



Appeal Decision

Site visit made on 19 January 2021

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2021

Appeal Ref: APP/Q3305/W/20/3261591

Beechbarrow Farm, Haydon Drove, Wells BA5 3EH

- 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 Peter McCann against the decision of Mendip District Council.
 - The application Ref 2020/1268/FUL, dated 3 July 2020, was refused by notice dated 27 August 2020.
 - The development proposed is the change of use from agricultural to mixed use (B1 Business and C3 Residential) and conversion of barn to live work unit.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from agricultural to mixed use (business and residential) and conversion of barn to live work unit at Beechbarrow Farm, Haydon Drove, Wells BA5 3EH in accordance with the terms of the application, Ref 2020/1268/FUL, dated 3 July 2020, subject to the conditions in the attached schedule.

Procedural Matters

2. There are two other concurrent appeals¹ submitted at Beechbarrow Farm. However, the red edged appeal site is different in each case and there are differences in the nature of each proposed development. Furthermore, the main issues, although similar in some regards, differ for the respective developments. Accordingly, in the interests of clarity I have dealt with the proposals in separate decision documents.
3. In my heading above I have used the description given in the appeal form and decision notice as it is more succinct than that given on the application form. The description refers to the proposed mixed use of the building, which would normally fall outside of any specified use class in the Town and Country Planning (Use Classes) Order 1987 (as amended) (the Order). Nevertheless, it refers to use classes C3 and B1, the latter of which, has been revoked and replaced in recent amendments to the Order. I have determined the appeal on the basis that it is proposed to use the work floorspace of the proposal for uses equivalent to class B1. This would include office use, research and development and light industrial processes. Such uses would be capable of being carried out in residential areas without detriment to the amenity of that area and in addition, would not primarily rely on visiting members of the public. Furthermore, I have omitted references to the use classes in my formal decision.

¹ APP/Q3305/W/20/3260734 & APP/Q3305/W/20/3261448

Main Issues

4. The main issues are:

- Whether the proposal would be appropriately located having regard to local policies and accessibility;
- The effect of the proposal on highway safety, and;
- If harm arises, whether this is outweighed by other material considerations.

Reasons

Location and accessibility

5. Core Policy 1 (CP1) of the Mendip District Local Plan 2006-2029, Part 1 Strategy and Policies, December 2014 (LP) sets out the Mendip Spatial Strategy. This seeks to direct development to the principal settlements and villages of the district at a scale broadly commensurate with the provision of employment opportunities, local services and access to a range of methods of transport. Core Policies 2 and 3 (CP2 and CP3) give further details as to how the LP supports housing provision and business development and growth in line with the overall spatial strategy. Part of the strategy involves strictly controlling development in the open countryside subject to specified exceptions set out in Core Policy 4 (CP4).
6. One of the exceptions listed in CP4 allows for the conversion of existing buildings for an economic use as considered under Development Policy 22 (DP22). Although it does not specifically mention live/work units, DP22 supports the reuse and conversion of rural buildings in the countryside for both economic and residential uses subject to similar criteria but, in the case of residential use, it would also need to lead to the enhancement of the immediate setting of the building.
7. The policies outlined generally accord with national policy set out in paragraph 79c) of the National Planning Policy Framework (the Framework). This stipulates that planning decisions should avoid the development of isolated homes in the countryside save for certain circumstances, one of which is where the development would re-use redundant or disused buildings and enhance its immediate setting. In addition, paragraph 83 states that in order to support a prosperous rural economy, planning decisions should enable the sustainable growth of all types of business in rural areas, including through the conversion of existing buildings. Furthermore, paragraph 81 requires planning policies to be flexible enough to allow for new and flexible working practises such as live-work accommodation.
8. The appeal site primarily accommodates an existing large detached modern agricultural building in the corner of a field which is accessed via a track from Haydon Drove. It is sited some distance from the cluster of buildings to the west and is outside of any defined development limits in the LP. Accordingly, it lies in open countryside for the purposes of the LP, and from my observations, appeared to be isolated from other built form.
9. The proposal would be for a live/work unit comprising a sizeable business component as well as a generous living area. It would be one planning unit

whereby at least one of the residing occupants would be primarily employed in a business occupying the unit. As such, there are linked economic and residential elements to the proposal. The Council considers the proposal would meet with the requirements of DP22². Nevertheless, in relation to the residential component they point out that policy CP4 reinforces the spatial strategy by directing residential development to either primary or secondary villages which have designated development limits. Furthermore, they consider that accessibility to public transport and facilities would be poor such that the proposal would increase the use of private vehicles.

