



Appeal Decision

Hearing held on 23 August 2023

Site visit made on 23 August 2023

by David Jones BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2023

Appeal Ref: APP/P1805/C/22/3311435

Land at Stoney Lane Farm, Stoney Lane, Tardebigge, Bromsgrove, Worcestershire B60 1LZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by Mr Peter Whittaker against an enforcement notice issued by Bromsgrove District Council.
 - The notice was issued on 4 October 2022.
 - The breach of planning control as alleged in the notice is the change of use of the land to a mixed use comprising residential use and use as a farm office and external alterations to the existing building on the land to facilitate that mixed use (hereafter referred to as the "Unauthorised Development").
 - The requirements of the notice are:
 - a. Permanently cease the residential use of the land.
 - b. Permanently cease the use of any part of the land as a farm office.
 - c. Permanently remove from the building shaded green on the attached plan (hereafter called the "Building") and the land all furniture and domestic paraphernalia, and all the fixtures, fittings, appliances, sanitary ware and associated pipework supplying water to and draining foul water from the bathroom and kitchen, in each case which facilitate the Unauthorised Development.
 - d. Remove the UPVC windows, external doors, surrounding infill panels and 5 rooflights from the Building, to make its external appearance consistent with the Building as shown on drawing number 16-26-02 dated Aug 2016 and titled 'Survey Elevations', at Appendix 4 of this notice (submitted in connection with application 17/00459/FUL) which reflects the external appearance of the Building prior to its unauthorised conversion.
 - e. Permanently remove any outdoor furniture and domestic paraphernalia from the land.
 - f. Permanently remove from the land all items and debris resulting from compliance with steps a to e above.
 - The period for compliance with requirements a and b is three months.
 - The period for compliance with requirements c, d, e and f is four months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Decision

1. It is directed that the enforcement notice is corrected by:
 - Substituting the plan attached to the notice with the amended plan annexed to this decision.

- In section 3 inserting the word “material” between the words “the” and “change”.
- In section 5 the deletion of steps a, b, c, d, e, and f in their entirety and substituting instead:

“a) Cease the use of the land for the mixed use of residential and farm office”.

b) Remove from the land all furniture and domestic paraphernalia and all fixtures, fittings, appliances, sanitary ware and pipework supplying water to and draining foul water from the bathroom and kitchen which facilitate the unauthorised development.

c) Remove the UPVC windows, external doors, surrounding infill panels and 5 rooflights and return the building to its previous condition and appearance as shown on drawing number 16-26-02 dated Aug 2016 and titled ‘Survey-Elevations’ at Appendix 4 of this notice.

d) Remove from the land all items and debris resulting from compliance with steps a) to c) above”

2. It is directed that the enforcement notice is varied by:

- In section 6 the deletion of steps a and b in their entirety and substituting instead “twelve months from the date this notice takes effect”.

3. Subject to the above corrections and variations, the appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under s177(5) of the 1990 Act as amended.

The Notice

4. It is important for me to get the notice in order. On an appeal any defect, error, or misdescription in an enforcement notice may be corrected using the powers available in section 176(1)(a) of the Town and Country Planning Act 1990 as amended (the 1990 Act), or the terms varied, where the correction or variation will not cause injustice to the appellant or the local planning authority.
5. Based on my observations at the site visit, it is apparent that the plan attached to the enforcement notice does not accurately reflect the area affected by the notice. The alleged breach of planning control relates to the change of use of the existing building to a mixed use of residential and farm office, along with various physical alterations that have been carried out to the building to facilitate the mixed use. The plan however includes part of the vehicular access and farmyard which have not been affected by the development. As the correction to the plan would reduce the area affected by the notice it would not cause any injustice to either main party. I will therefore substitute the plan attached to the notice with the amended plan annexed to this decision.
6. The notice alleges the “change of use” of the land which, in itself, is not development requiring planning permission. I shall therefore correct the notice to refer to a “material change of use” of the land as defined in section 55(1) of the 1990 Act. Having regard to the appellant’s case and their appeal under grounds (a) and (g), it is clearly understood that the allegation was intended to

refer to a material change of use. I am therefore satisfied that this correction of the notice would not cause injustice in this case.

