



Appeal Decision

Site Visit made on 25 September 2020

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 October 2020

Appeal Ref: APP/P4605/W/20/3254865

Manor House Farm, Bulls Lane, Wishaw, SUTTON COLDFIELD B76 9QW

- 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 J Lennon against the decision of Birmingham City Council.
 - The application Ref 2019/08848/PA, dated 3 October 2019, was refused by notice dated 26 March 2020.
 - The development proposed is change of use from agricultural buildings to storage and distribution (Use Class B8).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from agricultural buildings to storage and distribution (Use Class B8) at Manor House Farm, Bulls Lane, Wishaw, SUTTON COLDFIELD B76 9QW, in accordance with the terms of the application, Ref 2019/08848/PA, dated 3 October 2019, and the attached schedule of conditions.

Main Issue

2. The appeal site is within the Green Belt and so the main issue is:
 - whether the proposal would be inappropriate development in the Green Belt, including the effect on openness, having regard to the National Planning Policy Framework and development plan policy.

Reasons

3. The two agricultural buildings which are the subject of this appeal form part of a cluster of buildings which are accessed off Bulls Lane. The site is set back from the road and is well contained, with surrounding buildings, trees and hedges providing screening, so is not readily visible from the surrounding area.
4. The poultry house is a very long, narrow building of low height which fronts onto the access road and is surrounded by an orchard area. The store, which is of substantial height and has a mezzanine floor, is adjacent to a farm shop, which does not form part of the proposal. Both the store and farm shop front onto a gravelled courtyard area.
5. The proposal does not contain any details about the type of items to be stored in the former poultry building and store, but no changes are proposed to the appearance of either building. The scheme would make use of the existing access.
6. The site is within the Green Belt, so the proposal must be assessed in light of policies for these areas. The National Planning Policy Framework (the

Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. This approach is reiterated in Policy TP10 of the Birmingham Development Plan 2017 (the Local Plan).

7. Framework paragraph 145 states that the construction of new buildings should be regarded as inappropriate in the Green Belt, but as the proposal involves buildings which are already there, this paragraph does not apply. Paragraph 146 lists certain other forms of development which are not inappropriate in the Green Belt, provided they preserve its openness. These include, in paragraph 146d), the re-use of buildings, provided that the buildings are of permanent and substantial construction.
8. The two buildings are of timber and blockwork construction with metal sheeting on the roofs. They have clearly been on the site for a number of years, and the appellant has confirmed that they can be converted without the need for substantial alteration or rebuilding. I am satisfied that the buildings are of permanent and substantial construction for the purposes of paragraph 146d).
9. No changes are proposed to the appearance of the buildings and their re-use would not, in itself, impact on openness. However, it is also necessary to consider the effect of activities associated with the proposed change of use.
10. The appellant has confirmed that there would be no outdoor storage of goods or materials, however the proposal would involve parking of vehicles on site, which could be heavy goods vehicles (HGVs). Although not permanent features, the presence of such large vehicles could have an impact on openness, but the former poultry farming operation was of a significant scale and was likely to have involved large agricultural and delivery vehicles visiting the site on a regular basis. The proposal would not, therefore, result in any significant change in this respect.
11. There is nothing in the Framework which would preclude a storage and distribution use in the Green Belt, and the proposal and associated activities would not result in any significant differences to the appearance of the site. The proposal would preserve openness and would meet the requirements of Framework paragraph 146d). As such, it would not constitute inappropriate development, and would not conflict with Local Plan Policy TP10.

Other Matters

12. Saved Policy 8.58 of the Birmingham Unitary Development Plan 2005 states that the re-use of buildings will only be acceptable where it has been demonstrated that they are genuinely redundant for agricultural use. From the evidence provided and my observations on site, it appears that the poultry shed is no longer in use. The situation regarding the store is less clear, as when I visited, there did appear to be some, albeit limited, activity in and around the building.
13. Clear evidence to demonstrate that the buildings are no longer required for agriculture has not been provided, so the requirements of the first part of Saved Policy 8.58 have not been fully met. However, this policy was adopted before the publication of the Framework, and its requirements go beyond those of Framework paragraph 83, which supports the sustainable growth and

expansion of all types of business in rural areas through the conversion of existing buildings. As the policy is not fully consistent with the Framework, I have given greater weight to the wording of the Framework in this appeal.

