



Appeal Decision

Site visit made on 21 January 2020

by JP Tudor BA (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 19 February 2020

Appeal Ref: APP/W1850/W/19/3239434

Land at Chances Pitch, Colwell, Ledbury, Herefordshire WR13 6HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr P Houlbrooke (P & R Houlbrooke) against the decision of Herefordshire Council.
 - The application Ref: 191157, dated 29 March 2019, was refused by notice dated 18 April 2019.
 - The development proposed is general purpose agricultural building for the storage of grain/fertiliser.
-

Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for a general purpose agricultural building for the storage of grain/fertiliser at Land at Chances Pitch, Colwell, Ledbury, Herefordshire WR13 6HW in accordance with application Ref: 191157, dated 29 March 2019, and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos: 200-01 Revision B and 200-02 Revision D.
 - 2) The external surfaces of the development hereby permitted shall be constructed in the materials shown on Drawing No: 200-02 Revision D and be in a matt finish.

Procedural Matters

2. The provisions of the GPDO, under Article 3(1) and Schedule 2, Part 6, Class A, Part A.2.(2)(a) and (i), require the local planning authority to consider whether or not to grant prior approval in respect of the siting, design and external appearance of the building. My determination of this appeal has been made on that basis.
3. The appellant submitted a revised plan¹ with the appeal documentation. The Council appears to view that as an attempt to address the reasons for refusal and submits, referring to the 'Wheatcroft Principles'², that the appeal should be

¹ Drawing No: 200-02 Revision C

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

dealt with on the basis of the plans considered when the Council determined the application. However, the appellant explained that the purpose of the revised plan was to correct mistaken directional labelling of the proposed elevations and access points on the previous version of the plan.³ Given that the revised plan is intended to correct a labelling error, and that the orientation, size and appearance of the building remain the same, I do not consider that any party would be prejudiced by the lack of consultation on it.

4. It became apparent during consideration of the appeal that the elevations on the revised plan submitted with the appeal were also incorrectly labelled, when compared with the orientation of the building shown on the location and block plan.⁴ This was raised with the appellant who has provided a further revised plan⁵ with correctly labelled elevations. For the reasons already given, the corrected plan does not change the nature of the development significantly and no party would be prejudiced by me accepting it. Therefore, I have determined this appeal on the basis of the latest revised elevations plan.
5. The Council also refers to the content of paragraphs 8.6-8.11 of the appellant's 'Appeal Statement of Case' as new information, and again pointing to the 'Wheatcroft Principles', appears to be suggesting that the content should not be considered. However, those paragraphs seek to explain the appellant's reasons for the proposed siting of the development in response to the Council's reason for refusal on that basis. The appellant is entitled to make his case and the Council has had the opportunity to comment upon it during the course of the appeal. Therefore, no party would be prejudiced by me considering that information.
6. A prior approval appeal should not be determined, expressly or otherwise, on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004, or as though the development plan must be applied; the principle of development is established through the grant of permission by the GPDO. However, development plan policies may have relevance to the prior approval matters.
7. Similarly, Part 6 of the GPDO does not, unlike some other Parts, require that regard be had to the National Planning Policy Framework (the Framework).⁶ However, again, aspects of the Framework may be relevant to the development and prior approval matters. In particular, I have taken account of Framework paragraph 172 which says that great weight should be given to conserving and enhancing landscape and scenic beauty in Areas of Outstanding Natural Beauty.
8. The appellant has expressed concern about the way in which the notification and prior approval procedure was conducted by the Council. In particular, the issuing of decision notices, specifying that prior approval was required and refusing it, at the same time is referred to. While I note that the appellant considers that he was prejudiced by the Council's approach, for the purposes of this appeal it is not necessary for me to consider the matters raised in that regard in any detail. Furthermore, the appeal has provided an opportunity for the appellant to present his case.

³ Appeal Statement of Case (October 2019): Section 10: Drawings

⁴ Drawing No: 200-01 Revision B

⁵ Drawing No: 200-02 Revision D

⁶ February 2019

9. The Council advises that it accepts that the building is reasonably necessary for the purposes of agriculture and is satisfied that its design and external appearance, including materials and colour, is sympathetic and appropriate to its location within the AONB and its landscape setting. I see no reason to take a different view regarding those aspects.

