Appeal Decisions

Hearing held on 4 May 2010
Site visit made on 4 May 2010

by Steve Taylor BSc (Hons) MBA DMS C Eng MICE

an Inspector appointed by the Secretary of State for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.gov.uk

Decision date: 20 May 2010

Appeal A Ref: APP/B3438/A/10/2121589
Meridian Farm, Apesford Lane, Bradnop, Leek, Staffordshire ST13 7EX

- 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 Robert and Emma Shufflebotham against the decision of Staffordshire Moorlands District Council.
- The application Ref 09/00881/FUL, dated 7 September 2009, was refused by notice dated 5 November 2009.
- The development proposed is the retention of a farm building with modifications.
- **Summary of Decision: The appeal is allowed.**

Appeal B Ref: APP/B3438/A/10/2121593
Meridian Farm, Apesford Lane, Bradnop, Leek, Staffordshire ST13 7EX

- 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 Robert and Emma Shufflebotham against the decision of Staffordshire Moorlands District Council.
- The application Ref 09/01142/FUL, dated 23 November 2009, was refused by notice dated 19 January 2010.
- The development proposed is the retention of half of an agricultural building.
- **Summary of Decision: The appeal is allowed.**

Application for costs

1. At the Hearing an application for costs was made by the appellants against the Council. This application is the subject of a separate Decision.

Procedural Matters

2. In 2003 the appellants submitted a prior notification for an agricultural building. The Council determined that the storage shed was deemed permitted under the provisions of Part 6 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (GPDO), and that prior approval of its siting and design was not required (Ref 03/00917/NOT). Following correspondence with the Council the appellants erected a slightly smaller and lower building to that which was deemed approved.

3. Following on from an enforcement investigation regarding the equestrian use of the site it became apparent that the building was being used to accommodate livestock despite being within 400m of a 'protected building', and as such required planning permission in its own right. The appellants therefore submitted a planning application in February 2008 for the change of use of an agricultural building and land to a mixed agricultural and equestrian

use and retention of building as constructed (Ref 08/00156/FUL). This was subsequently refused by the Council and dismissed at appeal on 20 January 2009 (Ref APP/B3438/A/08/2086579). I consider that the two appeals before me are materially different to the previous appeal in so far as they refer to an agricultural use of the building only and I have considered the appeals on this basis.

Main issues

4. I consider the main issues to be (i) whether there is an agricultural need for the farm building and (ii) the effect of the building on the character of the surrounding countryside.

Reasons

Agricultural need

5. The farm comprises some 7.5 hectares of permanent pasture to the south of Apesford Lane, with the land falling away from the road towards a brook course. An additional 3 hectares of seasonal grazing land is rented locally. The building the subject of the appeals is of a steel framed twin span construction measuring some 24.4m in length, 17.7m in width and 6.8m in height. Appeal A is to retain all the building, whilst appeal B is to retain the half of the building which contains a mezzanine floor on which the farm office, store and an artificial insemination laboratory are situated. The other half of the building was damaged by a fire in November 2008 and the appellants have carried out minimum repairs pending the outcome of these appeals.

6. At the Hearing the applicants confirmed that they were no longer pursuing their equine business but were now concentrating on rare-breed cattle and pigs in what they consider to be a niche market. The livestock levels have not increased significantly since the previous appeal. They have at present some 18 small breed Dexter and Shetland cattle including 11 breeding cows and 2 bulls and some 10 pigs including 3 breeding sows and 2 boars. It was reported that unfortunately 3 litters of pigs and 2 heifers were lost due to the winter weather not helped by the current condition of the building. They claimed that the number of horses was in the process of being reduced, their intention being for a total of 6 including their daughter's pony to remain grazed on the land.

7. The appellants pointed out that the farm is an agricultural holding with the land being subject to a Higher Level Stewardship Scheme with English Nature, which makes annual payments subject to low stocking levels, limits on grazing periods and no application of fertiliser or lime. It was their aim to build the stocking level up to around 20 breeding cows rearing offspring for sale as breeding stock or finishing and 8 breeding sows expected to produce some 80 piglets per annum reared to finished sizes. It was their intention to improve the environment in conjunction with the farming.

8. The appellants argued that the stocking density of the smaller breed cattle was 5 cows per hectare and 8-10 yearlings/finishers per hectare. The sows would be kept outside in arks in the yard area and the offspring reared inside the building once weaned. By rearing the smaller rare-breed as opposed to commercial cattle they considered that there would be sufficient grazing land

available to expand the business in a sustainable way. The Council argued that this was not sustainable, particularly in view of the number of horses kept on the land.

