



Appeal Decision

Site visit made on 20 August 2024

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2024

Appeal Ref: APP/P1615/W/24/3342413

Morse Farm, Morse Road, Drybrook, Gloucestershire GL17 9AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Philip Roberts against the Forest of Dean District Council.
 - The application Ref is P0026/24/FUL.
 - The development proposed was originally described as "Previously we have made a planning application for a shed to store hay and straw which was turned down due to lack of information, also the look of the building, so we have taken notice of this and change the look to more in keeping with the area. We need this urgently now because of the weather the animals are suffering due to standing on wet ground, they also need to be brought in which will be a third of the building. Gloucestershire Trading Standards requires these animals to be brought in off the ground until the weather improves. You will be able to see the design of the building is now much more in keeping with other buildings on the farm we have also made sure it is far enough away from the road and far enough away from any habitable buildings and ponds."
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Decision

1. The appeal is allowed and planning permission is granted for the erection of an agricultural building at Morse Farm, Morse Road, Drybrook, Gloucestershire GL17 9AJ in accordance with the terms of the application, Ref P0026/24/FUL, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos:
 - 243/1019/RR_001 rev A: Site Location Plan
 - 243/1019/RR_002 : Site Layout
 - 243/1019/RR_003 : Proposed Floor Plan and Side Elevations
 - 243/1019/RR_004 : Proposed Front and Rear Elevations
 - 3) No development above ground level shall take place until details of the materials and finishes to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter retained and maintained.

Application for Costs

2. An application for costs was made by Mr Philip Roberts against the Forest of Dean Council. This is the subject of a separate decision.

Preliminary Matters and Main Issues

3. The appeal was submitted following the Council's failure to give notice of its decision within the prescribed period. Subsequently, the Council issued a decision notice¹ refusing the planning application. However, once the Planning Inspectorate and the Council have received all the necessary documents², the authority for determining the acceptability of the proposed development transfers to the Secretary of State (SoS). In this case, all the necessary documents were received on 29 April 2024 which constitutes the 'notice of appeal'. The issuing of a formal appeal validation letter to the main parties is not required to trigger this date.
4. Although nothing is preventing the Council from issuing a decision after this date, it does not constitute a formal decision and the determination of the appeal falls to the Planning Inspectorate, on behalf of the SoS. The Council's statement of case sets out the putative reasons why the application would have been refused had a decision been made within the prescribed deadline.
5. In the formal decision above I have used the description of development on the Council's informal decision notice as this more accurately reflects the proposed development.
6. The Council indicate that the development has commenced, with the construction of the slab for the proposed building and my attention has been drawn to an Enforcement Case³ relating to the site. However, the enforcement case is not a consideration for this appeal. During my site visit, there was no evidence of any slab construction. I have therefore determined the appeal based on the development as proposed.

Main Issues

7. The main issues are:
 - whether the proposed development is necessary for or is to be used solely for agricultural purposes; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Whether necessary or used solely for agriculture

8. The proposed development comprises an agricultural building to be used for storage (hay, straw and feed) and shelter for animals during extreme weather, as indicated by the description of development on the planning application form. This is not considered by the Council to be sufficient information to justify the agricultural use of the building or that it is necessary for agricultural purposes.

¹ Dated 14 May 2024

² In accordance with the requires of Article 37 of the Town and Country Planning (Development Management Procedure) (England) Order 2015

³ Ref: EN/0184/23

9. The Council have provided a Rural Planning Appraisal⁴ (RPA) with its statement of case. The RPA focuses on assessing the proposed development against Schedule 2, Part 6, Class A of the GPDO⁵ relating to the permitted development rights for agriculture. The requirements of this part of the GPDO include establishing the site comprises agricultural land within an agricultural unit of 5 hectares or more and that the works for the erection of a building are reasonably necessary for the purposes of agriculture within that unit.
10. Although there is no evidence before me precluding the use of the GPDO to assess development that seeks full planning permission, it does not form part of the requirements of Policy CSP.1 of the Core Strategy⁶. This is the Council's sole policy reference in the first putative reason the Council would have used to refuse the appeal scheme. Policy CSP.1 relates primarily to how the Council's strategic objective of providing quality environments can be achieved. While the policy's supporting text does refer to one of the key justifications for an agricultural building being that it is necessary, how this should be determined is not explained.
11. Nevertheless, at the time of their visit, the agricultural assessor was unable to access the site which limited views of the site and the wider landholding from the nearby highways. As a result, the RPA includes numerous assumptions regarding the appeal scheme when assessing it against the elements in the GPDO test.
12. When I visited the site, several wooden structures, shipping containers and two covered articulated lorry cargo beds were located on the site, plus building materials, various agricultural trailers, a tractor and other agricultural accessories. Within all the wooden structures and one of the cargo beds, round bales of hay were being stored. Further, uncovered, bales were stacked on the site. In total, I estimate there to be approximately 70-90 bales being stored on the site, although I was unable to establish the contents of the shipping containers and the other lorry cargo bed.
13. In the adjacent field, also within the ownership/control of the appellant, a flock of approximately 60 sheep were grazing, with no direct access to any form of shelter other than three mature trees. Furthermore, none of the structures I observed on the site were, at that time, available or in a condition capable of, sheltering livestock.
14. Consequently, even if Policy CSP.1 includes an assessment as to whether the agricultural building is necessary for agriculture, based on the evidence before me and my site visit, the appeal scheme fulfils this requirement. Similarly, even if I were to consider the proposed development against the reasonably necessary test within the GPDO, this relates to the site and nature of the agricultural unit it relates to, not the size of the building. In this context, whether a smaller building would suffice would be a question of absolutely rather than reasonably necessary. The lack of evidence provided with the planning application confirming the visit by Trading Standards and the concerns raised regarding the health of the sheep does not alter my view on this matter.
15. I conclude that the proposed development is necessary for agricultural purposes in compliance with Policy CSP.1 of the Core Strategy in this respect.

