

Appeal Decision

Site visit made on 17 January 2017

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 22 February 2017

Appeal Ref: APP/W0340/W/16/3157428

Tomb Farm, Hook End Lane, Ashampstead, Reading RG8 8SD

- 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 D Williams, Royal Berkshire Shooting School against the decision of West Berkshire Council.
 - The application Ref 16/00825/COMIND, dated 18 March 2016, was refused by notice dated 28 July 2016.
 - The development proposed is construction of a fly fishing training facility and an underground rifle range, with associated facility building and landscaping.
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Decision

1. The appeal is dismissed.

Procedural matter

2. A local resident has indicated that the address of the site should be Lower Basildon rather than Ashampstead. However, as Ashampstead is given on the application form and the Council used that name on the decision notice I have used that in the heading.

Main Issues

3. The main issues are the effect on:
 - the character and appearance of the area being within the North Wessex Downs Area of Outstanding Natural Beauty (the AONB);
 - the setting of Tomb Farmhouse and Nobe's Tomb, both Grade II listed buildings;
 - highway safety.

Reasons

Character and appearance

4. The appeal sites lies in an area of rolling and undulating countryside which drops from west to east down to Hook End Lane. The land is currently laid to grass surrounded by hedgerows although there are various blocks of woodland in the area. The eastern part of the access drive to the site also forms part of a public footpath, with various rights of way around, although some distance away from, the perimeter of the site. An electricity pylon is located in the
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southeastern part of the appeal site, with the high voltage cables oversailing the site. It is a high quality landscape recognised through its designation as part of the AONB.

5. To the south and west of the appeal site is the shooting school and associated building. To the south is Tomb Farmhouse, a Grade II listed building, which dates from the late seventeenth century with early twentieth century partial re-facing and additions to south. Between the appeal site and Tomb Farmhouse is Nobe's Tomb, which is also Grade II listed. This dates from around 1692 and consists of the remains of an ashlar tomb approximately 2.5 m square and 1.5 m high.
6. The proposal has a number of elements. Firstly, the creation of various lakes with interconnecting cascades in the eastern part of the site. These would be used as a fly-fishing school. Secondly, the construction of a building, described as an "Educational & Welfare Facility Building" which would be clad in timber and located in the southern part of the site towards the top end of the lakes. Thirdly, the construction of an underground rifle range, on the western end of the site within the higher ground. In addition there would be additional landscaping in various locations on or adjacent to the appeal site on land within the appellant's control.
7. In support of the proposal the appellant has submitted a Design and Access Statement (the DAS) and a Landscape and Visual Impact Assessment¹ (the LVIA). The DAS indicates² that the layout would be "naturalistic". The LVIA assessed the development from various viewpoints both within and outside the site. It states³ "the Landform will be reprofiled to create a naturalistic development as to minimise the change to the existing contours" and "this is designed to replicate the nature of the existing landscape character. It is therefore considered that the impact made by the development upon the landform are [sic] considered to be negligible". From this, and with proposed mitigation planting, the LVIA concludes that the overall landscape and visual impacts at year 15 would be slight adverse.
8. The appeal site lies in an area of rolling downland, generally given over to pasture. It currently forms a dry landscape in that it does not include ponds or lakes and is set some way from the River Thames. To construct the fly-fishing lakes there would have to be extensive re-profiling and changes to the land form as well as changing its character to being wet. In order to create the lakes there would have to be terraces formed with the lowest lake being approximately 130 m long. Terraces do not reflect the rolling existing landform. The landform in the most easterly corner of the site would have to be raised. All of this means that the proposal would not "replicate the nature of the existing landscape character" meaning that the conclusions of the LVIA underestimate the effects of the development.
9. The change in landform would be noticeable and significantly harmful from a number of viewpoints outside the site. These would include the section of footpath between viewpoints 3 and C to the northeast of the site and from viewpoint 7 to the south and west. In addition, while there is a well maintained

¹ Version 2 dated November 2015

² Paragraph 1.4

³ Paragraph 5.10

hedgerow to Hook End Lane, during winter months, it is possible to seek glimpses of the appeal site through the hedgerow.