9. The Council claimed that the farm building was significantly excessive both in footprint and height for the livestock levels proposed. In this respect the Council's agricultural consultant considered that livestock equating roughly to the current levels could be accommodated in an area of around 136sqm compared to the building's floor area of approximately 432sqm. I note that this made no allowance for the storage of farm machinery and other equipment, animal feed or for any manoeuvring space. On my site visit I saw that one half of the barn was at present used for storage, whilst the other half contained the pigs and cattle in loose boxes. Although at the Hearing there was a consensus that the layout of the building was not ideal, particularly for livestock, the appellants pointed out that it needed to be high enough for storage purposes and to provide clearance for the farm machinery, whilst the general layout of the livestock enclosures was to some extent a matter of personal preference.

10. Reference was made by the Council to the proposal still relating to a mixed use equestrian/farming unit. Whilst this had been the approach adopted by the appellants in the past they made it quite explicit that in future the keeping of horses would be limited and that this would in no way involve the use of any part of the building. This would only be used for agricultural purposes and was necessary to enable the future expansion outlined above. Further, they argued that although the area of grazing required for a horse was greater than that required by a cow, there was sufficient surplus grazing available for a small number of horses.

11. The Council also made reference to the previous Inspector's decision, which is a material consideration. In particular it was pointed out that he had considered that the amount of livestock and general scale of pastoral farming did not appear to be a full-time sustainable business and that the overall scale of the building was very large for the scale of the business outlined by the appellants. As referred to earlier, I consider the nature of the current appeals to be materially different to the one before the previous Inspector. Whilst it is apparent that the appellants have struggled to get their business up and running and have had to change its focus somewhat, no evidence was put before me in policy terms to suggest that an agricultural holding needs to be a full-time business with regard to the appeal proposals. Further, I note that the appellants' agricultural consultant has now provided calculations in support of their argument that the whole of the floor space was necessary for housing cattle over winter and at other times for special care; for finishing pigs; housing farm machinery and providing storage space for animal feed.

12. I agree with the Council's view that the farm site should be viewed holistically with respect to the grazing land available and the retention of the building. On my site visit I noticed that the number of horses had been reduced from that recorded by the previous Inspector and I saw that there was clear evidence of the appellants' intention to try and establish the enterprise. With careful management of the land I consider that there would be sufficient grazing available for the cattle subject to some winter feed being bought-in.

I also consider that there are clear benefits to keeping the farm machinery and animal feed inside the building.

13. Therefore, based on the evidence before me, I consider that the appeal building is not overly excessive in size and is genuinely required for the purposes of agriculture on the holding to enable the appellants to provide the necessary cover for the fodder, farm machinery and livestock to enable them to develop the business. In this respect I consider the proposals relating to both appeals to be in accordance with the aims of Policy E4 of the Staffordshire Moorlands Local Plan 1998 (LP), which require that planning permission be assessed against the agricultural need for the development in that location.

Character of the surrounding countryside

14. The appeal site is within an area designated as a Special Landscape Area. It also includes part of the adjacent Coombes Valley Site of Special Scientific Interest. The area is characterised by an open landscape with sporadic farms and other rural dwellings. On my site visit I saw that the main public viewpoint from which the building can be seen is from the road. Although not seen as part of a larger farmstead it is not dissimilar to other farm buildings in the area. To my mind the side elevation of the building is seen most prominent when approaching along Apesford Lane from the east, although it is seen below the ridge-line. As such I consider that the retention of only half of the building in accordance with Appeal B would not significantly change the appearance of the structure in its landscape setting.

15. In my view the overall impact of the building would be softened by the proposed improvements to the external cladding. Further, the views from the road could be screened sufficiently by appropriate planting so as to enable the building to blend in with its surroundings. I am therefore satisfied, that subject to suitably worded conditions being imposed regarding the improvements to the external cladding and landscaping, that the building's appearance in respect of both of the appeals would not detract from its rural surroundings so as to conflict with the aims of LP Policies B13, E4, N8 and N9, which require that development should take account of its surroundings and not detract from the landscape as a result of its siting, scale and design.

Other Matters

16. In determining these appeals I have taken into account the relevant policies for the protection of the countryside in the Staffordshire and Stoke on Trent Structure Plan and the related Supplementary Planning Guidance together with national policy guidance as set out in Planning Policy Statement 1: *Delivering Sustainable Development*, Planning Policy Statement 4: *Planning for Sustainable Economic Growth* and Planning Policy Statement 7: *Sustainable Development in Rural Areas.*

17. Further, in taking into account the views of the local MP and the Parish Council together with letters of both support and objection, I can confirm that I have determined these appeals on their respective merits having regard to the nature of the proposals and the characteristics of the site.

