The Planning Inspectorate

Appeal Decision

Site visit made on 20 October 2020

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 December 2020

Appeal Ref: APP/Y1138/W/20/3255583
Bradford Farm, Uplowman Road, Uplowman EX16 7DQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr and Mrs A Fields against Mid Devon District Council.
- The application Ref 19/01862/FULL, is dated 29 October 2019.
- The development proposed is the retention of external works already undertaken and proposed change of use of redundant farm buildings to mixed B1a / A2 and B8 use.

Decision

1. The appeal is allowed and planning permission is granted for external works and change of use of redundant farm buildings to mixed B1(a) and B8 use at Bradford Farm, Uplowman Road, Uplowman EX16 7DQ in accordance with the terms of the application Ref 19/01862/FULL, dated 29 October 2019, subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Mr and Mrs A Fields against Mid Devon District Council. This application is the subject of a separate decision.

Procedural Matters

3. I have referred to the description of development in my decision only insofar as it refers to the development proposed. In doing so, I have also omitted reference to the originally proposed A2 land use, as this reflects its agreed removal from the proposal, as reflected within the appeal form.

4. At my visit it was evident that elements of the proposed development have been carried out, including the gravel car park and the storage container. I considered the appeal based on what I observed and the proposed drawings.

5. A fence has been erected at the vehicular access at the edge of the east side of the site, which is not part of the proposal. The lawfulness of the fence and the ownership of the land upon which it has been sited are disputed. However, it is not for me to be drawn on these matters within this section 78 appeal. As such, I did not have regard to them in my assessment.

6. The Council failed to give notice of its decision within the prescribed period. Despite this, a notional reason for refusal is given within the Council's appeal statement, which relates to the effect of the proposal on the character and appearance of the area.

7. On 29th July 2020, after the appeal was lodged, the Mid Devon Local Plan 2013-2033 (MDLP) was adopted. However, the Council has clarified, within its appeal statement, the MDLP policies upon which it intends to rely in support of

its notional reason for refusal. The appellants had an opportunity to address these circumstances during the appeal and I proceeded on that basis.

8. On 1 September 2020 the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force, amending the Town and Country Planning (Use Classes) Order 1987, including the effective absorption of Class B1 into the new Class E(g). Appeals submitted prior to 1 September, which includes this one, must be decided based on the use classes to which they refer. Nonetheless, I sought the views of the parties as to any potential implications of these changes for the planning merits of the appeal.

Main Issues

9. On the basis of all the evidence before me, I consider the main issues to be the effect of the proposed development on (i) the character and appearance of the area and (ii) highways safety.

Reasons

Character and appearance

10. Bradford Farm comprises a farmhouse linked to a range of largely disused agricultural barns built around an enclosed yard. Part of the range, identified as 'Suite 3A', has a flexible use, which I understand lawfully commenced last year[1]. There are two accesses off the adjoining Uplowman Road. One passes into the yard and one allows entry to a track which runs beyond the east flank of the barns, connecting to the aforementioned car park and storage container. Very close to the east of the car park is the barn conversion Bradford Barn.

11. The range of barns are attractive and the area to the rear was previously pleasantly luxuriant. However, the barns are also intrinsically functional and utilitarian buildings, and it can be expected that, if put back into purposeful use, their settings will change to reflect the activity within them.

12. The container, with the proposed aesthetic improvements, would be compatible with this environment as it is of utilitarian design. The car park adopts the appearance of a service yard, which is also not out of place within what was and is intended to be a working environment. The location of the container and the car park leads them to be largely out of public sight in any event.

13. Consequently, the proposal would have an acceptable effect on the character and appearance of the area. It would accord with the landscape and design aims of Policies S1, S9, S14 and DM1 of the MDLP and the National Planning Policy Framework (the Framework).

Highway safety

14. The scheme would, for the most part, use the site's east access. The appellants contend that the proposal would generate vehicular activity akin to the resumption of farming. However, the evidence of the interested party who occupies the adjoining Bradford Barn, which is the most comprehensive and compelling before me, suggests that there would be a significant increase in movements.

[1] Pursuant to Class R, Part 3, of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015

15. Visibility at the access is poor to the west, due to a stone wall, but adequate to the east. The wall on the west side is within the appellants' control and could be reduced in height, pursuant to a planning condition, to ensure that visibility can be achieved. This would also solve the potentially unsafe issue of vehicles approaching the site from the west and attempting to turn in, unaware that cars within the site could be close to the narrow site entrance.

