
Appeal Decision

Site visit made on 21 September 2021

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 30 September 2021

Appeal Ref: APP/C1625/W/21/3276894

**Land opposite The New Inn, Waterley Bottom, North Nibley,
Gloucestershire GL11 6ED**

- 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 Mr and Mrs D Howse against Stroud District Council.
 - The application Ref S.20/0799/FUL, is dated 16 April 2020.
 - The development proposed is described as provision of a small stable block for the accommodation of horses and associated equipment required at the holding for their welfare.
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Decision

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

Procedural Matters

2. The appeal is made against the Council's non-determination of the above planning application. The Council has however set out a number of concerns within its submissions, including in the form of suggested reasons for refusal. I have taken them into account in defining the main issues below.

Main Issues

3. The main issues are:
 - whether the development would conserve and enhance the natural and scenic beauty of the Cotswolds Area of Outstanding Natural Beauty (the AONB); and
 - the effect of the development on biodiversity.

Reasons

AONB

4. The site is located within the AONB, within which there is a duty to have regard to the purpose of conserving and enhancing natural beauty. Within this context paragraph 176 of the National Planning Policy Framework further states that great weight should be given to conserving and enhancing landscape and scenic beauty. These objectives are reflected in Policy ES7 of the Stroud District Local Plan 2015 (the Local Plan).

5. The site is located on rising ground on the northern side of a valley. This contains attractive open countryside, including woodland, within which scattered dwellings form localised clusters.
6. Within the above context the site is understood to have previously formed the lower part of what otherwise remains a steeply sloping field. Though the site is partly screened by overgrown boundary hedging, it is otherwise exposed to view from rising ground towards the south. It appears likely that during winter the site's exposure increases as leaves are lost from the hedge.
7. An access has been formed into the site, and a large platform cut into the slope. The platform is partly retained across the frontage and is currently occupied by a number of structures. Amongst other things, an extant enforcement notice (EN) issued in relation to the site requires the land to be reinstated to its former condition. The Council's reason for issuing the EN related to the visual and physical harm that unauthorised works, including the platform, cause to the AONB. The EN was upheld at appeal in June 2021 (the EN appeal), after the application subject of the current appeal was submitted. At the time of my visit, it appeared that no action had yet been taken to comply with the EN, and that the site therefore remained in its unauthorised state. Given that the platform is wholly at odds with the topography of the slope, I see no reason to question the harm that it causes to the AONB, or the desirability of the remedial works required by the EN.
8. The development would entail the construction of a stable. Buildings of similar design can be readily seen at other sites within the surrounding area, and this has not drawn any objection in itself. In this regard the specific matter in dispute is the relationship of the stable to the land on which it would stand.
9. The site plan shows the proposed stable both relative to and within the outline of the existing platform. It does not therefore show the stable relative to the site as it would exist were the EN to be complied with, and the land returned to its previous condition. A section drawing is provided on the plan, but this does not directly relate to the position of the stable as otherwise shown, or to adjacent topography. It does however show the levelled area of the platform, and in this regard the supporting design and access statement was clearly drafted on the basis that the stable would be located and accessed in relation to development covered within the EN. This gives rise to considerable uncertainty, and otherwise indicates that the siting of the stable would require some retention rather than the full remediation of unauthorised works. This would both directly conflict with and undermine the EN, and ultimately perpetuate the harm caused by unauthorised works to the AONB. The latter would be further highlighted and amplified by the additional visual and physical presence of the proposed stable.
10. In this regard the appellant states that the area in which the stable would stand has not in fact been the subject of any unauthorised modification. This is notwithstanding the fact that it appears to form an obvious part of the levelled area of the platform. Here I appreciate that the Inspector in the EN appeal found that the appellant was best placed to know the previous condition of the land, and that the wording of the EN was modified accordingly. Be that as it may, I have not been provided with any clear evidence of the previous condition of the land. In view of my findings above, and in the absence of any

substantiating evidence, I can therefore attach little weight to the appellants' claim.

11. The appellants state that the stable would be well screened and that the plan provides a 'landscaping solution'. The latter is presumed to be a reference to a planted slope shown on the section drawing. However, as noted above, this bears little relation to the pan to which it is attached, and appears unlikely to reflect the previous condition of the land. Moreover, correspondence within the submissions otherwise confirms that the proposal does not in fact include any landscaping. As at present, screening of the site by the overgrown hedge would only occur from certain perspectives at certain times of the year, and would cease were the hedge to be trimmed or laid. Though it is suggested that other planting could occur, no detailed information of where or when this would take place, or what it would consist of has been provided. In the absence of such information this is not a matter that could be appropriately left to condition. None of these considerations therefore indicate that the harm caused by the development would be mitigated.
12. The potential fallback of installing a mobile field shelter has been suggested, though few details have been provided. It is not therefore possible to attach any weight to the appellant's claim that a mobile shelter would be more visually intrusive. In any case, one obvious difference between a mobile shelter and the proposed stable would be its relationship with the land. In this regard the potential to install such a shelter makes no difference to my findings above.
13. The appellant has additionally claimed that various features within the site, including a 'manure platform', should be considered as lawful, either because they are not specifically referenced within the EN, or because they are permitted development. Within this context the appellant further suggests that these considerations will have an effect on the way in which the EN is implemented. Details and certainty are again lacking, and in this regard it lies beyond the scope of this appeal to establish or speculate on the extent to which other features on this site, or other works which might be undertaken in the course of implementing the EN, either are or could be lawful. My findings above therefore remain unchanged.
14. My attention has been drawn to permissions granted for stables within the surrounding area. I have however been provided with limited details, and no indication of whether such permissions were granted within the context of unauthorised works subject of an EN. I have therefore considered the scheme on its own merits and with regard to its own site-specific circumstances.
15. For the reasons set out above I conclude that the development would fail to conserve and enhance the natural and scenic beauty of the AONB. It would therefore conflict with Policy ES7 of the Local Plan which seeks to support this objective.

Biodiversity

16. Concerns raised by the Council in relation to biodiversity are none-specific and lacking in detail. Despite general reference to protected species, no species or habitats which might be affected by the development have been identified. As established above, and insofar as the plans are a reliable guide, the development would not entail any significant modifications to the land other than the siting upon it of the stable. More substantial change is otherwise

required by the EN. As such there appear to be no grounds for me to consider that any adverse effect on biodiversity would arise. Insofar as opportunities for enhancements are additionally referenced, these can ordinarily be secured by condition.

17. For the reasons outlined above I conclude that the development would not have an unacceptable effect on biodiversity. The development would not therefore conflict with Policy ES6 of the Local Plan which broadly seeks to secure development that conserves and enhances the natural environment.

Conclusion

18. The development would cause unacceptable harm to the AONB, and would conflict with the development plan. There are no other considerations which alter or outweigh these findings. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR