



Appeal Decisions

Hearing held on 18 May 2022

Site visit made on 18 May 2022

by Martin Small BA(Hons) BPI DipCM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2022

Appeal A Ref: APP/Z2260/W/21/3282151

St Nicholas Court Farm, Court Road, St Nicholas at Wade, Birchington, CT7 0PT

- 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 St Nicholas Court Farms Limited against Thanet District Council.
 - The application Ref F/TH/21/0153, is dated 4 February 2021.
 - The development proposed is erection of building to provide farm worker crew and training rooms.
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Appeal B Ref: APP/Z2260/W/21/3282043

St Nicholas Court Farm, Court Road, St Nicholas at Wade, Birchington, CT7 0PT

- 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 St Nicholas Court Farms Limited against Thanet District Council.
 - The application Ref F/TH/21/0136, is dated 1 February 2021.
 - The development proposed is erection of building to provide seasonal farm worker accommodation.
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Decisions

1. Appeal A is allowed and planning permission is granted for the erection of detached 2 storey building to provide farm worker rest and training rooms at St Nicholas Court Farm, Court Road, St Nicholas at Wade, Birchington, CT7 0PT in accordance with the terms of the application Ref F/TH/21/0153, dated 4 February 2021, subject to the conditions set out in the attached schedule.
2. Appeal B is dismissed and planning permission is refused for the erection of a two-storey detached building to provide 9 bed seasonal farm worker accommodation at St Nicholas Court Farm, Court Road, St Nicholas at Wade, Birchington, CT7 0PT in accordance with the terms of the application, Ref F/TH/21/0136, dated 1 February 2021, and the plans submitted with it.

Applications for costs

3. Applications for full awards of costs in respect of both appeals were made in writing by the appellant against Thanet District Council at the Hearing. The Council applied for a partial award of costs against St Nicholas Court Farms Limited also in respect of both appeals. These applications are the subject of separate decisions.

Procedural Matters

4. The two appeals relate to different proposals in different locations at the same property. I have considered each on their respective merits but for simplicity and efficiency I have dealt with both appeals in one decision letter.
5. The descriptions of the proposed developments for both appeals are taken from the application form. However, I have used the descriptions from the Council's acknowledgements of the receipt of the applications and the appeal forms in my formal decisions as more accurately describing the developments proposed.
6. The appeal sites lie within the 'zone of influence' of the Thanet Coast and Sandwich Bay Special Protection Area and Ramsar Site (TCSBSPA). Although disputing the need for a financial contribution towards mitigation of recreational impacts for seasonal workers, during the course of the appeal the appellant submitted a unilateral undertaking (UU) for such a contribution based on the Council's adopted tariff for a 4+ bedroom dwelling. Following discussion at the Hearing session a revised UU was submitted with a greater contribution based on 7 independent dwellings as an alternative. I return to this matter below.

Main Issues

7. The Council's representative confirmed at the Hearing that he had no instruction on what decisions the Council would have made had it been in a position to determine the applications. However, it was agreed that character and appearance and the need for the proposed developments were main issues in both appeals. It was also agreed that the living conditions of future occupiers was a main issue for Appeal B.
8. The main issues are therefore:

For both appeals:

- i) the effect of the proposed developments on the character and appearance of the area; and
- ii) whether the proposed development is justified, having regard to local planning policies for development in the countryside.

For Appeal B, a further main issue is:

- iii) whether the proposed development would provide satisfactory living conditions for future occupants.

Reasons

9. St Nicolas Court Farm is a mixed arable enterprise of approximately 3,025ha. The main farm complex comprises a large range of buildings, primarily stores and a biogas plant. The complex lies outside the core of the village of St Nicholas at Wade and the respective cases of the parties indicate agreement that the farm is within the countryside for planning policy purposes. However, at the Hearing it was common ground that the appeal sites were not isolated in terms of paragraph 80 of the National Planning Policy Framework (the Framework).

Appeal A

Character and appearance

10. The Appeal A site is within the farm complex, being surrounded on three sides by large buildings and yard. Belle Isle Road, a public highway leading to a dead end, is to the fourth side with more large agricultural buildings on the opposite side. The site is currently occupied by a small group of single-storey utilitarian concrete block buildings. The character of the appeal site and its surroundings is of a busy working agricultural enterprise.
11. The proposed building would be substantially larger than the existing buildings on the site, with a footprint of approximately 160m². However, it would be of a comparable or lower height and lesser overall scale and bulk than the large agricultural buildings around. The Council's representative at the Hearing confirmed that the scale, mass and bulk of the building were considered acceptable. The proposed building has been designed with the appearance of a traditional farm building of brick and tile, materials which could be secured by a condition and would harmonise with those of the older buildings on the farm. It would thus be of an acceptable design for a rural building.
12. Therefore, although the building would be visible from Belle Isle Lane, it would be seen in the context of a range of existing buildings and its location, scale, design and materials would be appropriate to that context. The proposed building would thus not be at odds with the prevailing character or appearance of the complex.
13. I therefore conclude that the proposed development would not be harmful to the character and appearance of the area. Accordingly, in this respect, the proposal would not conflict with Policy SP26 of the Thanet Local Plan (2020) (the Local Plan) which seeks to protect Thanet's landscape character and local distinctiveness.

