
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/20/3261448

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 Peter McCann against the decision of Mendip District Council.
 - The application Ref 2020/1176/FUL, dated 21 June 2020, was refused by notice dated 7 September 2020.
 - The development proposed is the change of use from agricultural to mixed use (B1 Business and C3 Residential) and erection of Live Work unit.
-

Decision

1. The appeal is dismissed.

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 Nevertheless, it refers to use classes C3 and B1, the latter of which, has been revoked and replaced in recent amendments to the Order.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.

Main Issues

4. The main issues are:
 - Whether the proposal would be appropriately located having regard to local policies and accessibility;

¹ APP/Q3305/W/20/3260734 & APP/Q3305/W/20/3261591

- 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. The combination of these policies broadly accords with national policy to support a prosperous rural economy set out in paragraphs 83 and 84 of the National Planning Policy Framework (the Framework).
7. The appeal site forms part of a field located near to an existing modern agricultural building and some distance to the east of a small cluster of buildings served off the A39. Notwithstanding the appellants reference to an existing permission² for an agricultural barn at the site, this has not been constructed. Accordingly, the site is agricultural land. It is outside of any settlement and approximately 2 miles from the nearest notable facilities in Wells. Therefore, it lies in open countryside for the purposes of the LP.
8. The proposal would introduce a large mixed use building onto the site comprising residential and business components. The Mendip Spatial Strategy does not specifically mention live-work units therefore it follows that, with respect to the residential element of the proposal, comprising part of a live-work unit would not fall within any of the exceptions for residential development in the countryside permitted by CP4. However, I am mindful that paragraph 81 of the Framework states that planning policies should be flexible enough to allow for new and flexible working practices such as live-work accommodation.
9. In terms of the economic element, CP4(4b) indicates that support is given for proposals for development of the rural economy as set out in CP2 which enable the establishment, expansion and diversification of business in a manner and of a scale which is appropriate to the location and constraints upon it. The cross reference to CP2 confirms that, for proposals outside identified development limits, support for mixed use development refers to sites identified through the site allocations process. This indicates an approach flexible enough to allow for new live-work accommodation. There is nothing before me to show that the appeal site has been identified through the site allocations process.
10. Furthermore, there is no dispute between the parties that the proposal would be speculative with no end user or specific industry sector identified. On that

² Reference 2019/2956/AGB

basis, I have not seen any evidence to show that the proposal would be necessary to meet a local business need in the open countryside that could not otherwise be met in a manner that would align with the pattern of economic growth for the district outlined in the LP. Consequently, the introduction of a new live-work unit at the appeal site location would conflict with the spatial approach to rural development in the LP.

11. In addition, the residential element of the proposal is generous, providing four bedrooms. Therefore, even taking into account that there would be no commuting for at least one occupant, it is likely that there would be additional residential occupants that would have a range of travel requirements.
12. Notwithstanding the existence of a footpath for most of the way, the walking environment to local facilities in Wells would not be attractive for pedestrians given that the route is steep in parts, and directly adjacent to the noise and presence of traffic using the A39 which is mostly unlit with limited surveillance. Moreover, there is no footway along the access track or Haydon Drove which represents a considerable unlit stretch along narrow lanes which could make pedestrians feel vulnerable. This is of note as it coincides with the route to the nearest bus stop. When combined with the distance involved, these factors would be likely to deter pedestrians from using the route routinely.
13. Although the bridleway or other footpaths may offer an alternative route to Wells for some of the way, it is not shown that they are lit or overlooked. Hence, due to the combination of conditions, terrain and distance the walking routes would not constitute a realistic practical option for a wide range of future residents regularly journeying to work or school nor for those with mobility difficulties or pushing prams.
14. 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. I acknowledge that electric bicycles or scooters may prove advantageous in these circumstances, but their use would not overcome all of my concerns.
15. The bus service along the A39 to Street, Glastonbury, Wells and Bristol would offer a reasonably regular rural service to facilities at Wells. This is reinforced by Figure 6 of the LP³. Nevertheless, the pedestrian route to the nearest bus stop at the corner of the A39 and Haydon Drove would not be ideal for the reasons already outlined. Moreover, I did not observe any bus shelter or lighting. Therefore, the environment for passengers waiting for a bus is not inviting. For these reasons I cannot agree with the appellant's assertion that the site would have excellent public transportation links. Rather, the degree of choice as to means of travel would be limited.
16. Taking these factors in combination, it is likely that some future residents of the proposal would be reliant on the private car as their principal means of transport. Even if vehicles were powered by electricity generated by the wind turbine at Beechbarrow Farm, this would not prevent the growth of private car usage. Consequently, it would do little to reduce congestion or promote public health associated with a genuine choice of transport modes. In any event, I am not assured that a planning condition to require future occupants to use an electric vehicle charged by power from the wind turbine would be enforceable

³Figure 6 – Accessibility by Public Transport to a Town before 10am on a weekday

or reasonable and thereby pass the requisite tests set out in paragraph 55 of the Framework.

