
Appeal Decision

Site visit made on 24 September 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 November 2019

Appeal Ref: APP/P1805/W/19/3231487

Jasmine Cottage, Gravel Pit Lane, Rowney Green B48 7QG

- 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 C Meuwissen against the decision of Bromsgrove District Council.
 - The application Ref 18/01199/FUL, dated 21 September 2018, was refused by notice dated 21 December 2018.
 - The development proposed is the erection of a new agricultural building.
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Decision

1. The appeal is allowed and planning permission is granted for a new agricultural building at Jasmine Cottage, Gravel Pit Lane, Rowney Green B48 7QG in accordance with the terms of the application, Ref 18/01199/FUL, dated 21 September 2018, and the plans numbered 2420-001 Location Plan Rev A, 2420-002 Site Plan, Landscaping Plan 2420, Drainage plan 2420-009, Indicative Layout 2420-008v2, Elevations and Roof Plan 2420 Rev A and 3D visualisation, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr C Meuwissen against Bromsgrove District Council. This application is the subject of a separate Decision.

Procedural Matters

3. I observed on site that some construction works have commenced but that these predominantly relate to ground works and foundations. Therefore, I shall determine the appeal on the basis of the plans submitted.
4. Since the Council made its determination the Alvechurch Parish Neighbourhood Plan, 2011-2030 (NP) has been adopted on 27 February 2019 and now forms part of the development plan. Furthermore, the High Quality Design Supplementary Planning Document (SPD) was published in June 2019 and replaces the previous Agricultural Design Guide Supplementary Planning Guidance. Both main parties have been given the opportunity to comment on the aspects of the NP and SPD that they consider relate to the appeal proposal. On that basis, I do not consider that any party will be prejudiced by my considering the appeal against the NP or SPD.

Main Issues

5. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt, including its effect upon openness, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
- The effect on the character and appearance of the area, with particular regards to siting;
- The effect on the living conditions of nearby residents, with particular regards to odour and noise;
- If found to be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

6. Development within the Green Belt is inappropriate with the exceptions of the types of development listed in paragraphs 145 and 146 of the Framework. Criterion a) of paragraph 145 allows for the construction of new buildings for agriculture and forestry. Similar provision for agricultural buildings in the Green Belt is included in policy BDP4.4(a) of the Bromsgrove District Plan 2011-2030, January 2017 (BDP).
7. There is no dispute between the parties that the proposed use of the building for the keeping of goats and chickens would constitute an agricultural building¹. Accordingly, based on the evidence presented, the new agricultural building would fall within the exception permitted by paragraph 145(a) of the Framework. Paragraph 145(a), in contrast to other sub-sections of the same paragraph, does not include a specific caveat that the development should also preserve the openness of the Green Belt and not conflict with the purposes of including land within it. On that basis, as has been confirmed in caselaw² there is no requirement to further assess the impact on openness, as it is implicitly taken into account in the exception.
8. Consequently, I find that the building would not be inappropriate development in the Green Belt and there is no need to consider the impact on openness further. As such, it would not conflict with the Framework or policy BDP4 of the BDP which, amongst other matters, seeks to prevent the inappropriate development of new buildings within the Green Belt.
9. Furthermore, it would accord with policy BSS4 of the NP which, subject to other criteria, supports proposals for small and medium enterprises and start-up businesses providing the development is not inappropriate in the Green Belt.

Character and appearance

10. The section of Gravel Pit Lane nearest to the appeal site is of an informal appearance flanked predominantly by hedgerows and mature trees. In the surrounding landscape, which has an undulating nature, there are sporadic

¹ Officer report page 3, reference to Council's consultant agricultural advisors

² Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404

detached dwellings set within generous grounds interspersed with paddocks, fields and pockets of woodland. These factors combine to give a pleasant verdant, rural character to the area.