Main Issue

10. The main issue is the effect of the siting of the proposed development on the character and appearance of the area, having particular regard to the location of the site within the Malvern Hills Area of Outstanding Natural Beauty (AONB).

Reasons

11. The appeal site is adjacent to existing agricultural buildings, operated as part of a wider farming business at Land at Chances Pitch, just north of the A449 highway. The site is surrounded by open countryside in the form of agricultural fields and falls within the AONB. There are also some residential dwellings nearby.
12. The proposed agricultural storage building would be about 36 metres in length, 24.4 metres wide and 8.8 metres high to the ridge of its pitched roof. The Council is concerned that the siting of the building would have an adverse effect on the character and appearance of the countryside and the landscape of the AONB.
13. According to the Council the existing portal-framed agricultural buildings on the site were mostly constructed during the mid-1990s. They comprise a large main building and a smaller building just to the north of it. There is a copse of trees to the south-east and planting to the south-west, meaning that the existing buildings are largely screened in views from the A449 to the south. There are other well-established copses, hedgerows and planting within the surrounding landscape.
14. The Council, referring to photographs of the site taken from the B4218 road to the east, submits that the site is exposed. However, as I saw on my site visit, that road has no footway and much of it is lined with relatively high hedgerow which screens views. The site is at a lower level than the road, as the land falls away. Therefore, while there are views from some isolated points along the road, such as where it meets a track leading north from Kyre Cottage, the gradients and intervening vegetation mean that views are partial, and most would be glimpsed from passing vehicles.
15. Moreover, the new building would be seen in the medium distance adjacent to, or against the backdrop of, similarly designed existing agricultural buildings, albeit of more modern form, against a wider landscape. Therefore, within that context, the building, although sizeable, would not appear prominent or unexpected, even during the winter months, when the screening effects of vegetation may be lessened. There would be some closer views from the public footpath running to the east of the site but again the building would be seen in the context of existing development on a working farm.
16. It is also suggested by the Council that the proposed building would jut out prominently from the existing complex of buildings. However, such a perception would, in part, be dependent on the particular point one was viewing the site from and any additional building would, to some degree,

expand the site in one direction or another. As indicated above, in the limited localised views obtainable from the B4218, the building would be seen with other similar buildings either behind or to the side of it. The new building would still be within the existing irregularly shaped field which the other buildings already occupy. It would be sited close to and in rough alignment with those buildings. Consequently, within that context, it would not appear prominent.

17. While the Malvern Hills AONB Unit (the AONB Unit) refers to a view from the B4218 identified as a key viewpoint⁷ in the draft Colwall Neighbourhood Development Plan (CNDP), the Council advises that the draft CNDP can only be afforded limited weight at this time. In any event, in describing the relevant image, the draft CNDP acknowledges: '*a) units are relatively small component of much wider panoramic view (photos below only illustrate part of it) ...*' I consider, for the reasons already given, that the additional unit close to the other existing buildings would not have a material detrimental effect on the immediate or wider landscape.
18. According to the Council, the Herefordshire Landscape Character Assessment 2009, defines the landscape character of the area as 'Principal Timbered Farmlands'. Although the Council considers the existing site and buildings to be '*somewhat uncharacteristic*' of the Principal Timbered Farmlands landscape, that view appears to be based on the relative modernity and style of the existing buildings and the lack of older buildings on the site. However, while such sites may be more limited in number in the landscape, as noted in a Landscape and Visual Impact Assessment⁸, prepared for the appellant in connection with previous planning proposals, '*the Principal Timbered Farmlands is a landscape type that occurs over large areas of Herefordshire, and modern farm buildings... are common within this landscape type. These are the sort of developments that one now expects to find in a modern agricultural landscape.*'
19. Therefore, while the existing site is comprised of modern buildings rather than presenting as a historic farmstead with later built additions, such steel portal framed buildings are not untypical of rural landscapes. Consequently, I do not consider that the existing character of the site, should necessarily preclude an additional building of a similar type to those already present in close proximity.
20. The appeal site forms part of an expanse of low-lying ground between the ridge of the Malvern Hills, including British Camp Hill Fort, to the east and high ground around Oyster Hill and Hope End Registered Park and Garden to the west. Although I have also considered comments from the AONB Unit regarding the proposal and these viewpoints, the photograph it has supplied of a view from British Camp Hill Fort is stated as taken with the benefit of a 300mm zoom lens and appears specifically directed at the site.⁹ Therefore, it is not typical of views that would normally be experienced by members of the public looking out from that vantage point across the vast sweep of the rural landscape below.
21. Even then, the view in the photograph comprises some agricultural buildings, albeit portal framed, in proximity to an older dwelling, which is not markedly different from views of other scattered developments in the surrounding

