



Appeal Decisions

Site visit made on 23 June 2020

by **David Murray BA (Hons) DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 July 2020

Appeal A - Ref: APP/W0340/W/20/3244528

Bere Court Farm Bungalow, Tidmarsh Lane, Pangbourne, Reading, RG8 8HT.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a grant of permission subject to conditions under section 73A of the Act as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr R Mohammed against the decision of West Berkshire Council.
- The application Ref. 19/00713 is dated 13 March 2019.
- The application sought planning permission for "Demolition of an existing stable block and farm machinery store and replacement with a new stable block and farm machinery store on the same site. A temporary PVC farm tent has been erected to house the machinery and equipment that was stored in the collapsed stable block. The replacement stable block will be in keeping with the surrounding buildings, the frame will be made out of Oak which will be clad in Oak weather board and hand-made reclaimed clay tiles will be used for the roofing" (*sic*) granted planning permission under Ref 16/01419/COMIND, dated 19 August 2016, and sought to vary or delete conditions 1, 2 and 7.
- The conditions in dispute are:
 - (1) The approved amendments to the constructed stable building hereby permitted shall be carried out within 6 months from the date of this permission.
 - (2) The development hereby approved shall be completed in accordance with drawing Nos. 03 and E01 REVISION 01 received on 11 July 2019.
 - (7) Notwithstanding the provisions of either the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking and re-enacting that order, with or without modification) and the Town and Country Planning (Use Classes) Order 2015 (*sic*) (as amended) and any subsequent revision, there shall be no internal or external alterations including any mezzanine flooring to increase the floor space of the building, without the permission of the local planning authority in respect of a planning application.
- The reasons given for the conditions are:
 - (1) To enable the Local Planning Authority to review the desirability of the development against Policies ADPP5, CS14 and CS19 of the West Berkshire Core Strategy 2006 - 2026 should it not be started within a reasonable time.
 - (2) To ensure that the development is carried out in accordance with the submitted details assessed against Policy ADPP5, CS14 and CS19 of the West Berkshire Core Strategy 2006-2026.
 - (7) To retain control over the uses on the site and their intensification, particularly having regard to the limited parking space available and to enable these matters to be assessed against the policies of the development plan. This condition is imposed in accordance with the National Planning Policy Framework, Policies ADPP5, CS5, CS13 and CS14 of the West Berkshire Core Strategy (2006- 2026) and Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

Appeal B - Ref: APP/W0340/W/20/3244360
Bere Court Farm Bungalow, Tidmarsh Lane, Pangbourne, Reading, RG8 8HT.

- 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 conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr R Mohammed against the decision of West Berkshire Council.
 - The application Ref. 19/02196/COMIND, dated 29 August 2019, was refused by notice dated 3 December 2019.
 - The application sought planning permission for "Demolition of an existing stable block and farm machinery store and replacement with a new stable block and farm machinery store on the same site. A temporary PVC farm tent has been erected to house the machinery and equipment that was stored in the collapsed stable block. The replacement stable block will be in keeping with the surrounding buildings, the frame will be made out of Oak which will be clad in Oak weather board and hand-made reclaimed clay tiles will be used for the roofing" (*sic*) without complying with a condition attached to planning permission Ref. 16/01419/COMIND, dated 19 August 2016.
 - The condition in dispute is No 2 which states that: "The development hereby approved shall be carried out in accordance with drawing nos. 760/PL-01, 760/PL-02, 760/PL-03, and 760/PL-04 received 20th May 2016."
 - The reason given for the condition is: "To ensure that the development is carried out in accordance with the submitted details assessed against Policy CS14 and CS19 of the West Berkshire Core Strategy 2006-2026."
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Decisions

Appeal A - Ref: APP/W0340/W/20/3244528

1. The appeal is allowed in part and planning permission is granted for the "demolition of an existing stable block and farm machinery store and replacement with a new stable block and farm machinery store on the same site. A temporary PVC farm tent has been erected to house the machinery and equipment that was stored in the collapsed stable block. The replacement stable block will be in keeping with the surrounding buildings, the frame will be made out of Oak which will be clad in Oak weather board and hand-made reclaimed clay tiles will be used for the roofing" at Bere Court Farm Bungalow, Tidmarsh Lane, Pangbourne, Reading, RG8 8HT, in accordance with the application Ref. 19/00713, dated 3 March 2019, without compliance with condition number 1 imposed on this planning permission. However, the appeal against conditions 2 and 7 is dismissed and these remain imposed on the permission along with the other conditions 3, 4, 5 and 6.

