to condition 5 of planning permission S/2014/0880/FUL*" was granted on 5 February 2015. This gave permission for the use of "Gale Breaker Mesh Screening, Yorkshire boarding and Marley Eternit Profiled sheeting 'Laurel Green'".
3. The Council alleges that the appellant has implemented a different development which is at variance with the approved scheme. Green metal cladding has been used on the gable elevations instead of Yorkshire boarding and Marley Eternit Farmscape 'Anthracite' colour instead of Marley Eternit Profiled sheeting 'Laurel Green' has been used for the roof. The differences also include the insertion of a number of rooflights.
4. The planning history for building A includes a planning refusal Ref: S/2015/2620/FUL dated 18 August 2016 for "*Variation of condition 2 – Plans to approved application S/2014/0880/FUL (Erection of building for rearing pigs) to change from Yorkshire Boarding to the elevations to Gale Breaker curtains, change the colour of the roof sheeting to Farmscape charcoal grey and the use of roof light sheeting*".
5. Appeal B concerns the erection of a hay barn (hereafter referred to as building B) granted planning permission on 12 June 2015 Ref: S/2015/0944/FUL for an "*agricultural building for hay and straw*". A subsequent planning permission was granted on 14 September 2015 Ref: S/2015/1572/COND for "*Condition 3 [schedule of materials] - application for approval of details submitted pursuant to condition 3 of planning permission S/2015/0944/FUL*".
6. The Council alleges that the appellant has implemented a different development which is at variance from the approved scheme in terms of the roofing material used in its construction and the insertion of a number of rooflights.
7. The planning history for building B includes a planning refusal Ref: S/2015/2619/FUL dated 30 December 2015 for "*Variation of condition 3 (materials) S/2015/0944/FUL (agricultural building) to change roof colour, inclusion of rooflights and remove Yorkshire Boarding to side elevations*".
8. The Council considers that the use of different materials in respect of both buildings has caused harm to the rural character of the countryside and the SLA and to nearby residential amenity in terms of odour. Accordingly, the main issues are:

- i) The effect of building A and building B on the character and appearance of the area which lies within a SLA with regard to their visual impact and impact of lighting on the dark sky.
- ii) The effect of building A on the living conditions of nearby residents having regard to odour.

Reasons

Character and appearance

9. The Council is concerned about the visual impact of both buildings as a result of the grey coloured roofing material, rooflights and in relation to building A the use of green metal cladding on the gable elevations. I viewed these buildings from a number of viewpoints identified by both parties including the village of Thorpe Mandeville, Banbury Lane and the public footpaths to the south and east of the site. I note that despite the elevated position of the appeal buildings, the majority of those views are distant and/or partial due to the undulating landscape and the extent of trees and vegetation that screen the appeal site. Moreover, building B is located to the rear of building A and so as indicated by the Council the impact of this building is reduced.
10. Despite the materials used, it is my view that both buildings appear as agricultural buildings with a general utilitarian design which does not look out of place in this rural setting or appear at odds with the adjacent traditional barn building. The buildings although visible are seen largely against the backdrop of trees and thus do not appear overly intrusive when seen in this context. In addition, the Council acknowledge that the approved landscaping scheme, which included an element of mature planting, when completed and fully matured, will help to completely screen the buildings. Moreover, the imposition of a planning condition requiring further landscaping as suggested by the Council would enhance the existing planting further.
11. I note concerns regarding potential light pollution emanating from the barns. I am informed by the appellant that artificial lighting is only required during the loading of pigs early in the morning in winter months (approximately 4 times a year for up to 2 hours each time) and in the event of an emergency at night. I accept that the rooflights allow a degree of light spill particularly when artificial lighting is used when it is dark. However, it is reasonable to expect that over time the rooflights would become covered in dirt and lichen such that any potential light pollution emanating from the buildings during the hours of darkness would be somewhat reduced. I accept that the buildings are located in an intrinsically dark landscape. However, given the extent of the electric lighting and that the views of these buildings are largely distant and/or partial, in my judgment the light spillage from the rooflights is unlikely to impact on the living conditions of nearby residents to a harmful degree or result in a fundamental change to the character or appearance of the area at night.
12. My attention has been drawn by the appellant to a number of agricultural buildings in the surrounding area where green metal cladding has been used. A number of these buildings are readily visible from public vantage points and I was able to look at some of these at my site visit. I have not been provided with full details of the circumstances that led to these developments and so I cannot be sure that they are directly comparable to the appeal proposal. Moreover, although I have determined the appeal before me on its own merits,

from what I saw on site, I consider that this type of material is appropriate and reflects other buildings that I saw in the locality. Therefore, I give this matter significant weight.

13. I consider that the buildings appear as agricultural rather than industrial, incorporating materials which do not look out of place in this rural setting. Thus, the buildings do not harm the character and appearance of the area or the SLA with regard to their visual impact and the impact of lighting on the dark sky. Accordingly, there is no conflict with the objectives of Policies G3(A), EV1, EV5 and EV7 of the South Northamptonshire Local Plan (1997) which seek to ensure development including that within SLAs is compatible in terms of type, scale, siting, design and materials with the existing character of the locality. The developments also generally accord with the aims of the National Planning Policy Framework (the Framework) which sets out that the planning policies and decisions should seek to promote or reinforce local distinctiveness and should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.