10. I acknowledge that the walking environment to local facilities in Wells would not be attractive for pedestrians given that the route is steep in parts, directly adjacent to the noise and presence of traffic using the A39 which is mostly unlit with limited surveillance. Similarly, cyclists would need to be confident road users given the amount and speed of traffic on the A39. Moreover, the steep incline is likely to be off-putting to some cyclists. Furthermore, although there is a reasonably regular rural service to facilities at Wells, there is no bus shelter or lighting at the nearest bus stop making the environment for passengers waiting for a bus uninviting. Overall, the degree of choice as to means of travel would be limited and future occupants would be likely to rely on the private car as their principal means of travel.
11. Nevertheless, DP22 does not restrict support for the reuse and conversion of existing rural buildings only to those that are well served by public transport as it recognises that a balance must be struck between controlling development in the countryside and the efficiency arising from using an existing built resource to provide employment or housing opportunities. In addition, by combining residential and economic elements, a live/work unit would be likely to reduce the need to travel to work for some of the future occupants. Moreover, DP22 expressly applies to buildings that are located outside of defined development limits in the district. Hence, almost inevitably such buildings will be in more dispersed locations with limited scope for travel by foot, cycling and public transport.
12. The Council's approach would mean that CP4(1) prevents the residential reuse of an existing rural building unless it is also within the designated development limits of a primary or secondary village. However, such a restrictive approach would render DP22(2) meaningless as it only applies outside of such boundaries. That would be illogical. As such, although CP4 sets out ways in which the LP sustains rural communities, there is no reason to suppose it is intended to override DP22 in the way suggested. This is reinforced by the supporting text preceding CP4 in paragraph 4.75 which states that the section establishes an overall strategy for rural development and that for most forms of rural development, the Council will use national guidance and development management policies set out in the LP to determine development.
13. The Council indicates that the proposal accords with the requirement in DP22 which requires the re-use and conversion for residential use to lead to an enhancement to the immediate setting. The proposal would largely retain the form and external fabric of the existing modern agricultural building but would add windows and doors in the proposed residential section. Furthermore, the curtilage of the building is drawn reasonably close to the structure itself with

² Council Officer's report reference 2020/1268/FUL

most space adjacent to the existing track and vehicular access. This would provide limited opportunities for a domestic garden area or outside storage for the business. Overall, subject to conditions to agree suitable good quality boundary treatments, appropriate landscaping, lighting details and parking provision there is little before me to show that an enhancement of the setting would not be achievable.

14. My attention is drawn to a recent appeal decision³ at Beechbarrow Farm which dismissed a proposal for a new dwelling. However, that decision did not concern the change of use of an existing building and therefore, policy DP22 of the LP was not a relevant consideration. Given this significant difference with the scheme before me, it is of limited relevance and therefore attracts a commensurate amount of weight.
15. I have had regard to the concerns raised by the Mendip Society regarding the potential visual impact on the Mendip Hills Area of Outstanding Natural Beauty (AONB). Nevertheless, the building is not within the AONB. Moreover, their concerns primarily relate to the impact arising from cumulative development proposals, as they acknowledge that individually the development appears to be relatively minor. Glimpses of the existing building from the AONB are unlikely to change to any material extent. Moreover, the softening effect of existing hedgerows with additional landscaping and boundary treatments would prevent harm to the special qualities of the AONB.
16. St Cuthbert Out Parish Council indicate that approval should be given subject to certain provisos, which include that the site is used for local employment. They also recommend an agricultural tie. However, the development is not proposed or justified on the basis of constituting an occupational rural worker's dwelling, rather it would be a mixed use live/work unit. A condition limiting the occupation of the residential element to a rural worker would fundamentally alter the nature of the proposal. Furthermore, the local and national policies that support the reuse of existing rural buildings for business use do not impose requirements regarding the origins of future business occupants. Therefore, whilst in some regards the mixed use nature of the proposal would ensure local employment to the future occupant, there is no policy justification to impose additional controls. Hence, such conditions would be unnecessary to make the proposal acceptable in planning terms.
17. Accordingly, I find that the proposal would reuse and convert an existing rural building in accordance with policy DP22 of the LP. Furthermore, this would align with the overall strategy for rural development in the LP and therefore, in this regard I find no conflict with policies CP1, CP2, CP3 or CP4 of the LP.