17. Reference is made to permission for a barn at the site. However, as this building has not been constructed, the proposal would not be a conversion of an existing building but rather a new build live-work unit. Accordingly, it differs significantly from the circumstances of concurrent appeal reference APP/Q3305/W/20/3261591 in that Development Policy 22 of the LP, which gives some support for the reuse and conversion of rural buildings in the countryside, would not apply in this case.
18. Accordingly, I find that when assessed against local policies, the proposal would not be appropriately located as it would undermine the planned pattern of growth and would encourage additional car travel. Therefore, it would conflict with the spatial strategy contained in Core Policies 1, 2, 3 and 4 of the LP. The weight to be given to the conflict with these policies is something I shall consider further in the overall planning balance.

Highway safety

19. Paragraph 108 of the Framework stipulates that 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.
20. 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 likely to be limited.
21. Limited information is provided in relation to the details parking and turning at the site. Nevertheless, considerable space is shown as part of the grounds of the proposed building. On that basis, 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.
22. This is reinforced by the comments of the Highway Authority⁴ who raise no objection to the proposed access subject to conditions. Given their expertise, their comments attract considerable weight.
23. 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, in coming to their view, the Highway Authority took the usage of this junction into account. They noted one recorded personal injury collision at the A39 junction, which was due to driver error. Overall, the evidence before me does not

⁴ Dated 5.8.20

demonstrate that the mixed use would generate such an increase in traffic using the junction with the A39 that it would have an unacceptable impact on highway safety.

24. The Council further refers to the absence of lighting for the access track and Haydon Drove and poor facilities for pedestrians. I have taken this into account in my finding that pedestrian routes to facilities and access to public transport would not be conducive to encouraging means of travel other than by private car. However, it does not necessarily follow that the absence of lighting would make the pedestrian access unsafe and I have seen little evidence to demonstrate that.
25. 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.

Planning balance and conclusion

26. The Council cannot demonstrate a five year supply of deliverable housing sites. The information provided refers to 3.8 years⁵ supply and I have not seen evidence to suggest otherwise. This represents a sizeable shortfall. In these circumstances footnote 7 of paragraph 11 of the Framework deems that for applications involving the provision of housing, the policies which are most important for determining the application are out-of-date. As the live-work unit would provide some residential floorspace, this should apply in this case. It is not shown that any of the Framework policies in footnote 6 provide a clear reason for refusing the proposal. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
27. The LP dates from 2014 but paragraph 213 of the Framework states that due weight should be given to development plan policies made prior to the publication of the Framework according to their degree of consistency with it. Although the Framework does not preclude development in rural areas, rural housing should be located where it will enhance or maintain the vitality of rural communities⁶ and there is little before me to show that would be the case in relation to the live-work unit proposed. Moreover, I have found that the approach to rural economic development in the LP broadly aligns with paragraphs 83 and 84 of the Framework which support a prosperous rural economy. National policy also expects development to prioritise pedestrian and cycle movements⁷. Additionally, planning decisions should promote the effective use of land⁸. Therefore, it supports the spatial strategy in the LP in terms of the location of rural economic development and the general thrust in relation to the location of rural housing.
28. I have had regard to the findings of the Inspector in a recent appeal decision⁹ for a dwelling elsewhere at Beechbarrow Farm. He considered that no weight should be given to the conflict with the settlement strategy in relation to a new

⁵ Appellant's Design and Access Statement, paragraph 3.1

⁶ Paragraph 78 NPPF

⁷ Paragraph 110 NPPF

⁸ Paragraphs 117 NPPF

⁹ Reference APP/Q3305/W/20/3256259

dwelling but gave great weight to the failure to appropriately promote the use of sustainable modes of transport. The scheme before me is for a mixed residential and economic use and therefore, differs markedly from that proposal. As such, it is of limited weight. Overall, taking into account both the shortfall in deliverable housing sites and the mixed use nature of the scheme, great weight is given to the harm arising from the conflict with policies CP1-4 of the LP in this case.

29. The proposal would provide a live-work unit which, in part, would contribute towards housing provision in an area of unmet need. There would be economic benefits associated with the construction of the building and future business use and other spending activity of the occupants. The live-work unit would mean that at least one occupant would not need to commute to work. However, in other regards, there would be a limited choice of means of travel. The building would be constructed to a high standard of environmental performance and energy for the building and future occupants' vehicles could be generated from an existing wind turbine. The development would generate additional Council tax for the Council. Even so, the extent of these benefits accruing from a single live-work unit would be small such that overall, they attract limited weight.
30. Consequently, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.
31. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise¹⁰. The benefits would not justify my determining the development other than in accordance with the adopted development plan and the provisions of the Framework do not outweigh this finding. Hence, for the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

¹⁰ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.