Conditions

18. I have considered the conditions suggested at the Hearing and the comments of the main parties, as well as the advice of Circular 11/95 *The Use of Conditions in Planning Permissions.* I consider that conditions regarding landscaping, hardstanding/yard area and external cladding are necessary to protect the character of the surrounding countryside. In this respect I consider that a 3 month period for such schemes/details to be submitted to be reasonable, particularly when taking into consideration the fact that the development already exists. Likewise I consider that the requirement that the hardstanding/yard area and external cladding works be completed within 6 months is also reasonable.

19. The condition that relates to Appeal B only for the half of the building not being retained to be demolished and the ground restored within a period of 3 months is reasonable and necessary in the interests of the character of the surrounding area. I agree with the Council's view that the conditions suggested by the appellants regarding restricting the use of the building for agricultural purposes only, preventing any additional mezzanine floor space and external lighting without first obtaining the local planning authorities consent are not necessary.

Conclusions

20. I consider that the retention of only half the building would just about meet the appellants existing agricultural needs but would almost certainly lead to the storage of farm machinery outside the building. Therefore, whilst on balance I consider that the retention of the whole building in accordance with Appeal A would be the appellants' preferred option, I appreciate that the retention of half the building in accordance with Appeal B would remain an option open to them.

21. Accordingly, for the reasons given above and having regard to all other matters raised, I conclude that Appeal A and Appeal B should be allowed.

Formal Decisions

Appeal A - Ref: APP/B3438/A/10/2121589

22. I allow the appeal and grant planning permission for the retention of a farm building with modifications at Meridian Farm, Apesford Lane, Bradnop, Leek, Staffordshire ST13 7EX in accordance with the terms of the application Ref 09/00881/FUL, dated 7 September 2009 subject to the schedule of conditions set out in the Annex.

Appeal B - Ref: APP/B3438/A/10/2121593

23. I allow the appeal and grant planning permission for the retention of half of an agricultural building at Meridian Farm, Apesford Lane, Bradnop, Leek, Staffordshire ST13 7EX in accordance with the terms of the application Ref 09/01142/FUL, dated 23 November 2009 subject to the schedule of conditions set out in the Annex.

Steve Taylor Inspector

Annex

Schedule of Conditions

Appeal A

1) Within 3 months of the date of this decision a scheme for the landscaping of the site shall be submitted to and approved in writing by the local planning authority. These details shall include details of hard landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes, and the proposed number and densities.

2) All planting or seeding comprised in the approved details of landscaping shall be carried out in the first available planting and seeding seasons following the approval of the landscaping scheme; and any trees or plants which within a period of 5 years from the completion of the landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

3) Within 3 months of the date of this decision, a scheme for the hardstanding/yard area of the farm shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be completed within 6 months of the date of this decision and retained as such.

4) Within 3 months of the date of this decision details of the improvements to the external cladding proposed shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be completed within 6 months of the date of this decision and retained as such.

Appeal B

1) Within 3 months of the date of this decision a scheme for the landscaping of the site shall be submitted to and approved in writing by the local planning authority. These details shall include details of hard landscaping, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, hedge or grass establishment), schedules of plants noting species, plant sizes, and the proposed number and densities.

2) All planting or seeding comprised in the approved details of landscaping shall be carried out in the first available planting and seeding seasons following the approval of the landscaping scheme; and any trees or plants which within a period of 5 years from the completion of the landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

3) Within 3 months of the date of this decision, a scheme for the hardstanding/yard area of the farm shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be completed within 6 months of the date of this decision and retained as such.

4) Within 3 months of the date of this decision details of the improvements to the external cladding proposed shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be completed within 6 months of the date of this decision and retained as such.

5) Within 3 months of the date of this decision the part of the building not to be retained shall be demolished and removed from the site and the land restored to its former condition subject to any requirements of the landscaping scheme or the scheme for the hardstanding/yard area.

APPEARANCES

FOR THE APPELLANT:

Tony Kernon BSc (Hons) MRICS FBIAC	Kernon Countryside Consultants
Mrs Emma Shufflebotham	Appellant
Mr Robert Shufflebotham	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Rachael Simkins BA (Hons) BTP MRTPI	Planner – Staffordshire Moorlands District Council
Trevor Williams former FRICS FAAV (retired)	Consultant

INTERESTED PERSONS:

Gill Heath	Councillor – Staffordshire County Council

DOCUMENTS SUBMITTED AT THE HEARING.

Document	1	Map showing location of 3 hectare area of seasonal grazing.
Document	2	Extract giving the definition of agriculture with regards to the GPDO with particular reference to the keeping of horses.
Document	3	The British Horse Society – Guidelines for the keeping of horses: stable sizes, pasture acreages and fencing.