11. The appeal site relates to the southern portion of a paddock located approximately 17 metres to the west of Jasmine Cottage, which is a traditional, red brick detached dwelling. The paddock slopes downwards from the north to the south and is bounded by mature hedgerows. The evidence indicates that a detached building previously stood at the appeal site³ served by its own access, but otherwise the paddock is free from built form. As such, the generally open and green character of the paddock contributes positively towards the rural, agricultural character of the area.
12. The proposal would introduce a larger building⁴ than formerly stood at the site, even so, by modern agricultural standards it would be reasonably modest in scale. Taking into account the land levels, the ridgeline of the building would not be significantly different from Jasmine Cottage. Furthermore, it has a footprint⁵ which is broadly comparable with the surrounding detached dwellings such that the scale of the building, although in a different use, would not appear significantly at odds with the surrounding pattern of built form comprising reasonably modest detached structures.
13. The siting of the building would be towards the lower part of the paddock and close to the southern boundary hedgerow, broadly aligning with the cluster of dwellings that front onto Gravel Pit Lane at this point. Its proximity to Jasmine Cottage, Springwood and The Homestead means that it would, therefore, not appear isolated from other buildings within the landscape.
14. The siting would avoid more prominent higher land, ridges and skyline, such that in views southwards from higher land, the building would be seen within the group of existing dwellings along Gravel Pit Lane. A new hedgerow planted to the north of the building would further reduce the visual impact. The siting would also preserve the majority of the open paddock which is visible in glimpses from Gravel Pit Lane. Furthermore, the boundary hedgerows to the south and west of the paddock would partially screen the lower part of the building and would have a softening effect. Moreover, the appeal site is some distance from the important views identified in policy HDNE4 of the NP.
15. The building would be constructed using a mixture of blockwork and timber boarding with a grey fibre cement roof resulting in a conventional, unassuming agricultural appearance. This mix of materials would break up the overall mass of the structure thereby limiting the visual impact of the building. Moreover, the use of neutral timber boarding combined with the matt finish to the pitched roof on the most visible parts of the building, would assist in the structure being assimilated into the landscape.
16. Taking these factors together, the siting and appearance of the proposal would result in a modest agricultural building that would not appear unduly prominent or out of character with the surrounding rural landscape. It would be consistent with advice relating to agricultural buildings in the SPD⁶. Accordingly, I find that it would not cause harm to the character and appearance of the area, nor

³ Photographs page 4 of Planning & Justification Statement

⁴ Approximately 7.7m x 11.8m and 3.7m to the ridge on drawing 2420 Rev A Elevations and Roof Plan

⁵ Figure 1, page 4, Appellant's Statement

⁶ Section 6.3, High Quality Design SPD, June 2019

conflict with policy BDP19 of the BDP which, amongst the criteria set out to achieve high quality design, includes references to the character and distinctiveness of the local area and that appropriate soft landscaping should be provided.

Living conditions

17. The appellant intends to keep doe goats plus their kids, predominantly indoor reared for meat, as well as free-range laying hens that would also use the paddock. I accept that the keeping of goats and chickens may result in noise and odour to nearby residents. Aside from Jasmine Cottage, the closest residential properties to the appeal site would be the Homestead (approximately 21m to the south west) and Springwood (approximately 17m to the south east). Shola is located further away to the north and on higher ground.
18. However, the appellant has provided detailed evidence⁷ to demonstrate the likely impact to nearby residents arising from the likely odour and noise associated with this mix and scale of livestock and has set out their intended management practices⁸ including the use of straw beds and waste disposal. The odour report concludes that the odour emission would be well below the Environment Agency's benchmark for moderately offensive odours. Furthermore, the acoustic report shows that the noise associated with the livestock would be below existing background noise levels and therefore, would be unlikely to cause disturbance to nearby residential occupiers. These findings are consistent with the observations of Worcester Regulatory Services who raised no objection in respect of nuisance⁹.
19. Whilst I have had regard to the representations made by local residents, I have seen little other specific evidence to substantiate concerns or undermine the appellant's evidence regarding noise and odour in relation to the proposed use of the building. As such, based on the evidence before me I find that the proposal would not result in unacceptable harm to the living conditions of nearby residents with particular regard to odour and noise.
20. However, I acknowledge that the evidence provided is specific to the keeping of goats and hens, and that the likely impact that may arise from other types of livestock, such as cattle, in reasonably close proximity to a number of residential properties could be considerably different. Whilst the modest scale of the building is likely to limit the range and number of such livestock, I nevertheless consider that there is potential for unacceptable harm in relation to the living conditions of nearby residents at The Homestead and Springwood, as well as the occupants of Jasmine Cottage itself. A planning condition restricting the type of livestock to be kept within the building would suitably prevent this harm.
21. The transport statement¹⁰ sets out the number of and nature of vehicle movements likely to be associated with the goat and hen enterprises proposed. These are limited in number, with most of the operations likely to involve