10. Overall I conclude that the fly-fishing lakes would be significantly harmful and out of keeping with the dry and rolling nature of the landscape and would not conserve landscape and scenic beauty in the AONB.
11. In relation to the education and welfare building, it is not clear from the documentation as to precise use for the building. The DAS indicates⁴ that it would provide “a hub for the teaching facility” and would thus appear that it would be associated with the fly fishing lakes but there is reference in the documentation to its use by schools. The construction of this building would be located at the bottom of the right of way approaching from the south and would be intrusive in the otherwise generally underdeveloped and rural landscape.
12. Finally, the proposal is for the construction of an underground rifle range. This would be located under an area of rising ground, constructed using a ‘cut and cover’ technique, and there would be some change to the landform. The DAS indicates that it would be two 100 m tunnels with a diameter of 3 m and two access points. However, the submitted drawing forming part of the proposal showing the “Preliminary Design”⁵ only shows a single tunnel. In addition it is not clear from the drawing whether the tunnel(s) would be level or parallel with the existing landform so that it/they would be set at an angle or horizontal; the existing land form changes by approximately 5 m over the length of the tunnel. The drawing shows three sets of steps (rather than the two access points referred to in the DAS) to the tunnel at the ends and in the middle, all of similar lengths. This which would indicate that the tunnel would be set at an angle. Given this drawing is preliminary, and the differences between the drawings and the DAS it is thus not clear precisely what is proposed. Thus it is not possible to judge the effects on the landscape, where great weight should be given to conserving landscape and scenic beauty in line with paragraph 115 of the National Planning Policy Framework (the Framework).
13. In the response of the AONB officer it is asserted that the landscape would previously have been characteristic of parkland, associated with Basildon Park, but there is no evidence to support this assertion; I therefore can only give this very limited weight.
14. Therefore the proposed development would be harmful to the character and appearance of the AONB. The proposal would therefore be contrary to Policies ADPP5, CS14 and CS19 of the West Berkshire Core Strategy 2006-2026 (the WBCS) which seek that development conserves and enhances the local distinctiveness and sense of place of the AONB whilst preserving the strong sense of remoteness and tranquillity, particularly on the open downland, that new development must respect and enhance the character and appearance of the area, and that the diversity and local distinctiveness of the landscape character is conserved and enhanced. It would also be contrary to paragraph 115 of the Framework which indicates that great weight should be given to conserving landscape and scenic beauty in AONBs which have the highest status of protection in relation to landscape and scenic beauty.

⁴ Paragraph 3.14

⁵ Drawing 140502/02

15. I will consider the proposed benefits of the development to be weighed against this harm in the Planning Balance section below.

Listed Buildings

16. The Glossary to the Framework defines 'significance' as the value of a heritage asset to this and future generations because of its heritage interest. This interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. As Grade II listed buildings both Tomb Farmhouse and Nobe's Tomb are designated heritage assets.
17. The Council is concerned about the effect on the setting of Tomb Farmhouse, from the changes to the landscape described above, as it sees the area of the proposed fly-fishing lakes as part of the setting of the Farmhouse. Tomb Farmhouse is located on higher ground and has windows looking out over this area on both ground and first floor providing a prospect over this part of the appeal site. This area therefore provides part of the setting of Tomb Farmhouse. The proposed change in landform would significantly alter the nature of the landscape and alter its setting. Given the proposed change from the naturalistic landform to a man-made form would be out of keeping with the overall landscape in the area this would harm the setting of the Tomb Farmhouse, and thus its significance, where special regard should be given to the desirability of preserving the setting of a listed building. However, in terms of the Framework and the national Planning Practice Guidance (the PPG) this would represent less than substantial harm.
18. Nobe's Tomb is a small structure located close to the existing access drive to the existing shooting school and its car park and its setting is much more closely defined than the Farmhouse. The landscaping proposals, the proposed education building, and more extensive landform changes would not affect its setting which therefore would be preserved.
19. However, the proposal would be harmful to the setting of Tomb Farmhouse to which special attention should be paid. As such the proposal would be contrary to Policy CS19 of the WBCS which indicates that proposals for development should be informed by and respond to the nature of heritage assets. It would also be contrary to paragraph 131 of the Framework which indicates that account should be taken of the desirability of sustaining and enhancing the significance of heritage assets.
20. Paragraph 134 of the Framework makes clear that where a development will lead to less than substantial harm to the significance of a designated heritage asset this harm should be weighed against the public benefits of the proposal. As with the effect on the character and appearance of the area I will consider this in the Planning Balance below.

Highway safety

21. The main access to the site is from the north along Hook End Lane from the A329 between Pangbourne and Streatley. Hook End Lane is a single track road with only informal passing places on either side and at the time of my site visit there were a number of areas with pot holes and extensive wear to the edge of the carriageway where vehicles had moved over to allow one another to pass. It is also enclosed with hedgerows.