Appeal B - Ref: APP/W0340/W/20/3244360

2. The appeal is dismissed.

Procedural matters

3. The description of the original permission 16/01419/COMIND is reproduced in full above, however, in essence, the scheme is for the erection of a new stable block and farm machinery store which is now referred to as 'the permitted scheme'.

4. In appeal A the application and appeal were originally lodged regarding the imposition of condition 2 on permission 16/01419/COMIND only, however, the appellant seeks to widen this to the imposition of conditions 1 and 7 as well. The Council deals with these in its representations and I will consider the appeal on this basis.
5. In appeal B – there was doubt over the actual drawings submitted and to be considered on the appeal. Despite a request for clarification, the Council considers the formal plan of ‘Proposed Plans and Elevations’ is drawing E01 Rev 2, dated Aug 19, but the appellant says it is drawing E01 (no revision) dated Mar 2018. This dispute over the correct plans will be dealt with in paragraph 18 below.

Main Issues

6. The main issues are whether the conditions in question meet the tests of conditions set out in national guidance, together with the effect of the proposed changes to the appearance of the building previously permitted on the character and appearance of the area and especially the North Wessex Downs Area of Outstanding Natural Beauty.

Reasons

Background

7. The appeal site comprises two parcels of grassed land which lie either side of a long tree lined driveway to the appellant’s home, Bere Court Farm Bungalow, which is situated in a small group of dwellings in an area of countryside outside of the settlement of Pangbourne. The surrounding land forms part of the North Wessex Downs Area of Outstanding Natural Beauty (NWDAONB).
8. It is apparent that the appeal site and the bungalow have an extensive planning history but, as relevant to these appeals and in short, the permitted scheme in 2016 allowed the replacement of a ramshackle stable building with a new single storey ‘L’ shaped building with timber elevations and a tiled roof which was shown to accommodate 4 stables, a foaling box, feed store tack room and machinery store. A design feature of that building is that the front wall of the stable section of the building would be set back underneath a projecting part of the main roof. It is apparent that the building subsequently erected did not accord with the plans in the permitted scheme. Various schemes have been submitted in an attempt to rectify any problems.
9. At my unaccompanied site visit, I noted the stable block/machinery store as erected although I was not able to see inside the building and the front elevation was partially obscured by a temporary PVC tent. I noted a number of differences to the approved scheme including 5 doors on the northern elevation of the building, 4 roof lights in the western roof slope and a metal flue on the rear elevation. However, it is the submitted drawings in both appeals that are to be considered rather than what has been built.

Appeal A – Condition 1

10. I read this condition as requiring the work to the building to be completed in accordance with the approved amendments within 6 months of the permission, (i.e. by the 7th February 2020), rather than being a condition regulating the commencement of development. The Council’s statement on this appeal refers

to the national Planning Practice Guidance (PPG) but the (unreferenced) quote referred to appears to be in relation to the potential to vary the period for the start of a development rather than the completion of it. Moreover, the terms of the condition contradict the reason given for imposing it which refers to the need for the Council to review the desirability of the development 'should it not be started within a reasonable time.' The Council has decided that the scheme proposed in application 19/00713/COMIND is acceptable on its planning merits and therefore there is no need to review it subsequently.

11. Although the appellant indicates that the condition should be amended to refer to 9 months rather than 6 months, the condition as drafted does not meet the tests of conditions set out in the PPG and the National Planning Policy Statement (NPPF) particularly regarding being *precise, necessary, reasonable or enforceable*. I will therefore delete this condition. If the Council considers that there is a material breach of a previous permission granted the planning acts provide alternative ways of remedying this.