7. The requirements of the notice should align with and follow logically from the allegation. The enforcement notice alleges a mixed use of residential and farm office, however the requirements include ceasing the aforementioned elements as separate primary uses. As such the requirements do not squarely align with ceasing the mixed use. It is therefore necessary for me to correct the notice by deleting requirements a) and b) and replacing them with a requirement for the mixed use to cease.
8. In requirement c) the use of the word "permanent" is unnecessary. Similarly, given that the red line on the substituted plan relates specifically to the building itself, reference to the building being shaded green is now also unnecessary. In requirement d) it is unnecessary to reference a previous planning application. I have therefore simplified the requirement which merely seeks to return the building to its previous condition and appearance.
9. By virtue of the substituted plan only relating to the building itself, requirement e) is not necessary. Finally, in requirement f) the word "permanent" is unnecessary and following the above corrections it should now relate to steps a) to c).
10. The above-mentioned corrections do not fundamentally change the requirements of the notice. Consequently, they would not cause injustice to either party.

Ground (a) and the deemed planning application

Background and Main Issues

11. The appeal site is located within the West Midlands Green Belt. It is common ground between the parties that the development is not inappropriate development in the Green Belt. This is consistent with the finding of the Inspector in a previous appeal¹ which sought the conversion of the building subject of the enforcement notice into a two-bedroom dwelling. Given that the revised National Planning Policy Framework (the Framework) published in September 2023 is not substantively different to the version that would have been before the previous Inspector, I concur with that view.
12. Therefore, the main issues in this case are:
 - Whether the dwelling is in a suitable location, having regard to the relevant policies of the development plan;
 - The effect of the development on the character and appearance of the host building and surrounding area; and
 - Whether the development provides satisfactory living conditions for existing and future occupiers, with particular regard to outlook and the availability of outdoor amenity space.

¹ APP/P1805/W/18/3197484

Reasons

Suitable Location

13. The appeal site is located in the open countryside and outside of any settlement boundary identified in the Bromsgrove District Plan 2011-2031 (adopted January 2017) (LP). Policy BDP1 of the LP is a broad policy that promotes the principles of sustainable development and states that consideration will be had, amongst other things, to accessibility to public transport. Policy BDP2 outlines the settlement hierarchy for the district. New development is required to be located in accordance with the settlement hierarchy to, amongst other things, reduce the need to travel and promote sustainable communities.
14. Policy BDP16 of the LP recognises that Bromsgrove is a predominantly rural district and that the private car remains the dominant mode of travel. The Council seeks to promote sustainable development and encourage, where possible, alternatives to the car. As a result, new development should take the opportunity to enhance walking and cycling wherever possible.
15. Paragraph 80 of the Framework advises that decisions should avoid the development of isolated homes in the countryside unless certain circumstances apply. The term 'isolated' is not defined in the Framework but the Braintree judgement² sets out that it simply connotes a dwelling that is physically separate or remote from a settlement. The dwelling is surrounded by farm buildings including a small number of other residential units on the farm and, in that regard, it is not isolated. However, the dwelling is quite clearly physically separate and remote from a settlement and therefore I find the dwelling to be isolated for the purposes of paragraph 80 of the Framework.
16. The site is some distance from local services and facilities in nearby settlements such as Bromsgrove, Redditch, and Alvechurch. The surrounding roads are devoid of footpaths and street lighting and therefore walking and cycling to and from the site to local services and facilities would be difficult, particularly during the hours of darkness and inclement weather. Additionally, from the information available to me and from my own observations, there are no bus stops or other modes of public transport available near to the appeal site.
17. Although the appellant points to the availability of on-line shopping and home deliveries, in these circumstances I find that the use of a private motor car is the only practical option to enable occupants to access most services and facilities required for day to day living. Whilst I acknowledge that rural lifestyle is likely to result in an element of reliance on travel by private car, in this case there would be a genuine lack of alternatives available to occupiers of the dwelling.
18. The main focus of the appellant's case is that the development allows him to reside at the farm and he therefore does not need to travel to his place of work each day from a dwelling elsewhere. I accept that the appellant living at his place of work will result in a reduction in car journeys, however this is off-set by outward trips to access services and facilities or to attend other social events as outlined above.