⁴ Prepared by Fox Rural – Planning and Land Management, dated 17 July 2024

⁵ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO)

⁶ Core Strategy Adopted Version (the Core Strategy)

The proposed development is also supported by the Framework's approach to enabling the sustainable growth and expansion of all types of business in rural areas.

Character and appearance

16. Morse Road is located on higher ground than the boundary of the site which adjoins the verge, with the topography sloping more gradually away from the road. Combined with the substantial, mature hedgerow which defines the boundary between the site and Morse Road, the changes in level obscures views of the site from the carriageway. Given its position away from the boundary with Morse Road, towards the lowest part of the site, views of the proposed agricultural building would similarly be obscured.
17. Although the site and the wider landholding are visible from other publicly accessible locations, including Swish Lane and Morse Lane, these are at a longer distance. Due to this distance and the more steeply rising ground beyond Morse Road, the appeal site is not readily identified as a separate parcel of land. Instead, the existing structures and vehicles on the site, together with the landscape features on the boundaries lead me to view the site as more strongly associated with the adjacent Morse Farm complex of buildings than the open fields and paddocks nearby. Even in the wider views, the site itself is neither prominent in the landscape nor displays the characteristics of an open field.
18. The existing buildings within the Morse Farm complex comprise a two-storey farmhouse and several structures with an agricultural appearance. No particular height, bulk or scale is dominant in the existing buildings. Although the proposed building would have a higher than the ridgeline of the nearest existing building, it would not be dissimilar to the height of the farmhouse. Consequently, it would not have a towering appearance over the nearby built form, rather functional agricultural appearance would be experienced as an extension to the existing farm complex in longer views.
19. The bright blue colour of one of the cargo beds is, however, a prominent and incongruous feature within the wider agricultural setting. As it has been indicated that this cargo base has been hired temporarily to store hay bales whilst this appeal is determined, the proposed building would remove the need for this vehicle. Therefore, subject to the imposition of a condition requiring the use of materials and colour appropriate to the agricultural function of the proposed building being approved by the Council, the proposed building would not be a prominent feature in the landscape. Furthermore, I see no reason to conclude that the proposed building would require mitigation to soften its appearance in the landscape.
20. There are limited locations within the appeal site that would be appropriate for the proposed building's function although its proposed siting away from Morse Road avoids the highest point of the site. Therefore, the considerations which led to the 'design evolution' or the selection of the position and scale of the proposed building are commensurate to the size of the site and the building's intended function.
21. Even if it were appropriate to attribute great weight to the importance of protecting the open countryside in a similar way to the assessment of

proposals within a National Park or National Landscape⁷, I have found it would conserve the surrounding landscape. Therefore, there are no harms to be weighed against the benefits of the appeal scheme.

22. I conclude that the proposed development would not harm the character and appearance of the area, in accordance with Policy CSP.1 of the Core Strategy and policies AP1 and AP4 of the Allocations Plan⁸. Together, these policies seek to ensure that development takes into account the important characteristics of its surroundings and makes a positive contribution to the area, amongst other aspects. Additionally, I find no conflict with the Framework's objectives of achieving well-designed places and conserving the natural environment. Rather it supports proposals such as the appeal scheme by promoting a prosperous rural economy through the growth of rural enterprises, including agriculture.
23. The Design section of the National Planning Practice Guidance (PPG) is also referenced in the Council's decision notice. The PPG advocates the use of the National Design Guide (NDG), together with the Framework, when assessing planning applications. However, as I have concluded that the proposed building would not harm its local and wider context and is of an appropriate type and form for its agricultural environment, I find no conflict with the PPG or NDG in this regard.

Conditions

24. In addition to the standard time condition, I have imposed conditions requiring that development be carried out in accordance with the approved plans and for the external materials of the barn to be approved by the Council. These have been imposed for the avoidance of doubt and in the interests of the character and appearance of the area.
25. The Council have suggested the imposition of a condition that limits the use of the proposed building solely for the purposes of agriculture to safeguard the open countryside from urban expansions. However, it has not been demonstrated that the policies in the development plan, the objectives of the Framework and provisions within the PPG do not currently safeguard the open countryside. Therefore, I have not imposed the condition.

Conclusion

26. For the reasons given above, and taking into account all relevant matters raised, I conclude that the appeal should be allowed.

Juliet Rogers

INSPECTOR

⁷ Formerly Areas of Outstanding Natural Beauty

⁸ Allocations Plan 2006 to 2026 Adopted June 2018 (the Allocations Plan)