Condition 2

12. Condition 2 on the permission specifies the plans that were submitted by the appellant and considered and approved by the Council. It is apparent that the appellant submitted the specific plans in order to rectify a problem over the building work already carried out. The PPG does not now give guidance on the use of a condition specifying the plans that are approved but I am satisfied that such a condition meets the relevant tests in that it is necessary, precise and enforceable. Without it there could be considerable doubt over the nature of an approved scheme.
13. The appellant says that condition 2 is being used by the Council as a definitive position so as not to entertain any changes to the building, but it is clear that any scheme for a new or revised stable block and farm machinery store on the site has to be considered on its individual planning merits either by the Council or on appeal.
14. In the circumstances of this case I conclude that the condition is necessary and has a legitimate planning purpose and therefore I will not vary or delete it.

Condition 7

15. Condition 7 restricts internal and external alterations to the building, including any mezzanine floor, without the submission of an application. The appellant says that the condition restricts the flexibility of the use 'under one roof' of the American style barn, but it was the appellant's plan which indicated the internal subdivision of the building into various equine and storage facilities. Although internal works carried out to a lawful building are not development as defined in section 55(2) of the Act, such changes could materially change the external appearance of the building before its completion which could affect its setting and impact in the NWDAONB.
16. I have taken account of the appellant's wish for greater flexibility in the layout of stalls, hay storage etc, but there is no detailed scheme before me which sets out how this would be achieved and the corresponding effect on the building particularly in terms of openings and fenestration. I conclude that the deletion of the condition and a general 'carte blanche' on the design/subdivision of the building approved has not been shown to be justified. On the merits of the

case, I conclude that condition 7 is necessary and fulfils a reasonable planning purpose.

Appeal B

17. This case involves the Council's refusal to vary or delete condition 2 imposed on permission 16/01419/COMIND which specified that the development had to be undertaken in accordance with the approved plans 760/PL-01, 760/PL-02, 760/PL-03, and 760/PL-04.
18. The issue requires a comparison between the permitted scheme and the alternative form of building put forward in the submitted plans. The plan approved by the Council under the Appeal A scheme (drawing E01 Rev 01) is also a material consideration. In relation to the dispute over the submitted plan as mentioned in paragraph 5 above, I find that the drawing provided by the Council is the correct and relevant one as the one submitted by the appellant is factually incorrect in that a cat-slide roof is shown at the western end of the south elevation whereas the corresponding view of the north elevation shows a form of mansard roof. The height of the eave of the west elevation is also inconsistent with the level shown at the end of the south elevation.
19. In assessing the planning merits of these schemes in particular I have given great weight to conserving and enhancing the landscape and scenic beauty of the NWDAONB in accordance with paragraph 172 of the NPPF which sets out that such an area has the highest status of protection in relation to these issues. The appeal site is mostly open and verdant and it makes a positive contribution to the special character and landscape form of the NWDAONB.
20. The Planning Officer report sets out changes to the overall size of the of the building from the permitted scheme and subsequent changes. Although the actual differences in size are minor, the loss of the overhang to the stable section diminishes some of the equestrian character of the building shown in the permitted scheme.
21. Moreover, I am concerned that the degree of glazing in the main gable of the front (south) elevation together with the extensive roof lights and the chimney give the stable and machinery building more of a domestic character. While the physical changes to the size and bulk of the building are small individually, taken together the changes would result in building which is materially different in design and form to the permitted scheme. I acknowledge that the building is well set back from the public realm and there is some landscaping around the building at the moment. Nevertheless, I find that the form and design of building shown on plan drawing E01 Rev 2, dated Aug 19 would be more visually imposing and not appropriate in the landscape. It would be materially harmful to the special character of the NWDAONB and would not conserve or enhance this landscape thus conflicting with Core Strategy Policy CS19.
22. I have taken account of the appellant's representations about having an American style barn made from quality materials, but the other agricultural and equine buildings I saw in the locality did not appear to be similar in nature or set some precedent in favour of the proposal. I have also taken account of the points made by the appellant about benefits of the building for animal welfare.

23. Nevertheless, I find that the adverse environmental effects and the conflict with the development plan are not outweighed by the other considerations put forward. Further, because of the harm to a landscape of recognised sensitivity, I find that the proposal is not sustainable development as set out in the NPPF when this is read as a whole. These factors indicate that the appeal should not be allowed.

Conclusion

24. For the reasons given above I conclude that a part of appeal A should succeed in relation to condition 1, but that the rest of appeal A should be dismissed in relation to conditions 2 and 7, and that appeal B should be dismissed.

David Murray

INSPECTOR