² Braintree DC v Secretary of State for Communities and Local Government & Others [2018] EWCA Civ 610

19. Furthermore, whilst it was made abundantly clear to me at the hearing that the appellant still has a very active role on the farm, by his own admission he is beginning to take a step back as his son takes on a more prominent role in the farming business. Consequently, the necessity for the appellant to reside at his place of work to reduce the number of daily car journeys will diminish over time as his day-to-day involvement decreases.
20. It was also established at the hearing that, in addition to the building subject of the notice, there were a further five residential units already in existence on the wider farm site. These were the dwelling known as "Longlands", two mobile homes, and the original farmhouse "Stoney Lane House" which is divided into two units. Although currently uninhabitable, one of the units at Stoney Lane House was unoccupied with the other unit occupied by a tenant with no link to the farming enterprise. One of the mobile homes was also unoccupied at the time of my site visit. While planning permission and listed building consent³ have been granted for the conversion of Stoney Lane House and the attached barns into holiday let accommodation, the scheme also included the conversion of a detached barn into a dwellinghouse. In my view, there are other options available to the appellant to enable him to still reside on the site.
21. Paragraph 79 of the Framework states that to promote sustainable development in the rural area, housing should be located where it will enhance or maintain the vitality of rural communities. Policy BDP15 of the LP is broadly consistent with the Framework in this regard as it states that the Council will support proposals that satisfy the social and economic needs of rural communities by encouraging a variety of different forms of development. However, little evidence has been provided to demonstrate how the development satisfies the social and economic needs of the rural community.
22. Consequently, I find that the dwelling is not in a suitable location having regard to the relevant policies of the development plan. The development is therefore contrary to Policies BDP1, BDP2, BDP15, and BDP16 of the LP, and guidance contained within the Framework.

Character and Appearance

23. The appeal building is located amongst a cluster of agricultural buildings that together form Stoney Lane Farm. Although the design and appearance of these agricultural buildings vary, they are all of a form and character that is typical of a rural location. The appeal building, which has now been converted into a dwelling and farm office, is located close to the main vehicular access into the site and is constructed in brick with a clay tile roof.
24. The appellant confirmed at the hearing that he considers that the development complies with the exception under paragraph 80 (c) of the Framework, which supports the conversion of redundant or disused buildings where this would lead to an enhancement of its immediate setting.
25. The appellant states that the building was previously used, amongst other things, as a bull pen and to store hay but had been vacant and disused since 2001. Although its former agricultural use was not disputed, the Council were unclear as to whether they considered the development to constitute the conversion of a redundant or disused building. Nevertheless, the conversion of

³ Council References: 21/01754/FUL and 21/01755/LBC

the building would only satisfy paragraph 80 (c) if it also leads to an enhancement of its immediate setting.

26. Although the development maintains much of the external fabric of the building, I find that the UPVC windows and vertical timber infill panels are domestic and suburban in design and represents a distinct change in character from the immediately surrounding built form. Whilst the building is largely screened from external views by the surrounding agricultural buildings, it is immediately visible upon entering the site. The north-west elevation, which is visible from the highway and immediately greets anyone entering the site, is particularly domestic in appearance and has an urbanising effect. Accordingly, the development does not lead to an enhancement of its immediate setting.
27. The proposal is contrary to paragraph 80 of the Framework. Paragraph 80 (c) only supports the conversion and re-use of a redundant or disused building where the development enhances its immediate setting.
28. Therefore, I conclude that the development results in harm to the character and appearance of the host building and surrounding area. In this respect the development is in conflict with Policies BDP1 and BDP19 of the LP which seek to ensure that development enhances the character and distinctiveness of the local area.

