



Appeal Decision

Site visit made on 14 May 2019

by K Stephens BSc (Hons), MTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2019

Appeal Ref: APP/W3710/W/19/3222360

Hill Farm, Golf Drive, Nuneaton, Warwickshire CV11 6QF

- 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 Hemus against the decision of Nuneaton & Bedworth Borough Council.
 - The application Ref 035742, dated 4 June 2018, was refused by notice dated 30 October 2018.
 - The development proposed is change of use of potato store at Hill Farm, Golf Drive, Nuneaton to B1 (Business) use.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use of potato store to B1 (Business) use (including provision of a passing bay on private access road) at Hill Farm, Golf Drive, Nuneaton, Warwickshire CV11 6QF in accordance with the terms of the application Ref 035742 dated 30 October 2018, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The description in the banner heading is taken from the application form. However, it is clear from the submitted plans, the appeal form and the Council's description that the development also includes the provision of a passing bay on the private access track to Hill Farm. I have therefore determined the appeal on that basis and used the Council's description, but without reference to a previously withdrawn scheme, which is not relevant.
3. The Council's two reasons for refusal do not refer to any development plan policies, only to paragraphs 108, 110 and 190 of the National Planning Policy Framework (the Framework). Therefore, I too default to the Framework. The revised Framework was published in February 2019 after the decision was made. However, the cited paragraphs remain unchanged in the latest revision.
4. During the course of the appeal the Council adopted its Nuneaton & Bedworth Borough Plan 2011-2031¹ (NBBP). The main parties have been given the opportunity to comment on the implications of this for the appeal, which I have taken into account in coming to my decision.

¹ Adopted 11 June 2019

Main Issues

5. The main issues are:

- the effect of the proposal on highway safety, with particular regard to pedestrians using the public footpath N42 along the access track, and
- the effect of the proposed development and associated parking on the setting of Hill Farmhouse, a grade II listed building.

Reasons

Highway safety

6. The appeal site and potato building form part of an existing working farm complex beyond the edge of an existing housing estate on the northern edge of Nuneaton. Following the recent adoption of the NBBP the site has been removed from the Green Belt and is now included within the settlement boundary of Nuneaton as part of a strategic housing allocation site HSG9. The site is accessed via a single width track that leads off Golf Drive, which runs through the housing estate and past the entrance to Nuneaton Golf Club. The track is shared with public footpath N42, and is one of several footpaths in the area forming part of the Attleborough Fields Walks, promoted by a display board I observed at the end of Golf Drive. After a short distance, the shared track/footpath forks: footpath N42 continues straight on into the countryside beyond, and the track forks right onto a private track that leads to the appeal site and the adjacent Gorse Cottage Farm.
7. The proposal seeks to change the use of the existing modern potato storage building, with a floor area in excess of 1,000sqm, into a Class B1 light industrial use. There is no specified end user so anticipated traffic movements are unknown.
8. The shared track/footpath is set amongst an open and expansive arable landscape. There are no hedges along this stretch of track and there are open grass verges adjacent to arable fields. As a result, there is good visibility along the relatively short section of track shared with footpath N42, such that pedestrians and other users, and vehicle drivers would have adequate advance sight of each other. On my visit I observed several groups of people walking along the shared track/footpath and also the footpath beyond, some of whom had parked at the end of Golf Drive. I also observed traffic using the track.
9. The Highway Authority has no objection to the proposal subject to conditions that would include the provision of a lay-by at the junction of the shared track/footpath and the private track to the farm, and this is shown on the submitted plans. Furthermore, advance signage would be installed at the start of the track off Golf Drive advising drivers to give way to pedestrians, and the first 20m of the private farm track would need to be surfaced in a bound material. These mitigation measures accord with advice in paragraphs 108 and 110 of the Framework. Furthermore, the County Council's Rights of Way team has no objection. I am therefore satisfied that there would not be unacceptable highway safety issues to users of the shared track/footpath, particularly pedestrians.
10. The Council's committee report made reference to the proposed housing allocation and that its policy team did not foresee any potential conflict between the appeal proposal and the proposed housing allocation HSG9, as the farm

would be retained as an appropriate buffer and that possible realignment of the access should not impact on the proposed B1 use, and this was confirmed by the Highways Authority.

11. I note the significant number of objections from local residents concerned about the safety of pedestrians using the shared track/footpath and also the impact of the unknown business use on the local highway network through the nearby residential area, and reference to existing congestion and bottlenecks in the surrounding area, and weight restrictions. However, existing farm traffic already uses the shared track/footpath and the potato storage use generated its own agricultural related traffic with tractors, trailers and HGVs. Regardless of the proposed development, farm traffic movements could increase without any recourse to planning, should farming practices change. I have not been presented with any substantive evidence to contradict the Highway Authority to persuade me there would be unacceptable highways safety issues to users of the shared track/footpath.
12. Therefore, I find the proposed use would not cause highway safety issues with particular regard to pedestrians sharing part of the public footpath N42 along the access track. Accordingly, I find no conflict with paragraphs 108 and 110 of the Framework, which seek to ensure that safe and suitable access can be achieved for all users, with priority to pedestrians movements.

Setting of listed building

13. Hill Farmhouse is a grade II listed building, which is a designated heritage asset. It is a large three storey 3-window range farmhouse from the early to mid-19th century, with some later additions, with Flemish bond brick and dentil cornice. Being an example of local vernacular architecture, it has architectural and historical significance. Under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a duty to have special regard to the desirability of preserving the building or its setting. I note that English Heritage has advised that it does not need to be consulted on the application.
14. The farmhouse sits at one side of a quadrangle farm yard, with a range of low-lying farm buildings. The farmhouse and courtyard are accessed via a gate, hence are somewhat separated from the rest of the farm and the newer buildings, thereby creating a discrete group.
15. The potato building is an existing modern portal framed building painted dark green. It is located on the opposite side of the farmstead to the farmhouse, such that there is very little inter-visibility between the farmhouse and potato building. Beyond and around the farmhouse courtyard are various other farm buildings including traditional brick and tile barns, portal framed structures and tall silos, which are not unusual or incompatible with a working farm with older buildings.
16. Although there is no specified end user for the potato building, Class B1 uses are, by definition, those that can be carried out in any residential area without causing detriment to the amenity of the area. Due to the distance from the farmhouse and the intervening buildings, the proposal would not have an adverse impact on the setting of the listed farmhouse and the surrounding cohesive group of farm buildings. Furthermore, there is ample hard surfacing around the potato building and other farm buildings away from listed building for parking of vehicles associated with the proposed business. As a result, I am

satisfied that neither the proposed use or associated parking would harm the setting of the listed farmhouse. As there would be less than substantial harm, paragraph 196 of the Framework is not triggered.

In conclusion, I have taken into account paragraph 190 of the Framework which requires identification and assessment of the significance of the heritage asset. In accordance with Paragraph 193 of the Framework, I attach great weight to conserving the heritage asset. I find the proposed Class B1 use, albeit unspecified, for the existing potato building together with any associated parking can be accommodated at the appeal site without detriment to the setting of the grade II listed Hill Farmhouse. Accordingly, the proposal would accord with paragraph 190 of the Framework, which requires the significance of the heritage asset to be identified, assessed and taken into account.

Conditions

17. It is necessary for me to consider whether or not conditions could be imposed to control the risk of future harm. Any condition would have to meet the statutory tests and be necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects.
18. The Council suggested 8 conditions in its officer report to committee and the appellant has not contested them. I consider 7 of them pass the six tests above. Where necessary and in the interests of precision and clarity and to avoid duplication, I have amended them to accord with the Planning Practice Guidance.
19. Condition 1 is standard and limits the lifespan of the planning permission. Condition 2 specifies the relevant plans to identify the building and include the proposed layby and location of the proposed warning signage. Conditions 3 and 4 are necessary in the interests of highway safety. The restriction on outside storage (condition 5) would protect the amenity of the surrounding area as well as preserving the setting of the listed farmhouse in its wider farmstead context. An hours condition (condition 6) is necessary to protect existing and future occupiers of the farm and occupiers of nearby properties. The final condition would protect against uncontrolled intensification of the use and any adverse impacts on highway safety. The Council's condition for the provision of adequate water supplies for fire safety reasons goes beyond the scope of planning and therefore I have not included it.

Other Matters

20. Third parties have raised various non-highway concerns. Noise, air and light pollution from traffic and any dryers/machinery have been raised, including concerns for a disabled boy living nearby with breathing difficulties. However, I have not been presented with any substantive evidence to suggest there would be harm caused and I note that the Council's Environmental Health team raised no objections on these matters. The footpath and the surrounding network of paths are not being lost, so they would continue to offer recreational, mental health and general well-being benefits. Residents have not specified what wildlife would be impacted, but in light of existing traffic movements that could occur at the farm anyway and that the building and roadways already exist, I am not persuaded there would be any significant harm. Industrialisation of the area is unlikely due to the limited nature of the proposal using an existing building and the imposition of conditions. Suggestions that the buildings should be used for

tea rooms or antique shops and the fields donated to the community do not form part of the application and are therefore not before me for consideration.

Conclusion

21. Having regard to all matters raised, I conclude that the appeal should succeed, and planning permission should be granted subject to conditions.

K. Stephens
INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun within three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the site plan Promap ref 17H5150.4618.
- 3) Prior to commencement of the B1 use hereby approved, details of the bound surfacing material to be used for the 20 metres of the private farm roadway, as measured from the near edge of the public highway footway, and repairs to the vehicular verge crossing and carriageway fronting the private farm roadway shall be submitted to and approved in writing by the Council. The surfacing and repairs shall be carried out in accordance with the approved details before the development is first brought into use.
- 4) Prior to commencement of the B1 use hereby approved, details of the design and wording of the warning sign shall be submitted to and approved in writing by the Council. The approved sign shall be installed before the development is first brought into use.
- 5) There shall be no outside storage of goods and materials in relation to the Class B1 use hereby approved.
- 6) The Class B1 use hereby approved shall not operate (including deliveries) from the building other than between the hours of 08:00 until 18:00 Monday to Saturday and 10:00 until 16:00 Sundays and Bank Holidays.
- 7) Notwithstanding Class I(b) of the General Permitted Development Order 2015 (or any Order revoking and re-enacting or statutory instrument equivalent to the Class), the building shall not be changed or subdivided to a Class B8 use (storage and distribution) without the prior written consent of the Council.