



Appeal Decision

Site Visit made on 23 March 2021

by Scott Britnell MSc FdA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2021

Appeal Ref: APP/F0114/W/20/3264561

Parcel ST5855 5516, Land to the North of B3114, Litton, Radstock BA3 4PS

- 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 Paul Farmer against Bath and North East Somerset Council.
 - The application Ref 20/01570/VAR, dated 4 May 2020, was refused by notice dated 14 October 2020.
 - The application sought planning permission for change of use from agriculture to mixed use of agriculture and equestrian and the proposed erection of a building for storage of agricultural machinery and equipment and stabling (proposed) and the construction of an all-weather menage (retrospective) without complying with a condition attached to planning permission Ref 19/03010/FUL, dated 30 October 2019.
 - The condition in dispute is No 3 which states that: The roof of the proposed building shall be finished in Profile 6 fibre cement sheets, the colour of which shall be 'Tawny brown' or 'Brown'.
 - The reason given for the condition is: In the interests of the appearance of the development and the surrounding area in accordance with Policies D1, D2, D3, D5 and NE2 of the Bath and North East Somerset Placemaking Plan and Policy CP6 of the Bath and North East Somerset Core Strategy.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from agriculture to mixed use of agriculture and equestrian and the proposed erection of a building for storage of agricultural machinery and equipment and stabling (proposed) and the construction of an all-weather menage (retrospective) at Parcel ST5855 5516, Land to the North of B3114, Litton, Radstock BA3 4PS in accordance with the application Ref: 20/01570/VAR dated 4 May 2020, without compliance with condition number 3 previously imposed on planning permission 19/03010/FUL dated 30 October 2019 and subject to the conditions set out on the attached schedule.

Application for Costs

2. An application for costs was made by Mr Paul Farmer against Bath and North East Somerset Council. That application is the subject of a separate decision.

Preliminary Matters

3. The application sought to vary condition 3 of planning permission 19/03010/FUL and that is how I have assessed the appeal. However, I consider that the proposal is actually a variance of the plans condition (condition 6) of that planning permission more so than condition 3.

4. I observed at my visit that eight rooflights have been installed in the appeal building. I note that the Council indicated that the rooflights were proposed when assessing the application, as did the appellant in their supporting documentation. Therefore, in the absence of compelling evidence to the contrary, I have proceeded on the basis that the rooflights had not been installed at the time the application subject to this appeal was made.
5. I also observed that a lean-to structure has been added to the appeal building. For the avoidance of doubt, that element is not shown on the drawings before me and does not form part of my considerations.

Background

6. Planning permission was granted under application 19/03010/FUL for the development set out in the banner header above. The permission was subject to six conditions. The application, the subject of this appeal, seeks to vary condition 3 of the planning permission so that eight rooflights may be installed. The application does not seek to vary or remove any of the other conditions imposed on the planning permission.
7. The Council are concerned that the rooflights would result in harm to the character and appearance of the host building and the Mendip Hills Area of Outstanding Natural Beauty (MHAONB), through light pollution and an overly domesticated appearance.

Main Issue

8. The main issue is the effect that varying the condition would have on the character and appearance of the appeal building and the MHAONB.

Reasons

9. The appeal site is located in a rural location in the MHAONB and comprises of a dual purpose agricultural/equestrian building, a menage and agricultural grassland. The appeal building sits near to an existing stone building and is visible from the surrounding area, including from a Public Right of Way.
10. Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in, amongst other designated areas, Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.
11. The appeal building is a large stable and storage building, which has a functional appearance in terms of its form, design and materials. The rooflights have been formed using clear corrugated sheeting that sit flush in the roof. Due to their form and materials the rooflights do not have a domestic appearance and their insertion has not resulted in the domestication of the host building. The building remains functional in appearance and of an agricultural style and appears sympathetic to its rural context and setting within the MHAONB. Moreover, the rooflights sit comfortably within the roof in terms of their proportion and the remainder of the roof retains its dark brown covering, ensuring that the building does not appear unduly prominent within the landscape.
12. The rooflights by their very nature will result in a degree of light spill from the building. However, it is reasonable to consider that internal lighting would be

directed to illuminate areas of the building where work is being carried out and not upwards towards the roof. As a result, any light spill, although visible from the surrounding area, would not be so considerable as to have a significant adverse effect on the rural character of the MHAONB and its dark skies.

