
Appeal Decision

Site visit made on 11 December 2018

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd January 2019

Appeal Ref: APP/L3245/W/18/3204332

Unit 1, Buildings north of Small Heath Farm, Claverley WV5 7DY

- 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 Nicholas Corns against the decision of Shropshire Council.
 - The application Ref 17/01357/COU, dated 21 March 2017, was refused by notice dated 3 May 2018.
 - The development is change of use of redundant agricultural building to B2 (General Industry).
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of redundant agricultural building to B2 (General Industry) at Unit 1, Buildings north of Small Heath Farm, Claverley WV5 7DY in accordance with the terms of the application, Ref 17/01357/COU, dated 21 March 2017, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The planning application form states that the change of use started on 1 January 2015 and at the time of my visit the building and surrounding land was in use in connection with a car repair business. I have determined the appeal accordingly.
3. The description of development used in the heading above and in my decision reflects the description stated on the planning application form. This differs from the description stated on the Councils decision notice and the appeal form. However as it does not appear that the amendment to the description was formally agreed by the appellant and as the original description appears to adequately describe the development before me, in granting permission I have used the original description.
4. On 24 July 2018 the Government published its revised National Planning Policy Framework (the Framework). The revised Framework is applicable to planning decisions from the date of publication and sets out the Government's planning policies for England. It is therefore a material consideration in the determination of this appeal. The main parties have been consulted on the revised Framework and in reaching my decision I have had regard to it where relevant and to any responses received from the main parties.

Main Issues

5. The main issues are:

- whether the development is inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
- the effect of the development on the character and appearance of the area;
- the effect of the development on the living conditions of the occupiers of neighbouring dwellings having regard to noise and disturbance.

Reasons

Whether the development is inappropriate development

6. The appeal site comprises part of a former agricultural building and adjacent land located in the Green Belt, on the edge of the village of Claverley. Access to the site is via a track accessed off Danford Lane.
7. Policy CS5 of the Shropshire Local Development Framework: Adopted Core Strategy March 2011 (CS) relates to countryside and Green Belt and states that new development will be strictly controlled in accordance with national planning policies protecting the countryside and Green Belt. Paragraph 146 of the Framework states that the re-use of buildings of permanent and substantial construction and material changes in the use of land are not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. Policy MD6 of the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan December 2015 (SAMDev) relates to the Green Belt and also refers to Green Belt purposes.
8. Whilst the Council considers the re-use of the building to not be inappropriate development, it has concerns regarding the use of the land adjacent to the building for the storage of cars and the impact that this has on the Green Belt. Land within the appeal site and adjacent to the building comprises areas of hardstanding, forming part of a larger area of hardstanding surrounding the appeal building and the adjacent building.
9. The southern boundary of the appeal site is formed by a timber fence with land to the east of the appeal site and wider hardstanding area having a much more open character and appearance. Land levels fall away to the east. At the time of my visit twelve vehicles were parked outside the building, though the appellant acknowledges that a larger number of vehicles have been parked at the site at times. The appellant has stated a willingness to accept a condition limiting the total number of vehicles parked at the site to ten and I consider that such a condition would meet the tests for planning conditions as set out in paragraph 55 of the Framework. Bearing in mind that the previous use of the site for potato storage is likely to have resulted in some external parking and storage albeit seasonal, I consider that subject to the imposition of such a condition, the use would preserve the openness of the Green Belt and would not result in an urbanising effect or conflict with the purposes of including land within the Green Belt.
10. Taking the above matters into consideration, I conclude that the development as proposed would not be inappropriate development in the Green Belt having regard to relevant paragraphs of the Framework and Policy CS5 of the CS and Policy MD6 of the SAMDev. It accords with these policies which seek, amongst other things, to ensure that the Green Belt is protected from inappropriate

development, that openness is preserved and that there is no conflict with Green Belt purposes.

