
Appeal Decision

Site visit made on 2 December 2019

by Jonathan Hockley BA (Hons) DipTP MRTPI

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

Decision date: 19th December 2019

Appeal Ref: APP/D0215/W/19/3233221

Ivy House Farm, Upwell Road, Christchurch, Wisbech PE14 9LL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Ms J Kennedy & Mr M Smith against the decision of Fenland District Council.
 - The application Ref F/YR19/0185/F, dated 8 February 2019, was approved on 14 May 2019 and planning permission was granted subject to conditions.
 - The development permitted is the "Change of use of land to paddock; formation of manège for private use".
 - The condition in dispute is No 2 which states that:
 - "No development shall take place until the applicant, or their agents or successors in title, have secured the implementation of a programme and timetable of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted by the applicant and approved in writing by the Local Planning Authority. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI. This written scheme will include the following components, completion of each of which will trigger the phased discharging of the condition:
 - a. The statement of significance and research objectives;
 - b. The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
 - c. The programme for the analysis, publication & dissemination, and deposition of resulting material. Part (c) of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI"
 - The reason given for the condition is:
 - "To ensure that the significance of historic environment assets is conserved in line with NPPF section 16, and in accordance with Policy LP18 of Fenland Local Plan 2014".
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Planning permission was granted in May 2019 for the change of use of land at the above address to a paddock and the formation of a ménage for private use. The permission was granted subject to seven conditions, of which one (condition no 2) required the implementation of a written scheme of archaeological investigation (WSI) prior to any development being carried out on the site, to ensure that the significance of historic environment assets is conserved. The appellant is of the view that such a condition is overly onerous and unnecessary.

3. The main issue in this case therefore is whether the condition is necessary and reasonable to ensure that the significance of historic environment assets is conserved.

Reasons

4. The appeal site lies to the south east of Ivy House Farm, and at the time of my visit was being used as a paddock. The permission allows the formation of a ménage measuring some 30m by 50m on part of the appeal site. According to the appellant's design and access statement and approved plans, this would be surfaced with a wax fibre sand mix ('Polytrack') bound by a timber kickboard measuring some 150mm high. The kickboard would extend 6 inches below ground level, and 'appropriate drainage infrastructure' would be installed below ground. Construction of the ménage would also require 'some minor earth modelling' to create a level area, and the appellant's appeal statement details that the ménage would be approximately 18 inches deep and that the land "has existing land drains that were installed by the previous owners". The appellant's flood risk assessment provides more information on drainage.
5. Policy LP18 of the Fenland Local Plan 2014 (the Local Plan) states that the Council will protect, conserve and seek opportunities to enhance the historic environment by the consideration of applications for planning permission, noting that where permission is granted a programme of work and/or the implementation of any necessary mitigation measures may be secured by condition in order to minimise any adverse impact. Paragraph 189 of the National Planning Policy Framework (the Framework) states that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation. Paragraph 187 states that local planning authorities should maintain or have access to a historic environment record (HER), which should contain up to date evidence and be used to predict the likelihood that currently unidentified heritage assets, particularly sites of historic and archaeological interest, will be discovered in the future.
6. The Council was guided by the Historic Environment Team at Cambridgeshire County Council. They consider that the site lies in an area of archaeological potential, situated on slightly raised ground at the edge of the fen island in an area known to have been favoured for settlement in the pre-drainage landscape. They state that cropmark evidence of rectangular enclosures and trackways indicative of former settlement and land use are recorded on the Cambridgeshire HER less than 100m to the north-east of the development site and that examination of Google Earth imagery suggests that these also continue to the south and west of the proposed development. They further note that the Fen Causeway, an important former Roman routeway across the low-lying ground of the fens passes on an east-west alignment to the south of Ivy House Farm, with further associated networks of cropmarks of enclosures and field systems of prehistoric and Roman date visible on aerial imagery on both sides of the Causeway.
7. It is clear therefore that the County Council have consulted the HER and used this to predict the likelihood of archaeological interests being found at the site in the future, in accordance with paragraph 187 of the Framework.

8. The appellant considers that the need for archaeological works is unnecessary and unjustified due to the depth and type of work proposed, noting that where digs have taken place at properties nearby in recent times nothing has been found. Four examples are provided.
9. The County Council state that two of these examples lie more than 1km away from the site and are not therefore considered directly relevant. They also note that the other two examples lie some 800m away, with the first example recommended to have an archaeological condition but not imposed as a previous consent for the site dating from around 2011 had no such requirement. The second example was not commented on as it formed part of the same development for which the precedent of development without requirement for an archaeological evaluation had already been set. They also note the barn adjacent to the site which was constructed without archaeological conditions; however, they state that this dates from 1976 and therefore substantially pre-dates modern planning policy and processes.
10. I note that agricultural cultivations have taken place at the site at similar levels to that proposed for construction of the ménage. However, I also note that the County Council have some doubts over whether the depth of such cultivations would necessarily match those proposed under the permission. It is also not clear the extent of drainage required under the scheme; while I note that land drains may have been previously installed and the Polytrack drainage, there is no drainage plan provided or evidence of where such drains were, are, or are proposed to be. The condition imposed is also not restrictive; it is drafted to allow differing responses. Detailed evidence of previous activities on site which may affect the potential for archaeological assets could form part of a submitted WSI and affect the required site investigation accordingly.
11. Letters of support for the appellant have been submitted from a neighbour and the Parish Council. I note the contents of these letters and have some sympathy with the appellant. However, the condition has been shown to be both necessary and reasonable to protect the historic environment.
12. I therefore conclude that the condition is necessary and reasonable to ensure that the significance of historic environment assets is conserved. The imposition of the condition complies with Policy LP18 of the Local Plan and with the Framework.

Other Matters

13. Disquiet is raised over the timing of the comments from the County Council, late on in the planning application process. I can understand the appellant's frustration with this chain of events but note that this response arrived before the application was determined and also that the appellant's agent accepted the imposition of the condition.

Conclusion

14. I have concluded that the condition is necessary and reasonable. Therefore, having regard to all other matters raised, I dismiss this appeal.

Jon Hockley INSPECTOR