16. Part of the east visibility splay is covered in tarmac and appears unregistered. The other part, comprising a retaining wall and bank, is within the ownership of Bradford Barn. This area may potentially become obscured if, for instance, vegetation grew upon it. If this scenario were to become reality, it is likely that exiting vehicles would nose out carefully onto the carriageway to gain visibility. Given that the drivers would be encouraged by the good westward visibility, they would be conscious of whether it would be safe to do so.

17. Protruding vehicles would, in turn, be visible to road users, who would be cognisant that they were in an environment punctuated by access points and with a clear 'place' function. They would be aware, therefore, of the potential for cars to pull out. The length of time users would have to see a car bonnet, and the relative width of the carriageway adjoining the site, would provide adequate time and space to manoeuvre around it without undue difficulty. It also follows, for these reasons, that road users would be suitably aware of the potential for other users to slow down to a near stop before accessing the site.

18. In these circumstances, I do not consider this potential scenario, and indeed the proposed use of the site access overall, to be manifestly unsafe. The Manual for Streets 2, which is the starting point for the design of roads that are not trunk roads, and which is of most relevance here, confirms in paragraph 10.5.8 the acceptability of such a situation.

19. I therefore conclude on this issue that the proposed development would not have an unacceptable impact upon highway safety. It would accord with Policy DM1 of the MDLP and Paragraph 109 of the Framework in this regard.

Other Matters

20. The proximity of Bradford Barn to the car park would cause a degree of noise disturbance to residents within the barn conversion. However, noise from vehicles would be inherently intermittent and, moreover, the appellants intend to restrict the operating hours of the businesses, which would significantly reduce the occurrence of noise, to acceptable levels.

Conditions

21. Whilst it is contended that this would unreasonably restrict the businesses, it seems to me that it would reflect typical working hours. I see no reason why the condition would not be enforceable, as hours of operation can be monitored, and such situations are commonplace. Given that the bee keeping element of the scheme is in itself small scale, attracting modest vehicular movements, it is not necessary to include this activity within the condition.

22. That aside, in addition to the standard time condition, a condition is needed to define the approved plans in the interest of certainty. It has not been adequately explained why the parking area needs to be kept clear of obstruction. In the interests of ecology, no external lighting should be provided at the site unless otherwise agreed. To ensure that a safe and visually

appropriate access is created, details of the westward visibility splay are required. In the interests of the character and appearance of the area, it is necessary to secure the visual enhancements to the storage container.

23. As Use Class B1 has now been absorbed into the broader Use Class E, there is the potential for subsequent movements within the use class without development occurring. This could lead to a use being established at Bradford Farm which was not anticipated by any party during the appeal and which may be inappropriate. For example, a restaurant would likely have materially different impacts with regard to human behaviour, noise, and smell. These are justifiable circumstances within which to impose a condition restricting the use of the B1(a) and B8 units to within those specific classes.

24. Given that distribution style companies may require continuous operating hours, which would not be appropriate with regard to the living conditions of the occupants of Bradford Barn, it is reasonable to restrict the use at the site to preclude such uses. There is no clear justification for restricting the use of the storage container to that associated with only bee keeping. As it is already established regardless of the appeal proposal, I also do not consider there to be reasonable grounds to impose restrictions upon the existing use of Suite 3A.

Conclusion

25. For the reasons outlined above and taking all other matters raised into account, I conclude that the appeal should be allowed, subject to conditions.

Matthew Jones

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: PA-01, PA-02, PA-04, PA-06, PA-08, PA-10, PA-12, PA-14, PA-16, PA-18, PA-20, PA-22, PA-23.

3) The B1(a) and B8 uses hereby permitted shall not take place outside of the hours of 08:00 to 19:00 Monday to Friday and 0800 to 13:00 Saturday and shall not be operated on Sundays and Bank Holidays.

4) No external lighting shall be installed unless details have first been submitted to and agreed in writing by the Local Planning Authority. Any external lighting shall be installed in accordance with the agreed details.

5) Prior to the first use of the B1(a) and B8 uses hereby approved, details of the form and finish of the proposed westward visibility splay to the east site access shall be submitted to and approved in writing by the Local Planning Authority and carried in struct accordance with the approved details. Details shall include identification of the area of wall requiring removal and details of making good including the specification of mortar mix and capping, and landscaping.

6) The storage container shall be clad and roofed in accordance with the details indicated on the approved plans within five months of the date of this decision.

7) The areas referred to as 'Suites 1, 2A, 2B, 2C and 3B' on the approved plans shall be used for purposes falling within Use Classes B1 and B8 (storage) only and for no other purpose (including for use as a B8 distribution place or other purpose in any Use Class of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).