Character and appearance

11. As stated, the appeal site forms part of a former agricultural site. No external changes are proposed to the building and any external parking would be limited to a maximum of ten vehicles parked on land close to the appeal building. Whilst the site is relatively isolated and elevated from surrounding open land, subject to the imposition of a control over the number and location of parked vehicles, I consider that the use would not have a detrimental impact on the character and appearance of the area, particularly given that some external parking and storage would have been likely to have been associated with the previous agricultural use of the site.
12. I therefore conclude that the development as proposed would not have a significant adverse effect on the character and appearance of the area. It consequently accords with policies CS5, CS6 and CS17 of the CS, policies MD2, MD6, MD7b and MD12 of the SAMDev and relevant paragraphs of the Framework insofar as they relate to character and appearance. These policies seek, amongst other things, to ensure that development is well designed and protects landscape character.

Living conditions

13. A small number of residential properties are located close to the appeal site to the south and west with a number of other residential properties located further away including on Danford Heath and Danford Lane. I note that concerns have been raised in relation to the impact of the development on living conditions by a large number of local residents and by the Parish Council. I have had regard to these concerns.
14. A Noise Assessment Report Reference 3709-R1 (NAR) was submitted to the Council prior to its determination of the application. The NAR was assessed by the Council's Regulatory Services department who raised a number of issues with it but nevertheless concluded that based on its findings and assuming that the use takes place inside the building during the times proposed by the application, that no significant amenity impact is likely.
15. The hours proposed by the application are 0830 to 1800 Monday to Friday, 0900 to 1300 on Saturday with no work on Sundays and Bank Holidays. Whilst the appellant acknowledges that he has been operating beyond these hours previously, he has expressed a willingness to comply with the hours proposed in order to enable him to continue to operate from the site. He has also stated willingness for all works to take place within the building with the roller doors closed and confirmed that the washing of vehicles now takes place off site.
16. I note from the evidence that the previous use of the site has been a cause of concern for local residents and that the Council has expressed concerns about the practicalities of works taking place inside the building with the roller shutter doors closed. However having regard to the submitted NAR and subject to the imposition of suitably worded conditions controlling the timing and operation of the use on site, I consider that the use of the site by the appellant is capable of taking place without materially affecting the living conditions of the occupiers of neighbouring dwellings. I consider that the potential impact of the

requirement for all openings of the building to remain closed whilst works are taking place on working conditions could be overcome by the installation of ventilation within the building and this would be a matter for the appellant should it be required.

17. Other concerns raised relate to the type, amount, route and timing of vehicles accessing the appeal site, with routes to the site including residential roads. The appellant has provided a typical log of vehicles accessing the site and uses within the adjacent buildings. This suggests that vehicle numbers are low, particularly in relation to large, commercial vehicles and this evidence has not been disputed by the Council or by interested parties. I acknowledge that the route to the appeal site includes residential roads and rural lanes. However having regard to the submitted evidence about the likely number and type of vehicles accessing the site, the type of vehicles likely to have been used in connection with the previous use of the site and subject to the imposition of suitably worded conditions controlling the timing of the use and deliveries to and from the site, I do not consider that traffic associated with the proposed development would be materially harmful to the living conditions of the occupiers of neighbouring dwellings.
18. Although I note that activities have been carried out at the site without planning permission and whilst these appear to have been taking place at hours outside of those proposed, I do not consider that this demonstrates that the appellant would be highly likely to not comply with any conditions imposed, particularly as he has stated a willingness to accept all of the conditions suggested by the Council. Any future failure to comply with any conditions imposed which results in a significant adverse impact on living conditions would soon become apparent to the Council which has the discretion to pursue enforcement action if it is expedient to do so. Much of the objection to the development appears to relate to what has been taking place on site rather than what is proposed by the application before me.
19. Taking the above matters into consideration, I conclude that subject to the imposition of suitably worded conditions the development would not have a significant adverse effect on the living conditions of the occupiers of neighbouring dwellings having regard to noise and disturbance. It therefore accords with Policy CS6 of the CS and to relevant paragraphs of the Framework insofar as they relate to living conditions. These policies seek, amongst other things, to safeguard living conditions.