14. From the information provided it is not clear what type of vehicles would be visiting the site, although based on a typical B8 use, the transport statement suggests there could be around 6 movements of larger vehicles per day, which could be HGVs. A tracking assessment has been submitted as part of the appeal to demonstrate that there is sufficient space within the site for large vehicles to manoeuvre within the site, and to enter and leave in a forward gear. On that basis, and taking account of the lawful use, which would have involved large vehicles regularly visiting the site, I am satisfied that the proposed use could be accommodated without causing harm to highway safety.

Conditions

15. The Council and appellant have both suggested a number of conditions, which I have reviewed in light of Framework paragraph 55 and the Planning Practice Guidance. I have merged some of the suggested conditions and reworded others to make them more precise, reasonable and capable of being enforced.
16. A condition specifying plans is necessary in the interests of certainty. In order to safeguard the living conditions of the occupiers of nearby properties, a condition is necessary to control hours of deliveries to and from the site. I have used the Council's suggested opening hours which restrict operations at weekends, at which time nearby residents will have a reasonable expectation that potentially disturbing activities be limited.
17. A condition to restrict noise levels from any plant and machinery associated with the use is also necessary to safeguard living conditions. I have altered the Council's suggested noise condition, which required the rating levels of cumulative noise levels to be below existing background levels. Given the potentially low background noise levels in this rural location, the suggested condition would be unduly onerous and would not meet the test of reasonableness.
18. In order to ensure safe access to, from and within the site, I have imposed a condition requiring that space is laid out for the parking and turning of vehicles in accordance with details to be agreed by the local planning authority.
19. The Preliminary Bat Roost Assessment and Bird Survey submitted with the application found that the buildings provide possible opportunities for bat roosting and bird nesting. The buildings are being retained but the survey contains recommendations to ensure that bats are adequately protected from disturbance during any activities associated with the proposal. To this end, I have imposed a condition requiring the installation of lead bat slates as specified in the bat and bird survey.
20. The bat and bird survey contains recommendations for external lighting. I agree this is necessary to avoid disturbance to any bats which make use of site, and I have imposed an appropriate condition. The appellant has suggested an additional condition restricting external lighting in the interests of the visual amenity of the site. However, by ensuring that any lighting is low level and low wattage, the recommendations of the bat and bird survey would also serve to

safeguard the rural character and appearance of the area, so a further condition regarding lighting is not necessary.

21. The Council has suggested a condition requiring details of the installation of bat boxes, but this is not suggested in the bat and bird survey, and given the mitigation measures already proposed, it is not clear why this is necessary. I have therefore not imposed this condition.
22. The appellant has suggested a condition restricting outdoor storage, which the Council has not commented on. It is likely to be necessary to place some materials outside of the buildings from time to time, as part of the maintenance of buildings or other operations. The suggested condition is very broad in scope, and could include items which would not necessarily cause harm to the general appearance of the area. The condition is unduly restrictive and would be difficult to enforce, so I have not imposed it.

Conclusion

23. The proposed development does not constitute inappropriate development in the Green Belt and accords with the development plan. For the reasons given, I conclude that the appeal be allowed subject to the attached conditions.

R Morgan

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - i) 1834.01A - location plan and block plan
 - ii) 1834.06A – existing plan – store
 - iii) 1834.07A – existing elevations – store
 - iv) 1834.08A – existing plan – poultry house
 - v) 1834.09A – existing elevations – poultry house
 - vi) 1834.10 – proposed plan – former poultry house
 - vii) 1834.11 – proposed plan – store
 - viii) Recommendations and method of working contained in the Preliminary Bat Roost Assessment and Bird Survey, September 2019
- 3) Deliveries shall be taken at or despatched from the site only between the hours of 07.00 and 20.00 on Monday to Friday; between 08.00 and 19:00 hours on Saturday, and between 09.00 and 16.00 hours on Sunday.
- 4) The rating levels for cumulative noise from all plant and machinery shall not exceed the existing LA90 background levels at any noise sensitive premises, as assessed in accordance with British Standard 4142 (2014+A1:2019) or any subsequent guidance or legislation amending, revoking and/or re-enacting BS4142 with or without modification.
- 5) No building shall be occupied for the approved use until space has been laid out within the site for 8 parking spaces, and for the loading, unloading and turning of vehicles, in accordance with a scheme previously agreed in writing by the local planning authority. That space shall thereafter be kept available at all times for the purposes specified in the approved scheme.
- 6) Within 12 months of the date of this decision, lead bat slates shall be installed on the roof former poultry shed, as detailed in the Preliminary Bat Roost Assessment and Bird Survey September 2019. The bat slates shall be retained on the building thereafter.
- 7) During the lifetime of the development, the installation of any external lighting on the site shall accord with the recommendations set out on page 23 of the Bat Roost Assessment and Bird Survey September 2019.