⁷ Viewpoint C (Image 5): Letter from Malvern Hills AONB Unit – dated: 20 December 2019

⁸ Allan Moss Associates Limited (June 2015)

⁹ Viewpoint A (Image 3): Letter from Malvern Hills AONB Unit – dated: 20 December 2019

landscape. In any event, as I saw, views from British Camp Hill Fort would be distant and limited by screening vegetation, while the site forms just a small element within a dramatic panoramic view. Therefore, the proposed building, similar to those existing but with an anthracite (dark grey) coloured roof, would not be a prominent addition in the context of the wider landscape.

22. The Council accepts that the existing '*planting provides some screening*', but suggests that the type of planting, including poplars and evergreens, is uncharacteristic of the area and '*only really serves to draw the eye to the buildings*'. Like the AONB Unit, it also casts doubt on the likely lifespan of the trees. While I note those opinions, the tree and hedge planting would not appear noticeably different from other planting in the area, especially in more distant views, and no detailed professional evidence regarding the condition or likely longevity of the trees has been provided. Therefore, I have no clear reason to suppose that they will not survive for a reasonable period into the future. Moreover, given its design and scale, both of which the Council consider acceptable, and proximity to existing buildings, the proposed building should not draw the eye in distant views, even from elevated positions.
23. Views from Hope End Park to the east are also referred to by the Council and the AONB Unit, although their emphasis appears to be on the visibility of the pale or white roofs of the existing buildings on the site. Concern is expressed that the proposal will extend the area of built form visible. However, given the relative size and colour scheme of the proposed additional building, along with the screening effects of scattered copses, the likely impact on the landscape from the various more distant elevated viewpoints would be minimal.
24. I note that the Council and the AONB Unit have suggested various alternative locations and orientations for the building, to the north-east and the west or northwest. However, the appellant advises that other positions have been considered but that, for example, positioning the building to the north-east would bring it closer to the route of the public right of way, which it appears reasonable to avoid.
25. As with many such proposals, there may be possible alternative locations or orientations, which it appears have been considered by the appellant, at least to some extent. My primary role is to consider the proposed siting before me, which I have found would not have a harmful effect in visual or character terms.
26. Overall therefore, I conclude that the proposed siting of the agricultural building would not have a detrimental effect on the character and appearance of the area, having particular regard to the location of the site within the AONB. The Council indicates that policies LD1 and RA6 of its Local Plan Core Strategy, amongst other things, seek to protect the rural landscape and AONBs. Therefore, insofar as those policies and the Framework are relevant to the prior approval matters, I do not consider that the proposed development would be contrary to them.

Conditions

27. The appellant should note that approvals under Schedule 2, Part 6, Class A of the GPDO are subject to the conditions detailed within section A.2 of Class A. They include, A.2.(2)(v(aa)), that the development must be carried out in accordance with the details approved, except to the extent otherwise agreed in

writing by the local planning authority; (vi)(aa), that the development is to be carried out within a period of 5 years from the date of this approval; and (7) that within 7 days of the date on which the development is substantially completed, the developer must notify the local planning authority in writing of that fact. The permission is also subject to other limitations and conditions detailed within the relevant part of the GPDO.

28. Given the above standard conditions within the GPDO, the Council's suggested conditions specifying a time period in which the development shall be carried out and the need for notice of substantial completion would be unnecessary duplication.
29. In addition, in the particular circumstances of this case, it is necessary to include a condition requiring the development to be carried out in accordance with the approved plans, as suggested by the Council, for certainty and to safeguard the character and appearance of the AONB. For the same reason, a condition is appropriate to ensure that the external finishes are matt, which would reduce possible glare from the rooftop in sunlight.

Conclusion

30. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed, and prior approval granted.

JP Tudor

INSPECTOR