



Appeal Decision

Site Visit made on 16 August 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 September 2021

Appeal Ref: APP/J0405/W/21/3275367

Land at Green End Farm, Green End, Granborough MK18 3NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Elmtree Agricultural Ltd against Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 21/00976/APP, is dated 9 March 2021.
 - The development proposed is erection of equestrian barns and arenas.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties to this appeal have had the opportunity to comment upon any relevance of this to the outcome of the appeal.
3. The emerging Vale of Aylesbury Local Plan (the VALP) is at an advanced stage. Nevertheless, it is currently unclear whether further modifications shall be required to its emerging policies, including those of greatest relevance to the outcome of this appeal (namely, emerging Policies C2 and N1). The VALP is thus at a stage that attracts moderate weight for the purposes of determining this appeal.
4. It has been brought to my attention that a Neighbourhood Plan for Granborough is emerging. However, it is my understanding that it has yet to be examined. This emerging plan thus remains at a stage that attracts limited weight in decision making and I shall determine the appeal on this basis.
5. Whilst it has been suggested that it could be the case that only one of the proposed equestrian barns (the barns) and arenas are to be constructed, no mechanism has been put forward to offer assurances in this sense. Moreover, I must determine the appeal based on the scheme's potential to be implemented in full.
6. The Council has indicated that it would have refused planning permission had it been in a position to do so. Its main concerns relate to the effect of the proposal upon the rural character and open nature of the area and to an alleged failure to provide adequate information to demonstrate either the impact upon Great Crested Newts (GCNs) or the delivery of a measurable biodiversity net gain. I shall formulate the main issues accordingly.

Main Issues

7. The main issues are:

- The effect upon the character and appearance of the rural area; and
- Whether or not it has been satisfactorily demonstrated that the proposal would have an acceptable effect upon biodiversity, having particular regard to the impact upon GCNs and to biodiversity net gain.

Reasons

Character and appearance

8. The appellant has confirmed that the proposal is not a commercial scheme and that the barns and arenas would be used on a private recreational basis by residential occupiers of former agricultural buildings falling under the appellant's control (the buildings). In the event the appeal be successful, I am satisfied that a suitably precise and enforceable planning condition could be imposed to ensure that this would indeed be the case. I shall consider this main issue of the appeal accordingly.
9. The site contains areas of open agricultural land of typically sloping topography setback from Green End. Notwithstanding the existence of the buildings, which are situated at depth, the development pattern along Green End tends to be linear and the lands to the rear typically have a green, rural and open character and appearance.
10. Saved Policy GP77 of the Aylesbury Vale District Local Plan (January 2004) (the Local Plan) sets out that, amongst other provisions, particular regard shall be had to the effect of horse-related development upon the character and appearance of the area and to the maintenance of the open nature and rural character of the land in question.
11. Emerging Policy C2 of the VALP also sets out various criteria with respect to equestrian development, which include that the scale, construction and appearance of proposals should be designed to minimise adverse impact on the immediate locality and landscape character. The policy also requires that new stabling used for private recreation should be of a scale that reflects the number of horses to be kept or grazed on site and that, in the case of riding arenas, they can be justified in that location and are of a size and scale appropriate to the number of privately kept horses to use the facility.
12. Each of the barns would offer access to four individually partitioned stables and three further separate spaces offering washing and storage opportunities, and each would be sited alongside an expansive arena edged by post and rail fencing. It has been suggested that one of the barns (and arenas) would not be wholly unusual for a larger family to use for their own private enjoyment. However, the facilities would cover an expansive area and, particularly when considered in combination, would have a presence and appearance akin to that of a small commercial livery or riding school. Indeed, I find that the facilities would be excessive for the purposes of serving the private recreational needs of two families.
13. The proposal would comply with various individual requirements of emerging Policy C2. For example, the land identified as falling under the appellant's

control would be of an extent capable of grazing and exercising up to eight horses. Furthermore, vehicular access arrangements able to safely accommodate horse-related transport are proposed and an adverse impact upon the viability of continuing agricultural operations would not be anticipated. In addition, lightweight materials realistically capable of straightforward removal in the future would be utilised.

