



Appeal Decision

Site visit made on 7 November 2017

by Melissa Hall BA(Hons), BTP, MSc, MRTPI

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

Decision date: 16 January 2018

Appeal Ref: APP/Y3940/W/17/3179869

Dragonhead Barn, Dean Road, West Dean, Wiltshire SP5 1HR

- 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 R Parker against the decision of Wiltshire Council.
 - The application Ref 17/02445/FUL, dated 10 March 2017, was refused by notice dated 5 May 2017.
 - The development proposed is described as 'The change of use of existing agricultural building to workshop / storage and erection of two agricultural buildings'.
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Decision

1. The appeal is dismissed.

Background and Procedural Matters

2. At the time of my site visit, I observed that the development had already been completed and the use commenced. Whilst I have removed reference to '*Retrospective application for...*' from the description of development, I have considered the appeal under the terms of Section 73A(2)(a) of the 1990 Act.
3. Although the development involves the change of use of an agricultural building, it also relates to the retention of two smaller open fronted buildings to be used for '*agricultural purposes in connection with the land i.e. storage of machinery and hay.*' The Council did not take issue with this element of the scheme as it found that the buildings do not have a detrimental impact on the character of the surrounding landscape and that covered storage for machinery and implements used in the management of the land would not be unreasonable. However, it considered that the buildings would be unlikely to be needed if the agricultural building had been retained as such. I do not disagree.

Application for costs

4. An application for costs was made by the appellant against Wiltshire Council. This application is the subject of a separate Decision.

Main Issues

5. Against the background that I have described, the main issues are whether the change of use conflicts with local and national planning policies designed to control the location of new development in the open countryside and promote sustainable development.

Reasons

6. The appeal site lies in an open countryside location between East Grimstead and West Dean. It consists of a parcel of land bounded to the north by the railway line and to the west and south by Dean Road. The land is accessed via a gated track from the south eastern corner off Dean Road. It contains a large steel portal framed building and two smaller single storey open-fronted buildings to the east of the portal frame building.
7. The Council has confirmed that the portal framed building benefitted from the provisions of the Town and Country Planning (General Permitted Development) Order (GPDO) for Agricultural and Forestry Buildings and Operations in 2001 as a livestock barn¹. In the Council's opinion, this remains the authorised planning use.
8. The use of the portal steel building would appear to relate to the appellant's interests/hobbies together with personal storage. Inside the building, the ground floor is partly in use as a motorcycle maintenance area, and includes tools and equipment required for such purposes. There is a fitted solid fuel stove and a kitchen area within the building. The appellant states that the ground floor would be divided up into a workshop, ancillary accommodation (i.e. toilet and kitchen) and a storage area. The Council adds that at the time of its visit, the mezzanine floor contained items including clothing, books and a variety of domestic furniture, albeit the appellant has indicated an intention to use it as a clean space for painting.
9. In this context, the Council has stated that the building is in use as a *sui generis* personal hobby/storage use. The appellant argues that the classification of the development as *sui generis* is incorrect, as the proposal would fit into a number of Use Classes, including B1 and B8, although it would not be for commercial purposes.
10. The Town and Country Planning (Use Classes) Order 1987 specifies classes of use of buildings or other land. Class B1 relates to business uses; whilst an element of the use may constitute an industrial process, it is not a business and so does not fall within this Use Class. The storage element of the use may well fall within Use Class B8. However, the nature of the personal interests / hobbies use is such that it is more akin to a domestic context, albeit on a larger scale given the size of the building. In the circumstances that I have described, the use of the building is of its own kind and does not fall squarely into any, or any combination of, the Use Classes. Thus, in my view, it constitutes a *sui generis* use. In any event, it is unconnected to agriculture.
11. The application site lies outside the defined limits of development as defined by the adopted Wiltshire Core Strategy 2015 (WCS). Core Policy 2 of the WCS states that in locations outside of the defined limits of development (other than in circumstances as permitted by other policies within the Plan) development will not be permitted. The exceptions listed include additional employment land, military establishments, development related to tourism, rural exception sites, specialist accommodation provision and development supporting rural life.

¹ Planning Ref S/2001/1494 refers.