22. The Council refused the application on the basis that it considered that it did not have sufficient information on the traffic generation likely to be generated by the proposals, this being despite the application being accompanied by a Transport Statement. Given the lack of clarity as to the nature of the education and welfare building identified above, this was understandable as Hook End Lane is not suitable for significant increases in traffic.
23. Although relying on its officer report as part of the appeal process the Council submitted, on a without prejudice basis, a list of conditions in the event that the appeal was allowed. This included a condition which would have required the construction of three passing bays on Hook End Lane between the appeal site and the A329. In its comments on the appeal the Council has indicated that these bays would address this issue.
24. In response to this the appellant indicated that he wished to resolve this by providing a Planning Obligation under Section 106 of the Town and Country Planning Act 1990 (as amended). It seems to me that this is a pragmatic way of ensuring that the development would not have an adverse effect on highway safety and therefore the Obligation is necessary. I am also satisfied that it would be directly related to the development and fairly and reasonably related in scale and kind to the development. It would also be the first Obligation to seek to deliver this infrastructure.
25. Although I have been provided with a draft Obligation which has been copied between the appellant and Council I have not been provided with a completed Obligation which would be of legal effect.
26. Paragraph 203 of the Framework makes clear that a Planning Obligation should only be used where it is not possible to address unacceptable impacts through a planning condition.
27. The wording of the suggested condition is to the effect that up to three passing places should be constructed in locations to be agreed along Hook End Lane. The Framework and the PPG set out various requirements that conditions should pass before it would appropriate for a condition to be imposed. While I would agree that the works are necessary, without sufficient precision as to the actual locations of the proposed passing places, I cannot be satisfied that they could be provided without causing harm to the character and appearance of area, especially as Hook End Lane is located within the AONB. Consequently, I am not satisfied that a condition could be imposed which would meet the tests in the Framework and PPG.
28. Without the necessary works secured either in a legal agreement or precisely defined through a condition, the proposal would be detrimental to highway safety. I am therefore satisfied that the proposal would not comply with Policy CS13 of the WBCS which requires development that generates a transport impact to mitigate the impact on the local transport network.

Other matters

29. Local residents have expressed concerns that the existing proposal does not abide by the existing planning conditions; a concern that the appellant refutes. It is for the Council in the first instance to investigate this matter.
30. I am satisfied, that had all other matters been acceptable, the proposal would not have given rise to unacceptable effects on the living conditions of those

living in the local area, as the shooting range would have been enclosed underground and fly-fishing would be a quiet activity.

Planning Balance

31. The appellant has put forward a number of considerations in support of the proposal. These are based on the three bullet points set out in paragraph 116 of the Framework in relation to major development in an AONB, and from this it would appear that he considers the proposal to be 'major development'. The Council has not commented on whether it considers the proposal represents 'major development'.
32. There is no definition of 'major development' in this context in the Framework, and the PPG indicates⁶ that this will be matter for the decision maker, taking into account the proposal in question and local context. Paragraph 116 indicates that if a proposal is a major development then it should be refused except in exceptional circumstances and where it can be demonstrated that the proposal is in the public interest. The Framework then goes on to state that consideration of such applications should include an assessment of the need for the development, the cost and scope of building outside the AONB or meeting the need in some other way, and the effect on the environment, landscape and recreational opportunities, and the extent to which that could be moderated.
33. Above I have concluded that the fly-fishing lakes would be significantly harmful and out of keeping with the dry and rolling nature of the landscape and would not conserve landscape and scenic beauty in the AONB. Given the extensive area of the appeal site and that the development could be viewed from a number of vantage points outside the appeal site I conclude that the proposal represents major development within the terms of paragraph 116 of the Framework and the advice in the PPG.
34. In support of the development the appellant has put forward a number of reports, in particular a Socio-Economic Statement. This puts forward a number of different factors both during the construction and operational phases of the development. While third parties have criticised the Statement I do not have any evidence to counter its conclusions, although I have already observed the lack of detail as to the precise nature of the Educational & Welfare Facility Building and thus any benefits from this can only be of very limited weight. The Statement does not look at what the effects would be on the local economy the event that the proposal was refused.
35. It would appear that the case in support of the proposal is based on it being an extension of the shooting school for those who might already use the facility. In this regard I take into account the support of those who wrote in at both the application and appeal stages. However, it has not been demonstrated that the facility could not be delivered outside the AONB, and I note that, in particular, my concerns about the underground rifle range relate principally to the lack of detail of how it would be delivered and thus to its effects on the landscape. This means that this element of the proposal may be able to be delivered in some other way.
36. Finally, the appellant has promoted what he sees as a benefit to the landscape and to ecology of the additional planting. While landscaping of a type

⁶ Paragraph Reference ID: 8-005-20140306

appropriate to a landscape may be a benefit, landscaping cannot, of itself, make the unacceptable acceptable, and in this case additional planting would be harmful to the setting of Tomb Farmhouse. As noted above the area is a dry landscape and the introduction of ecology associated with the fly fishing lakes would not be appropriate within this environment. Rather than acting as a benefit this adds to the harm which would be caused by the proposal.

37. While the proposal would preserve the setting of Nobe's Tomb is would only be a neutral factor in the balance as this would maintain the current situation.
38. In the final balance there would be the benefits to the local economy from the operation of the development, however, for the reasons set out above this can only have moderate weight. The proposal would represent major development in the AONB harmful to landscape and scenic beauty, harmful to the setting of a designated heritage asset, introduce inappropriate ecology to the area and be harmful to highway safety. To be granted there needs to be exceptional circumstances and the development has to be in the public interest. This has not been shown. Great weight should be given to conserving the landscape and scenic beauty of the AONB. This harm to the environment outweighs the benefits set out above and, as such, the proposal does not represent sustainable development.

Conclusion

39. For the reasons given above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

RJ Jackson

INSPECTOR