
Appeal Decision

Site visit made on 8 August 2017

by Helen Hockenhull BA(Hons) B.PI MRTPI

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

Decision date: 22 August 2017

Appeal Ref: APP/G2713/W/17/3172822
Well Hall Farm, Bedale Road, Well DL8 2PX

- 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 Garry Elsworth against the decision of Hambleton District Council.
 - The application Ref 16/02586/FUL, dated 23 November 2016, was refused by notice dated 6 February 2017.
 - The development proposed is described as 'Erection of building for domestic garaging for Well Hall Farm Farmhouse. Single storey profile metal sheeting clad portal structure. To accommodate domestic cars and motorbikes belonging to the applicant. Involves change of use from agricultural farm yard to domestic use'.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from agricultural land to domestic use, involving the construction of a single storey steel portal frame structure to accommodate domestic cars and motorbikes at Well Hall Farm, Bedale Road, Well DL8 2PX in accordance with the terms of the application, Ref 16/02586/FUL, dated 23 November 2016, subject to the conditions in the attached schedule.

Procedural Matters

2. In the banner heading above, I have used the description of development stated in the original planning application. The appeal form states that the description of development has not changed however the Council have used a revised wording in their Decision Notice. As I consider that this description better reflects the development proposed, I have used this wording in my decision.

Main Issues

3. The main issues in this case are:
 - whether the proposal forms an appropriate development outside the defined settlement limits having regard to the policies of the development plan;
 - the effect of the proposal on the living conditions of the occupiers of neighbouring dwellings with particular regard to noise.

Reasons

Principle of development outside the defined settlement limits

4. Well Hall Farm is located at the northern end of the village of Well. The group of former agricultural buildings on the site to the north east of the farmhouse, have been converted to office, warehousing and other employment uses. The farmhouse is located within the defined settlement limit however the associated buildings lie outside in the open countryside. The appeal proposal, sited to the rear boundary of the dwelling adjacent to a large brick building in commercial use, would also lie outside the settlement boundary.
5. Policy CP4 of the Hambleton Local Development Framework (LDF) Core Strategy 2007 provides that development outside a defined settlement would only be supported where an exceptional case can be made in terms of Policy CP1 and CP2 and in respect of the criteria in Policy CP4. Policies CP1 and CP2 aim to promote sustainable development. I accept that the building would be located close to the appellant's home and place of work so that travel would be minimised. The appellant has also argued that economic benefits would ensue during the construction phase through the use of local contractors and local suppliers. However as these benefits would be limited and short term I consider that provide only limited weight in favour of the scheme.
6. Criteria ii of Policy CP4 allows development outside the settlement if it is necessary to secure a significant improvement to the environment. Whilst the appeal site is currently in agricultural use and lies close to residential properties, the farming activities on the site have ceased and alternative uses of the buildings have been found. I am therefore not persuaded that the change of use is necessary to secure significant environmental improvements.
7. Notwithstanding the above, Policy CP4 also requires that development should not conflict with the environmental protection policies of the LDF. The proposed building would be sited with existing built development to the south, east and south west. Looking at the site from Bedale Road to the north west, the building would be seen as part of the Well Hall Farm complex. The Farm buildings are well contained by a boundary hedge and in visual terms appear to provide a defined edge to the village.
8. The appeal proposal would provide domestic garaging for an existing dwelling, albeit I accept a much larger garage than would be expected to serve a domestic property. It would cause no material harm to the character or appearance of the area and would not intrude into the open countryside.
9. Consequently, I consider that whilst the proposal would not comply with Policy CP4, in that it would not meet the exception criteria for development outside the defined settlement limits, it would not conflict with the environmental protection policies of the LDF. In particular the proposal would comply with Core Strategy Policy CP16 and the LDF Development Policies DP30 which aims to protect and enhance the districts natural assets and protect the character and appearance of the countryside. The scheme would also accord with paragraph 17 of the National Planning Policy Framework which recognises the intrinsic character and beauty of the countryside.
10. I therefore consider that in light of this lack of harm, the circumstances of this

case are such that the proposal should be permitted other than in accordance with the development plan.

Living conditions

11. The proposed building would house approximately 10 motorbikes and 4 cars. As I have already stated it would form a garage much larger than would be expected to be associated with a residential use. The Council accepts that it is not unreasonable for a domestic use to require a large amount of floor space for the storage of vehicles associated with the appellant's hobby. However as a result of the scale of the building and the number of cars and motorbikes proposed to be stored, concern is raised with regard the potential for noise and disturbance from the repair of vehicles in the garage especially if doors were left open.
12. The proposed garage would be sited approximately 3 metres from the rear garden boundary of a residential property known as Rebana. This property forms a bungalow and is at a higher level to the appeal site with the garden sloping down to the boundary. It would be around 17 metres from the appeal building. The appeal proposal has been designed with a personnel door facing the rear of the appellant's dwelling. It would not lie immediately adjacent to the rear boundary of Rebana, though the proposed garage would also have access doors to the north and south elevations.
13. I note the appellants' intention to provide insulation to the walls and roof of the proposed building and to install sliding doors rather than roller shutters. A neighbouring resident has commented that the appeal proposal was not accompanied by a noise assessment to test the performance of the proposed sound insulation. It would be unusual for this to be required in connection with a domestic garage, though I accept this proposal is of a much bigger scale. Whilst a noise report may have been helpful, I have not been made aware by the Council that such an assessment was requested and not provided.
14. Whilst the above measures would assist to reduce noise from the building, there is clearly potential for noise if repair works are undertaken in the building with engines running and doors open. I note the comments of the Council's Environmental Health Team that it would not be practical to require all doors to be closed during repair works as mechanical ventilation would be required which would be too onerous for a domestic garage.
15. The appellant has indicated that apart from basic maintenance all other repair work would take place off site. I accept that this may currently be the case. I have no evidence that the appellant has the equipment to undertake repair work himself on site, though it would be possible for this position to change. Notwithstanding the above, I consider that with the imposition of an appropriate planning condition to control the activities outside the building and to require doors to be kept shut at all times, that the proposed use would be acceptable. With a requirement for doors to be kept closed, it would be very difficult for repair work with engines running to take place without mechanical extraction. Whilst I accept that this would be a monitoring issue for the Council, the planning condition would be enforceable to ensure that the living conditions of nearby residents are maintained.