14. However, the barns and arenas, due to their scale, construction and appearance, have not been designed (however to be gated or lit) to minimise their adverse impact on the immediate locality and the area's landscape character. Most particularly due to their cumulative scale, the proposed facilities would have an unduly negative effect upon how the particular rural location in question would be read and experienced, including by nearby occupiers and users of adjacent land. Indeed, the intended size and scale of development is not justified, and, notwithstanding the site's sloping topography and relatively discreet positioning, the open nature and rural character of the land would not be appropriately maintained. The intention to formalise/provide a permanent access track beyond the rear of the proposed facilities (where to run across open agricultural land as opposed to alongside field boundaries) would further exacerbate the scheme's adverse impacts in this context.
15. For the above reasons, even when acknowledging the permitted changes that have been/are being undertaken to the makeup of the original farmstead through building conversions, the proposal would cause harm to the character and appearance of the rural area. The scheme conflicts with saved Policies GP35 and GP77 of the Local Plan, the Framework and emerging Policy C2 of the VALP in so far as these policies require that the design of new development proposals should respect and complement the physical characteristics of the site and the surroundings and that, with respect to horse-related development, particular regard should be had to the effect on the character and appearance of the surrounding area.

Biodiversity

16. Emerging Policy NE1 of the VALP sets out that proposals that would lead to an individual or cumulative significant adverse impact on an internationally or nationally important protected species shall be refused and indicates that ecological surveys, undertaken by a suitably qualified person and consistent with nationally accepted standards, are expected.
17. In this instance a Preliminary Ecological Appraisal Report (2 July 2021) (the PEA) has been submitted, which was authored and reviewed by qualified Ecologists and which incorporates a Phase 1 habitat survey that involved a site walkover. As identified in the PEA, the site is comprised of improved grassland that typically provides low levels of diversity and habitat value, as well as selected areas of bare or recently disturbed ground that, in some instances, is in the process of being colonised by mixed low-level vegetation.
18. There are ponds located within 250m of the appeal site, although each is in excess of 100m away. Where able to be assessed as part of the site walkover, these waterbodies were found to offer average suitability for GCNs. Rapid Risk Assessments (RRAs), based on the assumptions that GCNs are present within each of the ponds and that careful construction methods would be implemented, have been undertaken to assess the likelihood of an offence

occurring with respect to GCNs. The RRAs unanimously identify that an offence would be highly unlikely.

19. The Council's Ecology Officer has suggested that the RRAs do not, on their own, justify that there is no reasonable likelihood of GCNs being present and affected by the scheme, and that a more detailed survey effort in accordance with the Great Crested Newt Conservation Handbook (2001) is required. I have also noted reference by the Officer to the Multi-Agency Geographic Information Centre not containing updated records of GCNs in the area.
20. However, having observed the distances that exist between existing ponds and the proposed development, and when considering the type and extent of existing habitat to be lost, I am unpersuaded that it would be reasonable or necessary to require that further survey work be undertaken in advance of any potential grant of planning permission. Indeed, to my mind, the likelihood of GCNs being present and affected by the scheme is negligible.
21. As also indicated within emerging Policy NE1, a measurable net gain in biodiversity on minor and major developments will be sought by protecting, managing and extending existing biodiversity resources and by creating new biodiversity resources. It is my understanding that the Council is currently in the process of developing its own biodiversity metric in advance of the future publication of a Biodiversity Supplementary Planning Document.
22. In this instance, various proposed mitigation and enhancement measures are set out within the PEA. These include checks for nests before the clearance or cutting of vegetation, the implementation of Reasonable Avoidance Measures with respect to amphibians and reptiles, and the provision of bird and bat boxes. Potential opportunities to introduce new planting of native origin would also realistically avail. When factoring in the nature/extent of the anticipated habitat losses, I am sufficiently satisfied that a measurable net gain in biodiversity would be achievable in this instance and could be suitably secured by way of a planning condition should the appeal be successful.
23. For the above reasons, it has been satisfactorily demonstrated that the proposal would have an acceptable effect upon biodiversity having particular regard to the impact upon GCNs and to biodiversity net gain. The scheme accords with emerging Policy NE1 and with the Framework in so far as these policies support the protection and enhancement of biodiversity and geodiversity.

Other Matters

24. I have noted objections/concerns raised by interested parties with respect to matters including the effect of the proposal upon neighbouring living conditions and the existing effects of vehicular movements necessitated by ongoing works. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters further here.
25. As set out above, the proposed facilities would be utilised on a private basis by residential occupiers of the buildings. In this context, any potential benefits of the scheme in a recreational sense attract limited weight. The realistically anticipated net gain in biodiversity would be small and also attracts limited weight. The scheme's benefits, considered cumulatively, would not outweigh the considerable harm I have identified in a character and appearance sense.

26. The scheme conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

27. Whilst I have found that the proposed development would be acceptable in a GCN and biodiversity net-gain context, significant harm would be caused to the character and appearance of the rural area. That harm is the overriding consideration in this case. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR