

**Redditch Borough Council
Planning Committee**

**Committee Updates
22nd June 2022**

19/01264/FUL Rockhill Farm, Astwood Lane

The presentation has been circulated again as the application boundary has been further defined

Additional representations

Since drafting the committee report, Feckenham Parish Council (FPC) have submitted an additional representation that is summarised as follows:-

1. FPC refers to what was granted under planning reference 17/0451/FUL in terms of conditions imposed and the volume of the building approved.
2. The volume of the current building (740 cubic metres) is more than the volume of that approved under reference 17/0451/FUL (478 cubic metres). Development is not compliant with condition 2 (plans approved) of 17/0451/FUL for that reason and the baseline for comparison should be from 478 cubic metres.
3. FPC have compared the volume taken from the approved plans and the development for consideration and stated that there would be an increase in the two schemes of 298 cubic metres representing a 62.3% increase which cannot be justified in planning terms.
4. FPC refer to the Class Q acting as a springboard to enable advantageous development at the site.
5. FPC refer to applications previously submitted, and that the Dutch barn was demolished at the end of 2017, and that work started on the site. FPC refer to the discussions that took place at Committee last year, and that Counsel's opinion has been sought.
6. FPC have taken their own legal advice and request that the Councils' Counsel advice be provided.
7. FPC state that the development should accord with the approved details under Ref: 17/0451/FUL in terms of volume and dimensions, and that the permission does not categorically permit the applicant to build a larger dwelling within the timeframe specified or at any time later or indeed 2 dwellings where only one had been granted permission previously.
8. FPC consider the diagram that shows the single dwelling with a volume of 740 cubic metres, is totally irrelevant and cannot be considered, because it has never been built, and even if it had, it could not have satisfied condition 2 which says the size must be 478 cubic metres. Likewise, comparing the current unlawfully constructed houses with an imaginary building measuring 740 cubic metres is unjustifiable. Furthermore, even if such a house had been constructed, it would not have been compliant with the only valid consent that was extant at the time.
9. If FPC accept RBC's counsel's opinion that 17/00451/FUL should be considered as a relevant fallback position, it can only be considered as a precedent for a dwelling with a volume of 478 cubic metres. Therefore, all calculations relating to the increase in volume in the new built houses should start from a denominator of 478 cubic metres and not 740 cubic metres.
10. FPC believe that this 2-dwelling development in the Green Belt is inappropriate and harmful and great weight should be attached to this point. We also agree that the development does not comply with any of the stated exceptions to policy in BORLP4.
11. Given that Redditch has a 5-Year Housing Land Supply, there are no grounds for giving any weight to this application on the grounds of housing need.
12. The importance of visual appearance and openness in the appreciation of the Green Belt, this is a subjective matter. FPC do not regard these two new houses as adding any significant value to

the appearance of this site or the locality and indeed if they were removed FPC say it would undeniably increase the openness of the Green Belt.

13. FPC asserts that the only legally correct way to calculate the size increment between the 2 unlawfully built houses and the single dwelling permitted in the 2017 Planning Consent is to base these calculations on the exact wording of the permission notice and associated conditions in 17/00451/FUL. This method shows that the scale of the existing built houses is a staggering 62.3% larger than the dimensions permitted in 2017.

14. We question whether this permission is still "extant", as RBC's Counsel indicate, because the planning permission expired on 31.7.20 i.e. almost 2 years ago.

15. FPC suggest that the application be refused due to the harm to the Green Belt caused by the inappropriate building of two houses within its confines and the removal of these houses would improve Green Belt openness.

16. Upon approving the application, FPC disagree with the very special circumstances, and state that the appearance of the site in terms of a positive benefit is considered subjective and marginal, they acknowledge the contribution of local housing supply but note only 2 units are proposed, in the context of 8.9 years of supply.

In response to the comments made by FPC, officers would clarify the following:-

1. It is not unusual for a development to be revised following on from matters that may arise when finalising details to implement a scheme. Members will be aware that S73 applications and Non Material Applications are often submitted to address such revisions.

2. The presence of a previous consent (including a consent via Class Q for example) can represent a fall-back position. Whilst considering the likelihood of the implementation of that scheme and any similarities/differences between the schemes, such a fall back will need to be apportioned appropriate weight in the planning balance.

3. Due to the extent of revisions to the scheme with it being stepped, comprising of a pitched roof, and an additional dwelling, the applicant applied for permission for a portion of the redevelopment site, given that they have a fallback extant permission. It was the applicant's choice to continue with the implementation of the scheme on site despite the absence of a decision on that revised application.

4. It is acknowledged that the volume of the original dwelling approved is different to that being considered now. The report assesses the impact of these differences in the context of Green Belt policy and purposes. It is important to note that the approved plan does clearly show the dwelling sitting on a level rather than a gradient and as such does not include the potential underfloor volume that would have been needed to provide a single finished floor level for the single dwelling as indicated on the approved plans.

5. In respect of the Council's Counsel opinion, the advice has been used to inform officers approach but there is no obligation to share this information publicly.

6. To enable members to make a fair comparison and judgement in respect to the changes applied for between the dwelling approved, and the as built scheme, the potential underfloor volume for the approved dwelling has been considered in this application. This is because there is more than a theoretical possibility that the scheme would have been built out like this if a flat slab had been retained on this sloping site. This is a material consideration in the consideration of the current application. The latest and detailed volume plan that has been submitted indicates the volume, including underfloor volume, for the fall back scheme to be 740 cubic metres, and the as built scheme as 776 cubic metres.

7. FPC state that the removal of the two dwellings would increase the openness of the Green Belt. Whilst that could be the case, it is important to note there is an extant permission for a single dwelling on this site that could still be implemented as the loss of openness in this location has already been assessed and approved.

8. Officers would clarify that the permission has not expired as it has been implemented due to

the other aspects of works associated with the redevelopment scheme under 17/00451/FUL.

The applicant's agent has submitted a response to Feckenham Parish Council's latest representation which is summarised as follows:-

1. The Parish Council state that the recommendation to Committee is incorrect for the following summarised reasons:
 1. Assessment/accuracy in respect of control regarding levels and the size of approved fallback property and the weight attached as a fallback position.
 2. No very special circumstances exist - to justify development in the Green Belt.
2. The agent refers to the planning history of the site and refers to planning permission that was originally granted on appeal to convert former agricultural buildings on site into residential use under application 2015/00316/COUPRO. The previous owners of the site then sought full planning permission for the re-development of the site (Ref:17/00451/FUL), using the Class Q permissions as a 'fallback' position, in addition to planning policy for the conversion and extension of rural barns, demolition of existing barn and erection of new dwelling.
3. Ref:17/00451/FUL was approved 1.8.2017. The applicant implemented the permission by undertaking demolition of the buildings in November 2018 (Dutch barn and barn adjacent to the stables building). Following demolition works, construction on site (site works/drainage/foundations etc.) commenced around March 2019.
4. Due to the topography of the site, it was quickly realised that the construction of a single property would be problematic. The applicant therefore applied for formal planning permission to split the building into 2 smaller units, allowing a break for the change in levels together with design alterations (current application).
5. The 2017 planning permission has been implemented (now part complete). There can be no dispute on this point, and it is not relevant if, or if not, the unit as approved under the 2017 permission has, or has not been built, as it is not relevant in terms of the lawful commencement of the 2017 permission (i.e. the fallback position). Given that the 2017 planning permission is clearly extant, it is therefore a material consideration of significant weight as it provides the applicant with a genuine and realistic fallback position.
6. The applicant maintains the view that following lawful implementation of the 2017 permission, the site now constitutes previously developed land, as per the NPPF definition (notwithstanding the argument that the conversion of the Dutch Barn to storage use under Class R, Part 3 of the GPDO had already taken place). The applicant therefore argues that this development constitutes 'appropriate development' under Para. 149(g) of the NPPF, as it involves the re-development, in part, of a previously developed site. Acceptance under this provision is provided if the development would not have an adverse impact upon the openness of the Green Belt than that of the existing development. The applicant argues that the impact on the openness of the Green Belt is acceptable, and that this development provides significant public benefits than that approved under the 2017 scheme.
7. The applicant argues that although the process taken differs, the fact remains that the development is acceptable in Green Belt terms, contrary to the view of the Parish Council. Specifically in respect of summary point 1 above, the Parish Council make the following key points:
 1. The permission in 2017 only allowed 1 dwelling and its size was limited to 478m³ (Measuring 31.25m in length with a cross section of 15.3sq m).
 2. The topography of the site is irrelevant.
8. The applicant does not disagree that the 2017 permission allowed only a single, 4-bed property. However, the mere fact that residential use was permitted, means that in terms of any re-development of the site residential use is/remains accepted in principle. The benefits of this application to create 2 x smaller 2-bed, more affordable units in a village where house prices are

extortionate and with limited availability, would provide significant social and economic benefits over one, large 4-bed dwelling, especially in terms of the rural context it is situated within.

9. The Parish Council's argument in respect of sub-division not being applicable in this case is based on their view that no such policy can apply if there is no lawful dwelling. This is fundamentally incorrect for the reasons given above, as commencement of the 2017 permission has established residential use on site. Notwithstanding the above, if the 2017 building had been implemented (it could still be erected as permission remains extant), it would be policy compliant (under Para.80 of the NPPF), to allow subdivision, as this is permitted in 'isolated locations', and thus it would be perverse not to allow it in more sustainable sites such as this.

10. The applicant does not disagree that a dwelling of 478m³ was approved under the 2017 permission and required to measure 31.25m in length with a cross section of 15.3sq m. However, the built volume related to the habitable accommodation is based on a level site. The latest information supplied by the applicant shows what would have actually been built on site, if the barn, as approved in 2017, had been implemented in full. This is because finish floor level (FFL) details were not secured in the form of a condition, nor did the permission provide detailed levels/site sections, and/or any topographical information. The result is that the starting point/FFL for the barn's construction was never established.

The lack of such information means that the actual building to be constructed on site, given the topography increases significantly and would have resulted in a building/built volume of 740m³. To clarify, the applicant is not saying that the building approved in 2017 would have an increased habitable accommodation volume, but merely the fact that to construct the dwelling, as approved, without any level datum would require substantial foundations/raised ground levels to create the dwelling.

These foundations/raising of ground levels means the physical built form of the building on site would be substantially larger than the 478m³ approved, and as shown on the latest information submitted, would have created a large, overly dominant and mostly blank, flat gable feature prominent in the streetscene. In contrast the proposed development, as built, is more in keeping, less imposing albeit for the pitched roof and consistent with the existing development and the original farmstead concept envisaged in 2017.

11. Reference to different volumes quoted, this has resulted from more accurate modelling/calculations being undertaken following requests from the Council.

12. The 'as built' development provides significant benefits in terms of visual appearance with no significant impact upon the openness of the Green Belt, when the resulting built form (not habitable volume as referred to by the Parish Council) is taken into consideration.

13. In respect to inappropriate development, it is clear that the 2017 planning permission remains extant/part complete. The applicant therefore argues that the site constitutes previously developed land, such that the correct Green Belt assessment is in respect of redevelopment, which is an 'appropriate' form of development, and not 'inappropriate development' requiring 'very special circumstances' to be demonstrated.

Notwithstanding the point above, for the reasons as set out in the information provided to the Council already, together with the information contained in this letter, we agree with the Officer's assessment that 'very special circumstances' exist that outweighs the harm to the Green Belt, as referred to in the Committee Report.

14. In applying the 'balancing exercise' the applicant argues that the Parish Council's assessment is wrong for a number of points:-

1. Green Belt harm is minimal when applying the genuine and realistic fall-back situation, topography changes and design/visual appearance.

2. Although the Council may have a 5-years supply of housing land, the NPPF is clear that the key policy objective is to boost the supply of homes regardless of 5yr Housing Land Supply (5HLS), especially in rural areas where demand for new, more affordable homes is essential.

3. It has to be accepted, given the NPPF's promotion of high-quality design, that a split-level, pitched roof design, set at a lower ground level to that which could be built under the 2017 extant permission provides significant visual enhancement. This visual enhancement is also

further supported by the associated design features, such as brick corbeling, eaves details, wooden fascia's etc... No such features could have been insisted upon under the 2017 permission, as again no conditions/stipulations and/or drawings showing such, were approved/conditioned, as part of the extant permission.

22/00070/FUL Alto House, Ravens Bank Drive

An additional Bat Survey Report and Mitigation Strategy was submitted on 10th June following the carrying out of emergence surveys in relation to the building where evidence of bats had previously been discovered.

The Report has been considered by the Councils Ecology advisor and they state; The report has been reviewed and it is considered acceptable. There are confirmed bat roosts so the applicant will need to make a licence application to Natural England following the grant of planning permission. The licence application should form a pre commencement condition and the applicant should send the licence details of the Local Planning Authority before proceeding with the demolition and construction.

Additional condition:

12. The following works, namely the demolition of the building identified as 'B1' on the Building Assessment Plan Figure 1 dated 06.06.22 of the FPCR Bat Survey Report and Mitigation Strategy shall not in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by Natural England pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorizing the specified activity/development to go ahead; or
- b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Following consultation with the applicant, Condition 7 (in relation to sustainability/BREEAM) is slightly amended to read as follows:

Amended condition;

7. Within 6 months of occupation of any of the building hereby approved, evidence shall be submitted in the form of a Post Construction Certificate (prepared by a Building Research Establishment qualified Assessor) to demonstrate full compliance with the BREEAM NC 2018 Pre-Assessment Alto House, Redditch, dated September 2021.

Reason: In order to ensure that climate resilience measures are in place in accordance with the requirements of Policy 15 of the Borough of Redditch Local Plan No. 4.

22/00539/FUL Kingfisher School , Clifton Close

No Updates

22/00637/FUL Numbers 45-122 High Trees Close, Oakenshaw

No updates