Living Conditions

29. As outlined above, the building is located within the farmyard and is in close proximity to a number of agricultural buildings. The Council consider that by virtue of a lack of private outdoor amenity space and a poor level of outlook the dwelling provides a poor standard of living conditions for existing and future occupiers.
30. Policy BDP19 of the LP states, amongst other things, that residential development is encouraged to provide sufficient functional space for everyday activities, meet people's needs and expectations from their homes, and to enable flexibility and adaptability. Paragraph 130 (f) of the Framework also advises that planning decisions should ensure developments "create places that are safe, inclusive and accessible which promote health and well-being, with a high standard of amenity for existing and future users".
31. I observed during my site visit that the dwelling does not provide any private external amenity space. There is no defined garden area or parking spaces associated with the property, with the hard standing area immediately surrounding the building forming part of the farmyard itself. The development therefore fails to provide sufficient functional space for everyday activities, nor does it provide a high standard of amenity for existing and future users.
32. The appellant states that, in his view, the development provides an excellent standard of amenity and that the amenity space for the dwelling is more than adequate for his needs. Whilst I have no reason to doubt that the current arrangements satisfy the appellant's personal circumstances, this may not necessarily be the case for future occupants of the property. I also consider it highly likely that the development would remain long after the personal circumstances of the appellant cease to be relevant. This matter therefore does not alter my finding in relation to the lack of outdoor amenity space.

33. The building is situated immediately adjacent to a large agricultural building which is clearly visible from the windows on the north-west and south-west elevations. I recognise that in the appellant's opinion the outlook from the building is acceptable. However, during my site visit I found that given its size and proximity, the adjacent agricultural building was an overly dominant and overbearing feature. The outlook from those windows on the north-western elevation also incorporates views of a second large agricultural building on the opposite side of the site's vehicular access. Consequently, I find that the outlook from the windows which serve the farm office and the kitchen, dining and sitting area at ground floor level, and the bedrooms at first floor level to be unacceptably poor. In my view, the development fails to provide a high quality living environment for its occupants.
34. I therefore find that the development fails to provide satisfactory living conditions for existing or future occupants, with particular regard to outlook and the availability of outdoor amenity space. The development is therefore in conflict with Policy BDP19 of the LP and guidance contained within the Framework.

Other Matters

35. In respect of facilitating a new home, the appellant refers to permitted development rights under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). Class Q relates to the conversion of existing, structurally sound agricultural buildings to dwellings. I note that the Planning Practice Guidance⁴ explains how there is no test of sustainability of location in terms of Class Q, which is not the case in this instance.
36. The appellant has put forward that a similar proposal could have been achieved through the rights afforded under Class Q, thus achieving a dwelling in the same location. These however are not unqualified rights, and an application for prior approval would need to be submitted to the Council prior to any works commencing. I cannot therefore be certain that any such prior approval would be granted. In any event, since the building has now been converted the permitted development rights are no longer applicable. There is therefore no fallback position available to the appellant against which the development could be assessed.
37. I have also considered the proposed occupancy condition which would require the dwelling to remain in the ownership of Stoney Lane Farm and not sold to any persons not associated with the farm. Such a condition would not overcome my concerns in relation to the location of the dwelling, the impact of the development on the character and appearance of the host building, or its failure to provide satisfactory living conditions for its occupants.
38. I note the appellant has listed several other sites where planning permission is stated to have been granted for the conversion of barns or agricultural buildings. However, I do not have all the details of these cases before me or the circumstances that led to those decisions being taken. I do note however that the majority of these permissions pre-date both the LP and the Framework. Their existence therefore does not alter, overcome, or outweigh my findings in respect of the main issues above.

⁴ Paragraph: 108 Reference ID:13-108-20150305

39. I also acknowledge that several interested parties support the proposal. However, this matter is not of sufficient weight to overcome or outweigh the harm I have identified above.

Planning Balance

40. The Council accepts that it cannot currently display a five-year housing land supply, and therefore paragraph 11d) of the Framework is engaged. Consequently, according to paragraph 11d) ii) of the Framework, consideration must be had as to whether the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
41. I have found that the dwelling is not in a suitable location and has poor access to day-to-day services and facilities. I ascribe substantial weight to this harm as it would be long lasting. It is also contrary to the aims of the Framework which is clear that housing should be located where it will enhance or maintain the vitality of rural communities, and that new isolated homes in the countryside should be avoided except in specified circumstances. I have also found harm to the character and appearance of the area and that the development fails to provide satisfactory living conditions for existing and future occupiers. These harms attract considerable weight.
42. There would be economic and social benefits through the contributions of occupiers of the dwelling to the local economy. The dwelling would also make a small contribution to the supply of housing and the Council's shortfall. There are also some environmental benefits with the building being serviced by a biomass boiler and its electricity provided by solar panels located on neighbouring buildings. Given the scale of the development however contributions would be very modest. They are therefore worthy of limited weight.
43. The development is not inappropriate development in the Green Belt and there is no adverse impact on highway safety or on the living conditions of occupiers of neighbouring properties. However, the absence of harm in these respects is a neutral factor that neither weighs for or against the proposal.
44. The appellant has questioned the definition of sustainable development, with particular reference to the use of the motor car in rural areas. The appellant considers that sustainable development is correctly defined as being "development that meets the needs of the present without compromising the ability of future generations to meet their own needs". This definition can also be found in paragraph 7 of the Framework. However, as set out in paragraph 8 of the Framework the planning system has three overarching objectives in achieving sustainable development, namely economic, social, and environmental objectives. These objectives are interdependent and need to be pursued in mutually supportive ways.
45. With that in mind, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would not represent sustainable development for which the presumption in favour applies.

Conclusion on ground (a)

46. For the reasons given above, I conclude that the development is contrary to the development plan when read as a whole and there are no other material considerations, including the provisions of the Framework, which outweigh this finding. Accordingly, the appeal on ground (a) must fail. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

Ground (g)

47. The appeal on ground (g) is that the time given to comply with the requirements of the notice is too short. The notice gives a period of three months for the residential and farm office use of the building to cease, and a period of four months for the associated fixtures, fittings and built development to be removed and the building returned to its previous appearance.
48. At the hearing the appellant confirmed that he was seeking an extension until December 2031. This would give a compliance period in excess of eight years. The appellant argues that such an extension is necessary due to the fact that alternative residential accommodation would need to be found, funds raised, and due to the issues surrounding housing for retired or retiring farmers.
49. A compliance period of eight years though would be tantamount to a temporary planning permission for a development that I have found conflicts with the development plan. Such a lengthy period is not reasonable and, in my view, greatly exceeds the length of time that would actually be required to carry out the works and find alternative accommodation. Consequently, I am not prepared to extend the compliance period to that extent.
50. My task in relation to this ground of appeal is to balance the public interest in securing expeditious compliance with the enforcement notice against the private interests of the appellant. The loss of the appellant's home would be an infringement of his rights under the Human Rights Act 1998 (HRA) and would amount to interference and would engage the right for respect for private and family life, home and correspondence as set out in Article 8 of the HRA. This is a qualified right, whereby interference must be justified if in the public interest, applying the principle of proportionality.
51. I recognise there is a need for expediency to ensure that the conflict with the development plan and the arising harm is overcome. The appellant has not disputed that a period of four months would be adequate to remove the operational development. However, a period of three months to cease the use of the building seems to be unduly short to allow the appellant reasonable opportunity to find alternative accommodation and raise any necessary funds to do so. Furthermore, the operational development cannot realistically be removed until the occupation of the building ceases. In weighing that balance, I consider that a period for compliance of twelve months would be a more reasonable and proportionate time to both cease the use of the land and carry out all other works.
52. For the reasons given above, the appeal on ground (g) therefore succeeds and the enforcement notice has been varied accordingly.

Conclusion

53. For the reasons given above I conclude that the appeal does not succeed, save for ground (g). I have therefore upheld the enforcement notice with corrections and variations.

David Jones

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

David Fellows	Land Research & Planning Associates Ltd
Peter Whittaker	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Emily Darby	Bromsgrove District Council
Principal Planning Officer	

INTERESTED PARTIES:

Clare Millward
Geoff Ellis
Lyn Denyer
Brian Whittaker
Julie Whittaker
Keith Tolley



Amended Plan

This is the plan referred to in my decision dated: 26 September 2023

by **David Jones BSc (Hons) MPlan MRTPI**

**Land at: Stoney Lane Farm, Stoney Lane, Tardebigge, Bromsgrove,
Worcestershire B60 1LZ**

Reference: APP/P1805/C/22/3311435

Scale: Not to scale

