



Appeal Decision

Site visit made on 4 November 2019

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 22nd November 2019

Appeal Ref: APP/H1840/W/19/3235302

Land adjacent to Harvest Barn, Smite Lane, Hindlip, Worcs WR3 8SZ

- 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 Mark Vivian against the decision of Wychavon District Council.
 - The application Ref 19/00743/FUL, dated 25 March 2019, was refused by notice dated 5 June 2019.
 - The agreed description of the proposed development is "change of use of field to residential curtilage".
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Decision

1. The appeal is allowed and planning permission is granted for change of use of land, to form part of the residential curtilage at Harvest Barn, Smite Lane, Hindlip, Worcs WR3 8SZ, in accordance with the application, Ref 19/00743/FUL, dated 25 March 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The land shall be used as domestic garden land associated with the dwelling 'Harvest Barn', and for no other purposes.
 - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting, substituting, amending, extending, consolidating replacing or modifying that Order), no incidental buildings within Part 1, Class E of Schedule 1, and no gates, fences or walls within Part 2, Class A of the same Schedule, shall be erected on the land, except in the event that a further planning permission is expressly granted for that development.

Preliminary Matters

2. The plans originally submitted with the application left some doubt as to the extent of the land for which permission was sought. In subsequent correspondence, the appellant has confirmed that the intention was to include the whole of the land edged in red on the plan entitled 'Part of Field'. The Council has confirmed that it has no objection to the appeal being determined on this basis. I am satisfied that no party stands to be prejudiced by this clarification, and I have dealt with the appeal accordingly.
3. On the application form, the proposed development was described as: "... *Change of use so that we can have a vegetable plot, keep chickens, and park our 3 cars in the marked area*". During the course of dealing with the application, at the Council's request, the description was amended to "*Change*

of use of field to residential curtilage". The appellant has subsequently confirmed his agreement to this change¹.

4. To my mind, this revised description is somewhat anomalous, because strictly speaking a curtilage is not a use of land. But in the circumstances of this case, given the appellant's expressed intentions, I consider that the proposal is sufficiently clear despite this shortcoming. I have therefore dealt with the appeal on this basis. In addition, in granting permission, I have taken the opportunity to further clarify the nature of the use through Condition 2, as above.
5. An application for costs has been made by the appellant. That application is the subject of a separate Decision.

Main Issue

6. The main issue in the appeal is whether the proposed change of use would constitute 'inappropriate development' in terms of Green Belt (GB) policies.

Reasons for Decision

7. In the South Worcestershire Development Plan, adopted in February 2016, Policy SWDP2, Part E, requires that development proposals in the GB are to be considered in accordance with the National Planning Policy Framework (the NPPF). The meaning of inappropriate development is contained in NPPF paragraphs 145 and 146. The construction of new buildings is inappropriate, unless they fall within various specified categories. Certain other forms of development are then identified which are not inappropriate, provided that they preserve the GB's openness and do not conflict with the purposes of including land within it.
8. In this latter category, under paragraph 146 (e), one of the types which are not inappropriate is material changes in the use of land. In this connection, outdoor sport and recreation, cemeteries and burial grounds are cited as examples, but these are preceded by the words "*such as...*". The list is therefore clearly not intended to be exhaustive. I can see no apparent reason why a change of use to domestic garden, which is essentially what is proposed in the present appeal, should fall outside this category of material changes in the use of land.
9. No structures or operational development are proposed. Permitted development rights for incidental buildings, walls, fences and the like can be controlled by condition. Although vehicles might be parked on the land for some of the time, these would not be permanent fixtures, and their number and type would be controllable by reference to the purely domestic nature of the use sought. The openness of the GB would therefore be preserved.
10. I turn now to the question of whether any conflict would arise with the GB's purposes, which are set out in NPPF paragraph 134, and include safeguarding the countryside from encroachment. The appeal site is enclosed on two sides by Smite Lane, alongside which is a well-established hedgerow and other vegetation. On the third side is an access track and a large group of former farm buildings which are now converted to residential use, including Harvest

¹ The appellant questions the inclusion of the word 'field', in relation to the existing use, but nothing appears to turn on this point.

Barn and four other dwellings. Only on its short western boundary is the site contiguous with other agricultural land. Inward views are confined to a short section of Smite Lane, adjacent to the site itself.

11. This combination of the road, hedge and buildings, and the limited visibility, creates a strong sense of containment, which gives the appeal site a clear physical and visual association with the adjacent dwellings. In contrast, its connection with the farmland beyond these is quite tenuous. I accept that, over time, the use of the site as garden land might involve some degree of domestication, possibly including items of furniture or play equipment. However, the site is small in relation to the existing residential enclave as a whole, and is contained within the clear natural boundaries that I have described. In the particular circumstances of this site therefore, it seems to me that the development would not represent a significant or noticeable encroachment upon the countryside.
12. As far as I am aware, there is no suggestion of any conflict with any of the other purposes of GBs. I acknowledge the findings of the inspector in the appeal relating to Court Farm², where parking and domestic paraphernalia were found to reduce openness; but that case related to a larger scheme, for rebuilding works to form four new dwellings, whereas I must decide the present appeal on its own merits.
13. I note that the appellant is willing to remove the existing pole barn and storage container. However, this offer was not formally part of the application at the time when the Council considered it. Furthermore, the barn and container were permitted in 2010, and there is no apparent dispute as to their lawfulness. In any event, for the reasons given above, I am satisfied that the development now proposed would fall within the terms of the relevant policies, irrespective of whether these items are removed or not.
14. Consequently, having had regard to all the relevant elements of GB policy set out in NPPF paragraph 146, I find that the appeal proposal falls within the types of development that are not inappropriate in GBs. As such, the development complies with the relevant GB policies in both the NPPF and Policy SWDP2.

Conclusion

15. The appeal is therefore allowed, subject to the conditions set out in the opening paragraph of this decision. The reasons for Conditions Nos 2 and 3, defining the nature of the use, and restricting permitted development, are explained elsewhere in this decision. A condition requiring adherence to an approved plan is unnecessary, as the development is for a change of use only, but in any event, the relevant plan is identified in paragraph 2 above.

J Felgate

INSPECTOR

² APP/H1840/W/19/3222294