13. I conclude that varying the condition would cause no harm to the appeal building or the MHAONB. There would be no conflict with Policy NE2 of the Bath and North East Somerset Local Plan 2011-2029 Core Strategy & Placemaking Plan District-wide Strategy and Policies Placemaking Plan July 2017. In summary, this seeks to ensure that development conserves or enhances local landscape and landscape character. There would be no conflict with Policy HDE15 of the Chew Valley Neighbourhood Plan 2017 which states, amongst other things, that development must design lighting to minimise the risk of light spillage beyond the development site boundary. There would also be no conflict with the aims of the Guidelines for Horse-related Development for the Mendip Hills AONB Supplementary Planning Guidance Published 2004, Revised 2012. In summary, this seeks to ensure that development does not have an adverse impact on the special landscape qualities of the Mendip Hills Area of Outstanding Natural Beauty. There would be no conflict with the aims of the National Planning Policy Framework (the Framework) with regards to conserving landscape and scenic beauty within Areas of Outstanding Natural Beauty.

Other Matters

14. Third parties have expressed concerns regarding the potential effect of the rooflights on wildlife, including bats. However, there is little evidence before me to substantiate these concerns and, as such, this is not a matter upon which the appeal turns. Further, I note that the Council did not raise any concerns regarding this matter.

Conditions

15. I shall vary condition 3 so that the roof shall include the eight rooflights. I have revised the suggested wording so that the condition complies with the tests set out in the Framework. However, it is not necessary to vary the condition to prevent the roller shutter doors being open during the hours of darkness when the building is lit internally by artificial light, as suggested by the appellant. There is no compelling evidence before me that the use of the approved shutter doors has resulted in harmful light spill and so no evidence that the restriction is necessary. Moreover, such a restriction would be unreasonable, as there are likely to be times when doors are going to be needed to be open when lights are on in the building; for example, giving access to visitors attending to the welfare of the horses stabled there. This would hinder the use of the building for the purposes for which it was approved.
16. As the proposal has already been implemented, it is not necessary for me to include the standard time condition. I shall attach the standard plans condition for certainty. The guidance in the Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. I note that condition 5 of the planning permission has been discharged¹ and so I shall not apply it. As I have no information before me

¹Under application Ref 20/00388/COND.

about the status of the other conditions imposed on the original planning permission, I shall impose all those that I consider remain relevant. In the event that some of these have in fact been discharged, that is a matter which can be addressed by the parties.

Conclusion

17. For the reasons given above I conclude that varying condition 3 of the planning permission would be acceptable and that the proposal would not be contrary to the development plan as a whole, the approach in the Framework and having considered all other material considerations. In accordance with section 73(2)(a) of the Act I have granted new planning permission without the disputed condition but substituting it for a new one referring to the rooflights.

Scott Britnell

INSPECTOR

Schedule

Conditions

1. The development hereby permitted shall be carried out in accordance with the approved plans and documents listed below:

Unnumbered Site Location Plan, PP01C, PP002.

2. The proposed equestrian elements of the scheme hereby approved shall not be used for any commercial purposes without the prior written approval of the Local Planning Authority.

3. The roof of the proposed building shall be finished in a mix of Profile 6 fibre cements sheets, the colour of which shall be 'Tawny brown' or 'Brown' and eight clear roof sheets to be fitted in accordance with approved drawings PP001C (Proposed Rooflight Locations) and PP002 (Proposed Roof Plan), and shall be retained as such thereafter.

4. All hard and soft landscape works shall be carried out in accordance with the details specified on drawing P0398 REV A (Proposed Landscape Masterplan) dated 4th July 2019. The works shall be carried out within 6 months of the date of this decision or in accordance with a programme agreed in writing with the Local Planning Authority. The building hereby approved shall not be brought into use until a hard and soft landscape scheme has been implemented. Any trees or plants indicated on the approved scheme which, within a period of ten years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.