Living conditions

14. The Council's reasons for issuing the notice in relation to building A include concerns regarding odour as a result of the open sides of the building. Moreover, residents have raised concerns regarding noise emanating from the building. There is no dispute regarding the principle of a pig barn in this location and the 2014 permission granted planning permission for the erection of a building for the rearing of pigs. Green metal sheets have been used on the elevations instead of Yorkshire Boarding and gale breaker mesh screening has been used on the side elevations. With the exception of the gale breaker mesh screening there is nothing before me to indicate that the building is any more open than that originally approved in 2014¹. To that end the Council discharged a condition² in respect of the use of gale breaker screening and it is reasonable to assume such factors as odour leakage and noise were considered when discharging the condition. In that light despite the subsequent planning refusal³, the appellant has permission to build a barn using gale breaker mesh screening on the side elevations.
15. Therefore, in the absence of any evidence that odour or noise control has been weakened by the use of the metal cladding or the profile roof sheeting with its rooflights, I find that the current building has not increased odour above or beyond that approved. I note the Environmental Protection Officer's concerns regarding the storage and spreading of muck outside the barn being a potential source of the odour; again that would be associated with the development that has been approved by the Council. For these reasons the barn is not at odds with Policy G3 as there is nothing before me to suggest the barn is likely to cause problems of odour beyond that which would be associated with the planning permission.

Other matters

16. I note comments regarding the validity of appeal B. The appeal was submitted in line with appeal timescales. I understand local residents' concerns about the

¹ S/2014/0880/FUL.

² Planning permission Ref: S/2014/2388/COND and photographs submitted via email dated 250517.

³ Planning refusal Ref: S/2015/2620/FUL.

appellant's apparent disregard of the planning process but I have to consider the development on its individual planning merits and enforcement action is intended to be remedial and not punitive.

Conditions

17. I have considered the suggested conditions for both developments in accordance with the guidance given in the Framework and the Planning Practice Guidance. I have amended the suggested wording where necessary to follow this guidance.
18. In relation to building A the Council has suggested a condition for the development to be retained in accordance with drawing numbers 2329/01A and 3704-01 Rev B. These drawings were submitted with application reference S/2015/2620/FUL and reflect the materials used for the development that has been built. Therefore I shall grant planning permission for the agricultural building in accordance with these plans.
19. In relation to appeal B the Council have suggested a condition for the development to be retained in accordance with drawing number 2329/01A and 2302/03A submitted with application reference S/2015/2619/FUL. These plans reflect the materials used for the development that has been built. Therefore I shall grant planning permission for the agricultural building in accordance with these plans.
20. In order to protect the character and appearance of the area and safeguard visual amenity it is necessary to require adequate landscaping is provided and to restrict any floodlighting.

Conclusion

21. For the reasons given above, and having regard to all other matters raised, I conclude that appeal A and appeal B succeed on ground (a) and planning permission is granted subject to conditions.

Formal Decisions

Appeal A: APP/Z2830/C/16/3167881

22. The appeal is allowed, the enforcement notice is quashed and planning permission is granted for the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of an agricultural building in the general position of one granted consent under planning permission reference S/2014/0880/FUL on land East of Banbury Lane, Park Farm, Culworth referred to in the notice, subject to the following conditions.
 - 1) The development hereby permitted shall be retained in accordance with the following approved plans: 2329/01A and 3704-01 Rev B.
 - 2) Within 3 months of the date of this permission hereby granted a scheme of landscaping shall have been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land and identify those to be retained. The landscaping works shall be carried out in accordance with the approved details.

- 3) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the next available planting and seeding seasons; and any trees or plants which within a period of 5 years from planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 4) No additional floodlighting shall be installed on/in the pig rearing barn.

Appeal B: APP/Z2830/C/16/3167871

23. The appeal is allowed, the enforcement notice is quashed and planning permission is granted for the application deemed to have been made under section 177(5) of the 1990 Act as amended for the development already carried out, namely the erection of an agricultural building in the general position of one granted consent under planning permission reference S/2015/0944/FUL on land at Park Farm, Land East of Banbury Lane, Park Farm, Culworth referred to in the notice, subject to the following conditions:

- 1) The development hereby permitted shall be retained in accordance with the approved plans drawing number 2329/01A and 2302/03A.
- 2) Within 3 months of the date of this permission hereby granted a scheme of landscaping shall have been submitted to and approved in writing by the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land and identify those to be retained. The landscaping works shall be carried out in accordance with the approved details.
- 3) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the next available planting and seeding seasons; and any trees or plants which within a period of 5 years from planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 4) No additional floodlighting shall be installed on/in the hay building.

Elizabeth Jones

INSPECTOR