16. The Council have not brought to my attention any noise complaints in connection with the use of the existing garage. I note that a neighbouring resident has provided a copy of a complaint made in September 2015 with regard to cars being driven on the site out of hours. The appellant advises that this related to the activities of tenants of an existing industrial unit and not to the use of his existing domestic garage. I accept that in accessing the proposed garage, vehicles would pass close to the boundary fence with neighbouring residential properties. However the appellant can only drive one vehicle at a time and the situation would be no different to any domestic garage use located close to a property boundary.
17. In summary I conclude that with the imposition of appropriate planning conditions the appeal proposal would not cause material harm to the living conditions of the occupiers of nearby residential properties. It would therefore comply with Policy DP1 of the Hambleton LDF Development Policies Development Plan Document 2008 which seeks to protect amenity with regard to a number of factors including noise and disturbance.

Other matters

18. Neighbouring residents and other interested parties have expressed concern with regard to the potential impact of the proposal on nearby heritage assets. The appeal site lies to the north west of Well Hall, a listed building and the boundary of Well Conservation area lies beyond the original farmyard. I am advised by the Council that there are non-listed buildings between the appeal building and these heritage assets. Therefore the appeal proposal would preserve the character and appearance of these assets and cause no material harm in this regard.
19. With regard to the possibility that the appeal building could become a commercial vehicle repair workshop in the future, this would require a separate planning consent for commercial use should this happen. If this were to take place unlawfully, it would be a matter for the Council to investigate and if necessary take the appropriate enforcement action.
20. I recognise that there are a number of industrial buildings on the wider appeal site that could be used to house the appellant's collection. However at the time of my site visit all these buildings were occupied and in any event they would in the main be too large for the appellant's purposes and result in a loss of rental income. I also noted on my site visit that hard-core had been laid in the area of the proposed appeal building and the immediately surrounding land. If this has been undertaken unlawfully this is again a matter for the Council to take forward and not relevant to my consideration of this appeal.

Conclusion and Conditions

21. I have found that whilst the appeal proposal would conflict with Core Strategy Policy CP4, there are material considerations in this case which would indicate that the proposal should be permitted other than in accordance with the development plan. Furthermore I have found that the proposal would not cause harm to the living conditions of the occupants of neighbouring dwellings. The appeal should therefore succeed.
22. I have had regard to the conditions suggested by the Council in light of the National Planning Policy Framework (the Framework) and Planning Practice

Guidance. In addition to the standard timeframe condition, I consider that a condition requiring the development to be implemented in accordance with the submitted plans would be necessary for the avoidance of doubt. In the interests of safeguarding the character and appearance of the area a condition with regard to the materials to be used in the construction of the building would also be necessary.

23. Conditions removing permitted development rights for the extension or alteration of the building, ensuring roof lights cannot be opened, requiring details of any external lighting to be submitted for approval and ensuring the use of insulated materials to reduce noise would also be required in order to protect the amenity of neighbouring residents. Furthermore a condition ensuring that only vehicle washing can be undertaken outside the building and that the doors of the building shall remain shut when any works are undertaken inside the building would be necessary to protect the living conditions of neighbouring residential occupants. I have amended the wording of the suggested conditions where necessary to better reflect the guidance.
24. In conclusion, for the reasons given above and having had regard to all matters raised I consider that the appeal should be allowed.

Helen Hockenhull

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Scale 1:1250, Drawing No. E7-5A Existing and Proposed Site Plans and Drawing No. E7-6B – Existing and Proposed Details.
- 3) No above ground construction work shall be undertaken until details and samples of the materials to be used in the construction of the external surfaces of the development including details of the colours of the walls and roof sheeting have been made available on the application site for inspection (and the local planning authority have been advised that the materials are on site) and the materials have been approved in writing by the local planning authority. The development shall be constructed using the approved materials in accordance with the approved method and thereafter retained.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement or alteration shall be carried out to the building hereby approved without express permission on an application made under Part III of the Town and Country Planning Act 1990.
- 5) The roof lights in the building hereby approved shall not be capable of being opened.
- 6) No work to any vehicles stored within the building, except vehicle washing, shall take place other than within the building hereby approved, with the doors closed.
- 7) There shall be no external illumination of the building, yard or access without details having first been submitted to and approved in writing by the local planning authority. Thereafter the approved details shall be implemented and retained.
- 8) The walls and roof of the building shall not be constructed other than using the “Kingspan” insulated materials specified in the application (or an alternative of equivalent acoustic performance to be approved in advance writing by the local planning authority).