⁷ Odour modelling assessment prepared by Steve Smith, AS Modelling & Data Ltd 17.5.19 & Noise Assessment Report, Peak Acoustics

⁸ Section 4 Business Overview & paragraph 9.3.12, Planning & Justification Statement

⁹ Page 3 Planning Officer Report

¹⁰ Section 9, Planning & Justification Statement

domestic or 4x4 vehicles with a trailer. I have seen little evidence to substantiate how the likely degree of vehicular movements would result in unacceptable noise disturbance to nearby residents.

22. Therefore, subject to an appropriate condition, I find no conflict with policy BDP19 of the BDP which includes criterion q amongst those set out to secure high quality design. This requires development to include sufficient measures to reduce the potential impact of pollution on occupants.

Other matters

23. I have considered the impact on highway safety given the restricted width of Gravel Pit Lane. Nevertheless, there is an existing paddock with an established access in a rural location and the proposal is of a relatively modest scale. Consequently, the development would be unlikely to lead to significant impacts on the transport network in terms of capacity and congestion and therefore, would not conflict with the Framework (paragraph 108(c)) in this regard. There is nothing before me to substantiate the view that there would be an unacceptable impact on highway safety and note that the Highway Authority did not object to the proposal. Based on the evidence presented, I see little justification to take a different view.
24. Some representations raise concerns that the intended future use of the building may not be for agricultural purposes. However, I am required to consider the proposal on the basis of the evidence before me, the appearance and description of which is commensurate with an agricultural use. A residential use would require separate consent and in the event of a future breach, it would be open to the Council to take enforcement measures. Accordingly, such concerns attract little weight.

Conditions

25. Given that development has already commenced, the standard three year period in which the planning permission may be implemented is unnecessary. For clarity, I accept that there should be reference to the submitted drawings, although as the development has commenced, I have referred to these in my formal decision.
26. In the interests of safeguarding the character and appearance of the area, it is reasonable to ensure that the external finish of the building accords with the materials shown and that the new native species hedgerow shown in the landscaping plan is implemented promptly. On that basis, there is no need to require further details of external materials or landscaping as the Council suggest. A condition is imposed in order to ensure that the development provides adequate drainage as little detail is given on the submitted drainage plan. However, as the proposal does not propose foul drainage arrangements, I have amended the suggested condition to refer to surface water drainage details.
27. Paragraph 55 of the Framework states that planning conditions should be kept to a minimum and only imposed where they meet the tests set out. As the proposal utilises the existing access, there is no need to require its construction prior to the use of the building.
28. It will be seen from my reasoning above, that in order to protect the living conditions of nearby residents, I consider it necessary to restrict the type of

livestock that the building should accommodate to align with the odour and noise impact evidence provided. Given that, subject to this, I have found that the proposal would otherwise accord with development plan policy, I have seen no justification to require the demolition of the building if the use permitted were to cease, as the Council suggest.

Conclusion

29. I conclude that, the building would not be inappropriate development in the Green Belt and would not be harmful to the character and appearance of the area or the living conditions of nearby residents. Therefore, for the reasons given above, the appeal should be allowed.

Helen O'Connor

Inspector

Schedule of conditions (4 conditions)

- 1) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. 2420 Rev A Elevations and Roof Plan and thereafter retained. The timber cladding shall not be painted.
- 2) The planting of the hedgerow in the landscaping plan and statement 2420 shall be carried out in the first planting season following the occupation of the building; and any 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.
- 3) Prior to installation, the details of surface water drainage shall be submitted to and approved in writing by the local planning authority. The approved details shall be implemented prior to the first use of the building.
- 4) The building shall be used for general agricultural purposes and not for any form of livestock husbandry outside of the keeping of goats and hens or the circumstances described in Class D3(a) and (b) of Schedule 2, Part 6, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).