12. As the development does not fall within the exception policies/circumstances listed, I thus consider that it is in conflict with the aims of WCS Core Policy 2 to direct new development to the most suitable, sustainable locations.
13. The appellant cites WCS Core Policy 48 in support of his case, which *inter alia* relates to the conversion and re-use of rural buildings for what it describes as employment, tourism, cultural and community uses. He considers that the wording of the Policy and supporting text do not state that this list of uses is exclusive or that any specific use classes are not permitted (unlike WCS Policy 34 which make specific reference to the specific Use Classes covered by the policy).
14. I agree that the Policy supports a wide range/mix of uses. However, whilst it does not go so far as to specify the Use Classes that are appropriate, the wording of the Policy is quite clear that '*Proposals to convert and re-use rural buildings for employment, tourism, cultural and community uses will be supported...*' (my emphasis). It does not state that the development that will be supported merely 'includes' those uses listed. Rather, in my view, it imposes a limitation to those uses. The appeal before me is for the personal use of the building, unrelated to any employment, tourism, cultural or community use. Hence, I do not consider that it falls within this Policy to encourage appropriate uses for former agricultural buildings in rural areas.
15. I acknowledge that Paragraph 14 of the National Planning Policy Framework ("the Framework") sets a clear presumption in favour of sustainable development. It states that where the Development Plan is absent, silent or relevant policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significant and demonstrably outweigh the benefits.
16. The appellant has drawn my attention to Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development)(England) Order 2015 insofar as it outlines provisions relating to the change of use of agricultural buildings to a flexible commercial use², educational use or residential use subject to conditions and limitations. I accept that this relatively recent change to the GPDO indicates a general support for the re-use of agricultural buildings.
17. I have therefore had regard to whether the development has any greater impact on its location over and above that associated with those uses permitted by the GPDO.
18. I do not dispute that the development may make use of an existing agricultural building and promotes mixed use development in a rural area. The Framework recognises that economic growth supports living and working rural communities in order that they are sustainable. However, it also requires that appropriate development takes place in the right place. In this case, and on the basis of the evidence before me, the personal hobby / workshop / storage nature of the use does not make a significant contribution to economic growth and does not represent the diversification of an agricultural or other land based rural business. Neither would it appear to meet any wider educational, cultural

² falling within Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes), Class B1 (business), Class B8(storage or distribution), Class C1 (hotels) or Class D2 (assembly and leisure) of the Schedule to the Use Classes Order.

or tourism objective or have any particular public benefit. The factors in support of the application do not therefore outweigh the fact that the use is taking place in a location that is at odds with the Council's strategy to direct such development to within settlements and avoid the proliferation of inappropriate development in the open countryside which has an adverse effect on its rural character.

19. I also note the Council's concerns that the development would, by reason of its relatively remote location, be likely to result in additional vehicle movements to and from the site, resulting in an unsustainable form of development. The appellant states that the workshop would not be used for commercial purposes with customers visiting the site but that he would be the only person accessing the site.
20. I have not been given an indication of likely trip generation by either party. However, the building is of a considerable size and could be intensively used for personal interests/ hobbies and storage, necessitating a reasonably high volume of weekly trips by the appellant. I cannot disagree that the appellant would need to travel to and from the site from his existing place of residence and that it is likely that he would rely heavily on the private car as a means of travel. Be that as it may, in my view, such movements are not likely to be significantly greater in number than that associated with the agricultural use of the site and general farming activities. Whilst I do not consider that it would represent an unsustainable form of development in conflict with the sustainability aims of the Framework in this regard, it nonetheless is inconsistent with those aims given the clear conflict with the Council's strategy to direct new development to appropriate locations for the reasons I have already given. There are no material planning considerations that alter my conclusions in this regard.

Other Matters

21. The appellant states that the previous owner of the site used the building to design and build tractors for tractor pulling competitions, and that it is entirely possible that the workshop / storage use of the barn has been carried out for a period of 10 years and is therefore lawful. Whether or not the building has a lawful storage use is not a matter for me to determine in the context of an appeal made under s78 of the Act. It is open to the appellant to apply for a determination under sections 191/192 of the Act to determine this matter.
22. The appellant has also suggested a personal permission. Having regard to the advice in the National Planning Practice Guidance which states that it is rarely appropriate to use a condition to limit the benefit of a permission to a particular person, I do not find exceptional circumstances before me to justify such a course of action.

Conclusion

23. For the reasons I have given, and having regard to all matters raised, the appeal is dismissed.

Melissa Hall

Inspector