Highway safety

18. Paragraph 108 of the Framework stipulates that when assessing applications for development it should be ensured that safe and suitable access for the site can be achieved for all users. Paragraph 109 further states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

³ Reference APP/Q3305/W/20/3256259

19. Access to the proposed live/work unit would be along an existing track to Haydon Drove, an unclassified road. Both the existing track and Haydon Drove are narrow which is likely to restrict the speed of vehicles. Combined with their relatively straight alignment, this would allow reasonable opportunity for drivers exiting the access track to see approaching vehicles on Haydon Drove. Moreover, the number of vehicle movements generated by the proposed mixed use would be unlikely to be significant and I am mindful that vehicles associated with the agricultural use of the building could already use this arrangement.
20. Limited information is provided in relation to the details of parking and turning at the site. Nevertheless, given the space shown between the existing building and track, there is little reason to doubt that appropriate parking and turning facilities could not be adequately accommodated as part of the development. Paragraph 54 of the Framework states that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions. It follows that these details could be secured using conditions and I have not seen convincing evidence to show otherwise.
21. This is reinforced by the reported comments of the Highway Authority who raise no objection to the proposed access subject to conditions. Given their expertise, their comments attract considerable weight.
22. The Council raise concerns regarding the use of the junction of Haydon Drove with the A39, where there is reduced visibility to the right. However, there is little basis to suppose that in coming to their view, the Highway Authority failed to take the usage of this junction into account. Furthermore, the existing agricultural use of the building is likely to generate large slow moving vehicles that may use this junction. Overall, the evidence before me does not demonstrate that the mixed use would lead to an increase in traffic using the junction with the A39 that would have an unacceptable impact on highway safety. It follows on this basis that the Parish Council's requirement that the access be re-routed would not be justified.
23. The Council refers to the absence of lighting along the access track and Haydon Drove and poor facilities for pedestrians. In my consideration of the first main issue I acknowledge that pedestrian routes to facilities and access to public transport would not be ideal and therefore, unlikely to be conducive to encouraging means of travel other than by private car. Even so, it does not necessarily follow that the pedestrian access would be unsafe. The absence of street lighting is not uncommon in rural areas and I have seen little substantive evidence to demonstrate there would be an unacceptable impact on highway safety.
24. Accordingly, I find that subject to conditions the proposal would not have an unacceptable impact on highway safety. Therefore, it would not conflict with Development Policies 9 or 10 of the LP, which, in combination and amongst other things, require development to make appropriate provision for access and parking.

Other matters

25. The Council indicate on the appeal questionnaire that the appeal site is not in or adjacent to or likely to affect an internationally designated site. This is

reinforced by the comments of the Council's Ecology Officer who states that the proposal would be unlikely to have a significant effect on horseshoe bats and therefore, would not be harmful to the North Somerset and Mendip Bats Special Area of Conservation (SAC) which is designated for its horseshoe bat features. The building already exists and I have nothing before me that would indicate that the proposal to change use would be likely to have a significant effect on the internationally important interest features of the SAC either alone or in combination with other plans and projects. As such I am not required to undertake an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017. However, it is possible that some species of bats may frequent the surrounding habitat. All species of bat are protected, and most are light adverse. Therefore, steps to prevent any harmful increase in artificial light would be necessary to protect bat activity. This is a matter that can be addressed by planning conditions.

Planning balance

26. The appellant states that the Council cannot demonstrate a five year supply of deliverable housing sites and I have not seen evidence to show otherwise. Even so, it will be seen from my reasoning above that I have found no conflict with the development plan. In these circumstances there is no need to consider further the presumption in favour of sustainable development in paragraph 11 of the Framework.

Conditions

27. The three year period in which the planning permission may be implemented is a statutory requirement but I also consider that it is necessary to specify the plans that are approved and that the development shall be undertaken in accordance with these as this provides certainty.
28. A condition requiring the agreement of the boundary treatments and landscaping is reasonable and necessary given the local and national policy requirement that a re-use of a building involving residential use should enhance the setting of the building.
29. Further details regarding visibility, parking and access ought to be secured by condition in the interests of highway safety. Moreover, the proposal is for a live/work unit and I have given weight to the economic element of the proposal. Therefore, to ensure that it is used as such, I have imposed a condition requiring that the work area is finished prior to occupation of the residential element. Furthermore, a condition is imposed that links the occupants of the dwelling to the workspace. In the interest of protecting living conditions and highway safety, I have also imposed a condition to limit the use of the work space to business uses that would be compatible to a residential use and would not generally have visiting members of the public.
30. It is possible that the wider area constitutes habitat that supports bats. Therefore, in order to protect light sensitive species, it is important that steps are taken to mitigate the impact of additional lighting arising from the proposal. Although the appellant points out that there are currently no restrictions on the amount of external lighting possible at the building, it is presently in agricultural use and has restricted openings. I did not observe significant external lighting when I visited the site. The proposal will involve increased occupation of the building and human activity, as well as additional

