
Appeal Decision

Site visit made on 5 April 2022

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2022

Appeal Ref: APP/J1860/W/21/3287755

Northington Farm, Farm Lane, Holt Heath WR6 6NQ

- 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 and Mrs G Probert against the decision of Malvern Hills District Council.
 - The application Ref 21/00765/CU, dated 21 April 2021, was refused by notice dated 5 July 2021.
 - The development proposed is change of use of ground floor of one unit to B8.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs G Probert against Malvern Hills District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposed development upon the living conditions of the occupiers of The Old Farmhouse with regard to noise and activity.

Reasons

4. The appeal site is a brick-built building located within a yard forming part of Northington Farm which operates in a number of nearby buildings and focuses on livestock farming. The surrounding area is agricultural land and open countryside. On the opposite side of the track leading to the farm is The Old Farmhouse which is a statutory listed dwelling with outbuildings converted into residential annexes. These buildings sit on the boundary with the appeal site.
5. The proposed development is for the use of the building for storage use and includes a parking area and service yard in front of the building.
6. I acknowledge that there are currently agricultural activities taking place which create a degree of noise and activity. However, the type of activities associated with a B8 use would result in very different and greater levels of noise in the area.
7. Notwithstanding the size of the operation the potential noise from vehicles accessing and manoeuvring within the site, the sound of vehicle doors, engines, reversing alarms, the loading and unloading of vehicles and conversations of staff and visitors would generate noise levels different to

those associated with the surrounding agricultural environment. This would lead to increased disturbance to the occupiers of The Old Farmhouse above and beyond what the residents would be used to in this rural location. The proposal would therefore be harmful to the living conditions of the occupants at The Old Farmhouse due to its close proximity to the site.

8. Whilst Worcestershire Regulatory Services (WRS) did not object to the planning application they nonetheless requested conditions for forklift trucks to be electrically powered and reversing beepers to be of white noise type due to the close proximity of residential dwellings. They also recommended restricted operating hours and for the doors to be kept closed apart from for ingress and egress. In my view, this demonstrates there are concerns regarding the potential for noise nuisance and a need for mitigation in order to safeguard the living conditions of the occupiers of The Old Farmhouse.
9. The appellant has indicated that they would be willing to abide by any such conditions. However, a condition to keep the door closed apart from for ingress and egress, in my judgement, would not be reasonable nor enforceable. The end user would largely dictate when the doors would be required to be opened based on their operational needs and it is unlikely that they would keep the doors closed when several deliveries or collections are expected to take place resulting in noise escape.
10. In my view it would be unreasonable to expect the current occupiers of The Old Farmhouse to monitor activities and to make the local authority aware of any breaches of the condition. Furthermore, as the end user of the proposed development is likely to be a third party, it would be difficult for the appellants to monitor and control noise from the building. Whilst they farm, work and live around the site monitoring the end user of the building may well distract the appellants from their farming activities. Taking the above into account I find that the proposal would fail to accord with paragraph 56 of the National Planning Policy Framework (the Framework), with regard to the conditions not being enforceable and reasonable.
11. As such, the conditions suggested would not be reasonable or enforceable to make this proposal acceptable. In any event, keeping the doors closed would not mitigate the noise and disturbance to occupiers of the neighbouring property that would occur in front of the building including traffic entering and leaving the site and the loading and unloading of vehicles in the service yard. These activities would be intermittent and the uncertain and arbitrary nature of them is likely to be more noticeable having an unacceptable impact on the living conditions of existing occupants in terms of noise and disturbance.
12. I conclude that the proposed development would adversely affect the living conditions of the occupiers of The Old Farmhouse by reason of noise and disturbance. It would be contrary to Policy SWDP31 of the South Worcestershire Development Plan (2016) which, amongst other things, requires development proposals to be designed in order to avoid any significant adverse impacts from pollution, including noise, on human health and wellbeing.
13. It would also be contrary to Paragraph 185 of the Framework which, amongst other things, seeks to ensure that new development is appropriate to its location taking into account the likely effects of pollution on health and living conditions.

Other Matters

14. The appellant has questioned the number of complaints received by WRS in relation to a previous use which has now ceased. However, it is incumbent upon me to assess the merits of the proposal before me in respect of its impact upon noise and activity. I therefore have given this matter negligible weight in coming to my decision.
15. Whilst the comments made by WRS are a relevant consideration, it does not change the status of the development plan or the legal requirement to determine the proposal in accordance with the development plan. The decision is one which is a matter of planning judgement for the decision maker.
16. The appellant has drawn my attention to the historical use of the building for the processing and storage of hops. However, this would be seasonal and therefore any disturbance would not be all year round. Furthermore, this is an agricultural activity that neighbouring occupants would be used to living next to.
17. With regard to the potential for a fallback position, based on the information before me, the building does not appear to be suitable for the rearing of pigs without capital investment. Furthermore, the appellant states this option would not be a preferable one for them. This casts some doubt on the certainty that this would be implemented. Turning to the second fallback position and the use of the building for purposes falling within Class R, the prior approval process would still need to consider noise impact. I therefore give limited weight to the two fallback positions suggested by the appellants.
18. I note the support of the Parish Council for the appeal scheme. I acknowledge that British agriculture is in a state of flux and the higher costs of living generally. Whilst the proposed development would generate economic benefits from the creation of jobs and diversification from livestock production these matters do not outweigh the harm that I have identified. Moreover, there is nothing to suggest that the proposed development is essential for the short and long term viability of the farm enterprise.
19. The appellant contends that the appeal building should be considered a non-designated heritage asset and afforded protection. However, taking the limited evidence before me into account I cannot categorically come to the same conclusion. Furthermore, there is no indication that the building is at risk. As such, I give this matter very limited weight in coming to my decision.
20. I note that the Council consider the proposal would not harm the setting of a statutory listed building and based on the evidence before me I have no reason to disagree. In my view it would have a neutral effect on the significance of The Old Farmhouse preserving its setting. However, this is a neutral factor in the overall planning balance.
21. The presence of other businesses along Farm Lane and whether they are lawful is not a matter for me in this appeal. In any event their presence is not justification for a scheme that I have found to be harmful and do not lead me to reach a different conclusion on the main matter.
22. The comments regarding the contents of the sales brochure for nearby property Badgers End Cottage have no bearing on the determination of this appeal.

Conclusion

23. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR