The Planning Inspectorate

Appeal Decision

Site visit made on 16 January 2018

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2018

Appeal Ref: APP/J1860/W/17/3184604
Pewtrice Farm, Castlemorton WR13 6LT

- 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 Richard Thompson against the decision of Malvern Hills District Council.
- The application Ref 17/00772/FUL, dated 4 May 2017, was refused by notice dated 29 August 2017.
- The development proposed is conversion of agricultural barns to form a single dwellinghouse.

Decision

1. The appeal is allowed and planning permission is granted for conversion of agricultural barns to form a single dwellinghouse at Pewtrice Farm, Castlemorton WR13 6LT in accordance with the terms of the application, Ref 17/00772/FUL, dated 4 May 2017, subject to the conditions set out in the Schedule to this decision.

Main Issue

2. The main issue in this appeal is whether the proposal would be an acceptable form of development in this location having regard to relevant local and national policies for development in the countryside and any stated fallback position.

Reasons

3. The barns proposed for conversion comprise both single and two-storey elements that vary in their construction. They are located near to the main house at Pewtrice Farm and in an area of countryside of agricultural character. They have the typical run down appearance of disused agricultural buildings.

4. Policy SWDP 2 of the South Worcestershire Development Plan (2016) (SWDP) sets out a development strategy for the District based on a settlement hierarchy. The appeal site lies outside any settlement and is therefore within the open countryside as defined in policy SWDP 2. The policy says that in such locations, development will be strictly controlled and will be limited to a specified number of exceptions. However, although it seeks to safeguard and (wherever possible) enhance the open countryside, policy SWDP 2 does not refer to the re-use of rural buildings for residential purposes and I have not been pointed to any other SWDP policies that do.

5. Consequently, paragraph 55 of the National Planning Policy Framework (the Framework) is a material consideration. This says that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances. A series of bullet points follow, which set out what these might comprise. The third bullet point relates to the re-use of redundant or disused buildings where there would be an enhancement to their immediate setting. The proposal would re-use redundant rural buildings and in so doing would enhance their appearance and that of the immediately surrounding land by the removal of an unsightly timber and wire mesh structure at the end of one of the buildings along with their general tidying. A suitably worded planning condition could be used to enhance the landscape within the site and around its boundaries.

6. Contrary to what the Council suggests, Framework paragraph 55 does not require a proposal to meet each and every one of the special circumstances set out in order for new isolated homes in the countryside to be considered acceptable. Notably, each bullet point is followed by the word "or" and each therefore stands to be considered in isolation of the others. The type of development proposed in this appeal can therefore be considered acceptable against the provisions of Framework paragraph 55.

7. Notwithstanding this, the appellant has an extant planning consent for the change of use of the barns to create a dwelling as a result of the grant of prior approval[1] on 13 March 2017. I accept the Council's argument that the powers for restricting such schemes under the prior approval regime are more limited than a straightforward application of the development plan. However, it is clear to me that the effects the Council is seeking to avoid in refusing permission for the appeal proposal would not be materially different to those arising from the consented prior approval scheme.

8. Consequently, the appeal scheme would not result in a greater conflict with the provisions of the development plan than for which consent has already been given. Moreover, I have no doubt that the appellant would implement the prior approval scheme if the appeal fails. I therefore find there to be a compelling argument that the fallback position put forward by the appellant is also a significant material consideration in my determination of the appeal.

9. The Council has suggested that the buildings are not structurally capable of being converted. However, such a matter is only a requirement of the prior approval process and does not bear on the consideration of an application for planning permission. In any case, the appellant's structural report highlights the measures necessary to convert the building and I do not consider these go beyond what would normally be the case in such schemes.

10. On the balance of all that is before me, the weight of national policy and the appellant's fallback position are sufficient to outweigh the provisions of the development plan in this instance. The proposal would accord with the Framework as a whole.