fenestration which are likely to increase the level of associated lighting. Accordingly, a condition is imposed in relation to glazing specifications and external lighting. However, the Council's Ecology Officer⁴ makes no reference to the conditions suggested regarding a kestrel nest box and timing of the removal of hedgerows. As such, I have seen little evidence to justify imposing a condition regarding a kestrel nest box. Furthermore, given that the building already exists and having regard to the submitted plans there is little reason to suppose that the development would remove hedgerows.

31. The Council have suggested conditions to require further details of surface and foul water drainage. However, the consultation response from the Council's drainage engineer has not suggested this. Therefore, I am not persuaded that it would be necessary to make the development acceptable in planning terms. Furthermore, as the proposal would change the use of an existing building, I am not convinced that a programme of archaeological work is necessary.
32. Finally, conditions are suggested to remove permitted development rights for extension, alteration or additional buildings in the curtilage. Planning Practice Guidance (PPG) advises that the scope of such conditions needs to be precisely defined, by reference to the relevant provisions in the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), so that it is clear exactly which rights have been limited or withdrawn. Blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. Given the limited curtilage of the proposal such restrictions would be unnecessarily onerous. In any event, it is not established that the mixed use development would benefit from the permitted development rights that the Council seek to remove. Accordingly, as I do not consider such conditions would meet the tests set out in the Framework or the PPG they are not imposed.

Conclusion

33. For the reasons given above I conclude that the appeal should be allowed.

Helen O'Connor

Inspector

⁴ Comments dated 22.7.20

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: Location Plan, drawing no. 2680-06; Site Plan; Proposed Ground Floor, drawing no. 104 Rev 2; Proposed First Floor, drawing no. 105 Rev 2; Proposed Roof Plan, drawing no. 106 Rev 2; Proposed Elevations drawing no 107 Rev 2 and Proposed Sections, drawing no. 108 Rev 2.
- 3) Prior to the first occupation of the building in the use hereby permitted, boundary treatments, previously submitted to and approved in writing by the local planning authority, shall be carried out in accordance with the approved details and retained as such thereafter.
- 4) Prior to the first occupation of the building in the use hereby permitted there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained, and set out measures for their protection throughout the course of development.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) Prior to the first occupation of the building in the use hereby permitted the access track shall be provided with visibility splays, surfaced with a bound material for the first 6 metres from the point it joins Haydon Grove and drained in accordance with details previously submitted and approved in writing by the local planning authority. Thereafter, there shall be no obstruction to visibility greater than 600mm above adjoining road level within the visibility splays approved.
- 7) Prior to the first occupation of the building in the use hereby permitted space shall be laid out within the site in accordance with plans previously submitted and approved in writing by the local planning authority for vehicle parking and for vehicles to turn so that they may enter and leave the site in forward gear. The approved layout shall thereafter be kept available at all times for those purposes.
- 8) The business floorspace of the live/work unit shown on drawings 104 Rev 2 and 105 Rev 2 shall be finished ready for occupation before the residential floorspace is occupied.
- 9) The business floorspace of the live/work unit shown on drawings 104 Rev 2 and 105 Rev 2 shall not be used for any purpose other than (a) as an office to carry out any operational or administrative functions, (b) for research and development of products or processes, or (c) for any industrial process, being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. The business

floorspace shall not be used to provide services that are provided principally to visiting members of the public.

- 10) The residential floorspace of the live/work unit shall not be occupied other than by a person(s) solely or mainly employed, or last employed, in the business occupying the business floorspace of that unit, a widow or widower or surviving civil partner of such a person, and any resident dependants.
- 11) Prior to the first occupation of the building in the use hereby permitted a lighting scheme including a scheme to limit light spillage from glazing shall be submitted to and approved in writing by the local planning authority. The details shall show external lighting to be installed and where glazing that limits light spillage will be used so that it can be clearly demonstrated that the proposal will not adversely disturb or prevent bats using their territory or having access to their resting places. All glazing and external lighting shall be installed as agreed and these shall be maintained thereafter in accordance with the approved design and specifications. No other external lighting shall be installed.