Other Matters

20. In reaching my decision I have had regard to a number of other matters raised in relation to the development.
21. Concerns have been raised with regard to environmental pollution. However whilst the use relates to car repairs, there is no substantive evidence to indicate that environmental pollution has occurred on site or is likely to occur should permission be granted. I have been provided with a copy of an advice and guidance letter from the Environment Agency to the appellant dated 4 April 2016 who were satisfied with site practices and procedures at that time.
22. Concerns have also been raised in relation to highway damage and highway and pedestrian safety associated with heavy traffic associated with the use, particularly given the presence of a primary school and nursery nearby.

However, as stated, from the evidence it appears that traffic levels associated with the existing use and as proposed to be controlled by conditions is/would be relatively low and not significantly greater than that associated with the previous agricultural use. No objections were raised to the application by the Highway Authority. The high speed testing of cars does not form part of the use the subject of the application.

23. There is no substantive evidence to suggest that the use would be likely to result in any danger to nearby residents resulting from fires or explosions. Similarly there is no evidence that the use has/would affect property values and in any event this is not a material consideration in determining planning applications and proposals.
24. Though the appellant has sought planning permission retrospectively and has used the site in the absence of planning permission, this is not a reason to withhold planning permission now.
25. Whilst I have sympathy with local residents who appear from the evidence to have experienced a number of problems associated with the use that has been taking place on site, for the reasons stated, I consider that the use as proposed and subject to appropriate restrictions is acceptable in this location without detriment to either residents or the local area.

Conditions

26. I have had regard to the conditions suggested by the Council and note the appellant's willingness to accept them should the appeal be allowed.
27. Although development is already taking place at the site I have imposed a condition specifying the approved plans as this provides certainty, particularly with regard to the permitted area for the parking of vehicles. I have also imposed conditions restricting where the use can take place, the hours of use and setting out the location and maximum number of vehicles permitted to be stored/parked on site.
28. In addition I have removed permitted development rights for any change to the approved use including to any other use within the B2 use class. All of these conditions are in order to protect the living conditions of nearby residential occupiers and some are also in order to protect the character and amenity of the area and the openness and character of the Green Belt. In some cases I have amended the wording suggested by the Council slightly in the interests of clarity.
29. Though not suggested by the Council I have imposed a condition restricting the use of air compressors, air powered tools or other similar noise generating tools and equipment on site without prior approval by the Council. The appellant has stated that no such tools are currently used, though they have been previously and appear from the evidence to have adversely impacted on living conditions. The Council's Regulatory Services department suggested such a condition in its consultation response. The main parties have been consulted on this and raise no objections to such a condition being imposed.
30. I have not imposed the suggested condition relating to the route to be taken by delivery vehicles as this condition seeks to control the use of land outside of the application site and would therefore be unlawful.

Conclusion

31. For the above reasons and having regard to all matters raised, I conclude that the appeal should be allowed.

Beverley Wilders

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following submitted plans: drawing numbers 010A and 011A.
- 2) All works associated with the use hereby approved shall take place inside the building with all openings within the building being kept closed at all times when works are being carried out. No external works associated with the use hereby approved shall take place.
- 3) No more than ten vehicles associated with the use hereby approved and awaiting repair or recovery shall be stored/parked within the site on land outside the building.
- 4) The use hereby permitted, with the exception of the outside storage/parking of vehicles referred to in condition 3, shall only be carried out on Monday – Friday between 0800 and 1830 and on Saturday between 0900 and 1300 and at no time on Sunday or Public Holidays. In addition no deliveries to or despatch of vehicles from the site shall take place outside of these permitted hours.
- 5) There shall be no use of air compressors, air powered tools/equipment or other similar noise generating powered tools/equipment on site without the prior written approval of the use of such tools/equipment by the Local Planning Authority.
- 6) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, or any Order revoking and re-enacting that Order with or without modification, the Class B2 Use hereby approved shall be restricted to Unit 1 as shown on the approved plans and shall be used for the repair of motor vehicles only and for no other use falling within the B2 Use Class.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development permitted by Schedule 2 Part 3 Class I shall be carried out without planning permission.