

Appeal Decision

Site visit made on 10 August 2016

by Elizabeth Lawrence BTP MRTPI

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

Decision date: 31 October 2016

Appeal Ref: APP/B9506/W/16/3152434

Irongates, Holmsley Road, Wootton, New Milton, BH25 5TP.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Mrs L Crow against the decision of New Forest National Park Authority.
 - The application Ref 16/00204, dated 08 March 2016, was refused by notice dated 4 May 2016.
 - The application sought planning permission for a replacement stable block without complying with a condition attached to planning permission Ref 15/00906, dated 5 January 2016.
 - The condition in dispute is No. 3 which states that: Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any re-enactment of that Order) no mobile field shelter or stable building other than that shown on the approved plan shall be erected or carried out within the land edged blue in the approved plan without express planning permission first having been granted.
 - The reason given for the condition is: To ensure the development would not lead to a more intensive use of the land or the proliferation of unjustified built development on agricultural land in accordance with policies CP8 and DP1 of the New Forest National Park Core Strategy and Development Management Policies DPD (2010).
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Costs

1. An application for costs was made by Mrs L Crow against New Forest National Park Authority. This application is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission is granted for a replacement stable block at Irongates, Holmsley Road, New Milton, BH25 5TP in accordance with the application Ref 16/00204, dated 08 March 2016 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) No development shall take place until samples or exact details of the facing and roofing materials have been submitted to and approved in writing by New Forest National Park Authority. Development shall only be carried out in accordance with the details approved.
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- 3) The building the subject of this permission shall only be used for stabling of horses belonging to the owner of the site (or their successors in title) and shall not be used for any commercial riding, breeding, training or livery purposes.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: SBA.3535-7-1.

Main Issue

3. The main issue is whether condition 3 is necessary to ensure that the proposed scheme respects the natural environment, the landscape character and that it does not have a suburbanising effect within the New Forest National Park (NFNP).

Reasons

4. The Appellant has stated that condition 3 is unnecessary, irrelevant to the approved development, imprecise, unenforceable and unreasonable and thus should be removed. The Council has stated that the condition is required to prevent the further proliferation of buildings on the adjacent agricultural land.
5. As described in the Council's Landscape Character Assessment 2015 the Appeal site is located within a rural area within the NFNP that is characterised by a mixture of pasture land, heath and parkland, ancient and ornamental woodland, plantation and forest farmland. Both the track and forest to the north of the Appeal site are within a designated Site of Special Scientific Interest, a Special Protection Area and a Ramsar site.
6. The land owned by the Appellant within and around the Appeal site extends to some 12 hectares. The Appeal site itself includes a range of domestic buildings, including a converted modern stable block which is used for ancillary domestic purposes and the existing stable block which is to be replaced. Also within the Appeal site is an area of grassland located to the south of the main garden area, where, at the time of the appeal site visit, various items of children's play equipment were sited.
7. Within the adjoining fields owned by the Appellant there are two barns, at least four field shelters, an enclosure used for keeping pigs, a glasshouse, an area of hard-standing used for parking/storage and several tracks, one of which appears to be either new or newly surfaced. Some of the structures and hard surfaces/tracks are not shown on the site plan submitted with the Appeal application, but were observed during the Appeal site visit.
8. There is no doubt that there has been a gradual proliferation of buildings, structures, hard-surfacing and an increased/expanded domestication within the Appeal site and the adjoining fields. The Council has confirmed that planning permission has not been granted for the use of the existing paddocks for equestrian use. It is not stated whether the existing field shelters, barns, tracks and hard surfaces all benefit from or require planning permission. Similarly no assessment is made of the impact these works have had in relation to the use of the land.
9. Accordingly, from the limited evidence submitted it has not been demonstrated that the current lawful use of the fields/paddocks is equestrian or a mixed use

rather than agricultural. As advised in the Council's Guidelines for horse related development – Supplementary Planning Document 2011 (SPD), simply grazing horses does not amount to a change of use from agriculture to equestrian.

10. The strategic objective for protecting the New Forest National Park's natural environment is set out in the New Forest National Park Core Strategy and Development Management Policies (DPD). It seeks to protect and enhance the natural environment of the National Park, including the natural beauty of the landscape. Similarly, together policies DP1 and CP8 of the DPD require all new development to enhance local character and distinctiveness and to respect the natural environment, landscape character and biodiversity. New built development and changes of use which would individually or cumulatively erode the Park's local character or result in a gradual suburbanising effect within the National Park will not be permitted.
11. In relation to equestrian development policy DP21 of the DPD allows for recreational horse keeping provided it does not have an adverse impact on the landscape or any nature conservation interests. Policy DP22 of the DPD allows for the siting/erection of field shelters provided they are sensitively sited to be unobtrusive in the landscape.
12. These policies and advice are consistent with the National Planning Policy Framework (NPPF). It states that there is a presumption in favour of sustainable development, which has three mutually dependent dimensions which include its economic, social and environmental role. In relation to the environmental dimension of sustainable development, the NPPF states that the planning system should contribute to and enhance the natural and local environment. Great weight should be given to conserving landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty.
13. The approved development is for a replacement stable building which would be slightly longer and taller than the existing stable building. However the scheme does not involve the provision of additional loose boxes and the Council has confirmed that the proposed building was approved on a like for like basis. No concerns were raised regarding the visual/environmental impact of the proposed building and I have no reason to disagree with this view.
14. The National Planning Policy Framework (NPPF) sets out various tests which planning conditions should comply with and these are explained in more detail in the Planning Practice Guidance (PPG). It advises that conditions should not be imposed unless there is a definite planning purpose for it and that without the condition planning permission would have been refused.
15. There is no doubt that there has been a proliferation of structures, hard-standings, tracks and domestication of the property. Condition 3 would help prevent any future unjustified proliferation of built development in the fields and so would be consistent with the objectives of the policies and advice set out above. Condition 3 is therefore relevant to planning.
16. As advised in the SPD the Authority will normally seek to limit the amount of stables and field shelters to what is appropriate in size and scale to the fields

concerned. The SPD explains that the proliferation of paddocks, poor pasture management and the introduction of ancillary structures can have a significant impact on the landscape quality of the NFNP.

17. Condition 3 is not however necessary to make the proposed replacement building acceptable in planning terms. This is because the Council raised no concerns relating to the visual/environmental impact of the proposed replacement building and, in itself, the proposed replacement building would not result in an intensification of equestrian uses on the property. Accordingly, condition 3 is not necessary to make the proposed development acceptable in planning terms. It was unreasonable to impose a condition whose sole purpose is to address a separate planning concern relating to the property as a whole.
18. The Appellant has stated that the condition would not prevent the erection of any field shelters for equestrian use on the land prior to the construction of the new stable building. Indeed at the time of the Appeal site visit there were the component parts for two new field shelters within the field area to the east of the Appeal site. Whether or not such field shelters could be erected would be dependent on the Appellant demonstrating that they were related to the lawful use of the land for planning purposes. Also, that the structures did not amount to development, having regard to current legislation and case law.
19. Irrespective of this, once the permission was implemented condition 3 would prevent the erection of any field shelters and stables on the land which did not amount to development. Condition 3 would therefore be enforceable.
20. Paragraph 200 of the NPPF and the PPG both state that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In this instance the erection and siting of field shelters is not something that is covered by the Town and Country Planning (General Permitted Development) Order 2015 (GDO). As such, whilst the wording of condition 3 is not imprecise, reference to the GDO in condition 3 is unnecessary.
21. I have considered the need for conditions 2 and 4 imposed on the original planning permission. Having regard to the prominent position of the proposed building, adjacent to the track, woodland and fields a condition which exercises strict control over the external materials is necessary.
22. The Appellant states that the use of the proposed building for commercial equestrian purposes would require planning permission and so condition 4 is unnecessary. However, it has not been demonstrated that all of the horses/ponies kept on the land belong to the Appellant and the precise nature of the equestrian use on the site is unclear. The additional traffic and activity generally associated with commercial equestrian activities would have the potential to add to the intensity of the equestrian use of the site and to harm the character and appearance of this sensitive rural area within the NFNP. Accordingly, on the basis of the limited information submitted, condition 4 is necessary in the interests of certainty and meets all other conditions tests set out in the NPPF and the PPG.
23. Finally, I also consider that it is necessary to impose a condition which requires the construction of the proposed replacement stable block to adhere to the approved drawing in the interests of certainty. Bearing in mind the permission

granted relates to this drawing the imposition of this condition would not prejudice the main parties.

24. For these reasons, I conclude that condition 3 fails the tests of necessity, relevance to the proposed development and is unreasonable. It is not required to ensure that the proposed development respects the natural environment and landscape character and that it does not have a suburbanising effect within the New Forest National Park.

Elizabeth Lawrence

INSPECTOR