



Appeal Decision

Site visit made on 13 August 2020

by Gareth Symons BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2020

Appeal Ref: APP/Y3940/C/20/3248972

Whaddon Grove Farm, Whaddon, Hilperton, Trowbridge, Wiltshire BA14 6NR

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Martin Tucker against an enforcement notice issued by Wiltshire Council.
 - The enforcement notice was issued on 6 February 2020.
 - The breach of planning control as alleged in the notice is: The material change of use of an agricultural building to a mixed use comprising of a steel fabrication business (Class B2 General Industrial) and storage (Class B8). The approximate location of which is shown as hatched black on the attached plan.
 - The requirements of the notice are: (a) Permanently cease the use of the land as a steel fabrication business (Class B2 General Industrial) and storage purposes (Class B8); (b) Permanently remove all non-agricultural plant, machinery, equipment, vehicles and all associated paraphernalia ancillary to the unauthorised use from the land.
 - The period for compliance with the requirements is: 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed, the enforcement notice is upheld and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Ground (a) - Main Issues

2. The main issues are whether the use is appropriately located in terms of access to services and facilities and development plan policies that seek to reduce the need to travel, and the effect of the development on highway safety.

Location

3. The appeal barn is rurally located, outside of any defined settlement boundary at the far end of Whaddon Lane from Hilperton roughly two miles away. The site is in a relatively remote location in relation to services and facilities. Policies 60 and 61 from the Wiltshire Core Strategy (CS) broadly set out aims to reduce the need to travel particularly by the private car as well as goods vehicles. CS policy 48 relates to the conversion and re-use of rural buildings and requires the site to have reasonable access to local services.

4. I acknowledge that the business currently only employs 2 full-time and 2 part-time persons and that time at the site is relatively limited with much of the company's work undertaken where the construction site is located. On-site deliveries are also coordinated/shared with another nearby engineering firm. Nevertheless, access to the site involves trips to and from the main road along a single narrow lane with few proper passing places in a location that causes the need to travel either by employees or delivery/goods drivers. The access route is not conducive to promoting or catering for the use of more sustainable means of transport such as walking, cycling or public transport. To my mind the site does not have reasonable access to local services and is located where planning policies seek to avoid new development taking place.
5. I appreciate the National Planning Policy Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, the planning system should also actively manage patterns of growth in support of promoting sustainable transport objectives. There are no doubt rural buildings in locations that can be converted and meet such aims, but that is not here.
6. The development does not accord with the sustainable transport aims of policies 48, 60 and 61 from the CS.

Highway safety

7. A previous appeal (Ref: APP/Y3940/W/19/3230427) was dismissed for the same change of use of this farm building in which the Inspector found harm arising to highway safety. It is clear though that the other Inspector did not have details of the exact size of the vehicles used in the business operation or vehicle movements that do and will take place up and down Whaddon Lane as a result. I have read the previous appeal statement that the earlier Inspector based their findings on.
8. This time around there is much more detail, particularly about the number of dwellings and commercial premises that have access off Whaddon Lane, and the consequent vehicular traffic generated. Not all this traffic passes along the full length of the lane unlike that connected with the appeal premises being at the far end. Nevertheless, the extra traffic generated by the appeal firm is not a material increase. Consequently, despite the lane's alignment and width deficiencies, the additional movements of vehicles associated with Lawes Steel are very unlikely to unacceptably increase the risk to highway safety.
9. Moreover, while each development proposal should be considered based on its individual merits, it is the case that the local planning authority has found other business uses along Whaddon Lane acceptable from a highway safety perspective. One of those, a waste recovery business with loads in and out of the site, was granted retrospective planning permission earlier this year where the Council's highway officer raised no objections and it was after the earlier appeal in this case was dismissed.
10. In view of the above I am satisfied that I can take an alternative view from the previous Inspector. Consequently, this time around I find that the scheme does meet the highway safety aims of CS policies 1, 2, 34, 48, 60 and 61.

Other Considerations

11. Restricting the use of the barn by condition to a personal permission would not overcome the concern found under the first main issue that the site is in the wrong place. I have read about the financial circumstances of the farm and how renting the barn out to Lawes Steel use has generated an important income. However, they do not indicate a decision other than in accordance with the Development Plan.

Ground (a) Conclusion

12. Despite not finding harm to highway safety, I have still found the appeal site is not appropriately located in terms of access to services and facilities and planning policies that seek to reduce the need to travel. That is the prevailing consideration. As such, having had regard to all other matters raised I conclude that planning permission should not be granted. Therefore, the ground (a) appeal fails.

Ground (g)

13. I am conscious that my decision to dismiss the appeal and uphold the enforcement notice will have financial consequences for Lawes Steel and the host farm. Moreover, the practical consequences for Lawes Steel will include the need to seek out a different premise to operate from. I can imagine that might not be easy. Nevertheless, nine months does in my view strike the right balance between seeking to bring the unauthorised use to an end, while also being a reasonable period of time to allow for a move and adjusting to the consequences of that for both the tenant company and the farm.
14. Consequently, the time for compliance does not fall short of what should be reasonably allowed. Therefore, the ground (g) appeal also fails.

Conclusion

15. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Gareth Symons

INSPECTOR