Conditions

11. I have considered the Council's suggested conditions. Those imposed have been done so in light of the Framework and Planning Practice Guidance (PPG).

[1] Under Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended)

Where necessary, I have amended the suggested wordings for clarity and to more closely reflect the Framework and the advice in PPG.

12. I have imposed a condition specifying the relevant drawings as this provides certainty. I have noted that the Council's references to the specific drawings in the suggested condition appear to be incorrect. I have therefore taken the drawing titles and numbers from the plans before me. Given the location and the type of buildings involved, a condition is necessary relating to bats in the interests of safeguarding this protected species. However, I do not consider it necessary to require the submission of a certificate of conformity as suggested by the Council because bats will be adequately protected by the terms of the imposed condition and I do not consider it necessary to require anything further.

13. In order to ensure the sustainability of the proposed development, a condition is necessary in relation to energy generation. However, it is unclear why the Council suggests the need for a timetable in relation to this condition and I have not included such a requirement. To do so would not be necessary or reasonable. To ensure the connectivity of the proposed development, a condition is necessary in relation to the provision of broadband. However, this does not need to be a pre-commencement condition.

14. I have imposed a condition limiting the exercising of permitted development rights in order to control the spread of built form that could otherwise detract from the character and appearance of the area. I consider the area's rural character and appearance is such that the condition is necessary in this case. In order to safeguard the water environment, a drainage condition is necessary. A condition relating to the access, parking and turning of vehicles is necessary in the interests of highway safety.

15. Finally, I have imposed conditions relating to the submission and implementation of a landscape scheme in order to ensure that the site is enhanced. I have split the Council's suggested condition into two separate conditions in the interests of clarity. I do not consider it necessary to limit the period for the submission of the landscape scheme to three months.

Conclusion

16. For the above reasons and having had regard to all other matters raised including the other appeal decisions to which my attention has been drawn, the appeal succeeds.

Hayden Baugh-Jones

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: Proposals – layout Drawing No MA/pewtrice/21/layouts; Proposals – elevations Drawing No MA/pewtrice/21/layouts; Survey of existing Drawing No MA/pewtrice/10/surv Revsion B.

3) No development shall commence until measures for the protection of bats and mitigation for the loss of bat roosts have been submitted to and approved in writing by the local planning authority. Details shall accord with the recommendations and mitigation measures in the Bat Surveys Final Report by Swift Ecology dated 20 June 2016 reference C1643-1 and shall include:

   i) the timing of works to avoid sensitive periods;

   ii) retention and/or provision of suitable conditions and access points for bats;

   iii) working methods to ensure minimal disturbance to bats and other protected species including supervision of the works by a licensed ecologist;

   iv) details of the licensed ecologist supervising the works;

   v) measures to be followed in the event of bats being discovered during the works;

   vi) the use of any timber treatment chemicals;

   vii) measures for the retention of bat flight lines;

   viii) details of any external lighting;

   Development shall be carried out in accordance with the approved details and following the completion of the development, confirmation shall be submitted in writing to the local planning authority demonstrating that works have been implemented in accordance with the approved details.

4) No development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.

5) No development shall commence until details of measures for 10% of the predicted energy use of the development to be generated from renewable and low carbon sources have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the approved measures shall be retained thereafter.

6) The development hereby permitted shall not be occupied until details of the means by which the development will be provided with superfast broadband connectivity have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

7) 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 additions, extensions or external alterations to the dwelling hereby permitted and its boundaries other than those expressly authorised by this permission shall take place.

8) The development hereby permitted shall not be occupied until the access, turning and parking facilities have been constructed in accordance with the approved plans. The access shall be constructed in a bound material for its first 5 metres back from the highway boundary. The access, turning and parking facilities as constructed shall be retained thereafter.

9) The development hereby permitted shall not be occupied until sustainable surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The approved drainage scheme shall be implemented before the development is brought into use.

10) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping including boundary treatments.

11) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.