Justification

14. At the Hearing the appellant confirmed that the farm enterprise employs 18 full time, 1 part time and 7 seasonal workers, although the submitted evidence refers to 9 seasonal workers. The existing farm worker facilities at the farm comprise a toilet, showers and a kitchen within an area in the corner of a workshop / store and a separate rest room. The rest room is also used for morning briefings and some training and farm records are also stored in the workshop.
15. These facilities are dated and not ideal, with workers having to negotiate machinery to use those in the workshop. The proposed farm worker crew and training rooms would replace these unsatisfactory existing facilities and consolidate them in a single purpose-built building with toilets, showers, a kitchen, two training rooms and archive storage.
16. The Council's Statement of Case concludes that the proposed building would conflict with Policies SP24 and SP26 of the Local Plan as a need for the proposed development has not been demonstrated. Policy SP24 supports the growth and expansion of existing rural businesses and, at the Hearing, the Council accepted that the policy does not include any requirement for a need to be demonstrated. There is therefore no conflict with Policy SP24.

17. Moreover, the proposed development would accord with the objective of Policy SP24, allowing the business to develop with the benefit of improved facilities that would be safer and meet the needs of a modern, large and well-run agricultural enterprise. Policy SP26 requires development proposals that conflict with the principles set out in the policy to demonstrate that they are essential for the social or economic well-being of the area. However, given my conclusion on character and appearance above, this requirement is not engaged.
18. I therefore conclude that the proposed development is justified. The scheme would facilitate the development of a rural business and therefore complies with Policy SP24 of the Local Plan.

Conclusion on Appeal A

19. The Appeal A proposal accords with the development plan. There are no material considerations that indicate that a decision should be made other than in accordance with the development plan. For this reason, Appeal A should succeed. I deal with the need for conditions later in my decision

Appeal B

Living conditions

20. Policy QD04 of the Local Plan expects all new development to meet the minimum space standards set out in Table 13 of the Plan. These standards reflect those of the Technical Housing Standard - nationally described space standard. The appellant suggested in evidence that these standards should not apply to accommodation for seasonal workers. However, this contention was not supported by any substantive evidence and the appellant conceded at the Hearing that there was no exception within Policy QD04 for seasonal workers. In any event, due to the nature of the enterprise, the season extends from March to November so the proposed units would be occupied up to 9 months of any year.
21. The proposed accommodation would comprise five 1-bedroom and two 2-bedroom units. Table 13 of the Local Plan sets out a space standard of 37m² for 1-bedroom units. Two of the proposed 1-bedroom units would be 26.2m², two 29.8m² and one 35.8m². All these units would therefore be below the standard, four significantly so. The proposed accommodation would be significantly larger than the 'bunkabins'; individual single-storey prefabricated units with a bed, wardrobe, desk and small bathroom, currently used to accommodate the seasonal workers. However, I do not find that the provision of temporary accommodation significantly below the adopted standard as permitted development justifies the provision of permanent accommodation below the adopted standard.
22. I therefore conclude that the proposed seasonal farm worker accommodation would not provide satisfactory living conditions for future occupants due to inadequate internal floorspace given the length of the period of occupation. Accordingly, in this respect, the proposed development conflicts with Policy QD04 of the Local Plan.

Character and appearance

23. The Appeal B site is a small area of land located on the north side of the existing complex of buildings. A former line of trees marked the boundary between the building complex and the site, but these have been removed in the interests of good arboricultural practice. The southern boundary is now undefined, with a mobile home, hardstanding and the side elevation of a large building just beyond.
24. To the west of the site is a large clamp and planting. A vegetated bund separates the site from an arable field to north and an established hedgerow with trees bounds the site to Court Road, a private road, to the east. Opposite the site to the other side of Court Road is a tree belt. Public views into the site are therefore limited. At the time of my site visit the site was bare earth.
25. The site falls within the Undulating Chalk Farmland Landscape Character Type identified within the Thanet Landscape Character Appraisal (2017) of which the openness and undeveloped character of the farmland is a characteristic. However, the site makes a very limited contribution to the openness of the area due to its enclosure by vegetation and proximity of built development. The Council's representative at the Hearing opined that the site had no defining characteristics and was not sure if any of the particular landscape characteristics set out in Policy SP26 of the Local Plan applied to the proposed development.
26. Nevertheless, I acknowledge that the proposal would result in the loss of the openness of the site. However, given its proximity to existing built development to the south and the clamp to the west and its being largely screened from public view, this would not be significantly harmful to the character and appearance of the area. The development would not result in the loss of any significant views across an open landscape.
27. The main landscape feature is the hedgerow and trees to the Court Road boundary and these would be retained in the development. This could be secured by a landscaping condition, as could enhanced planting to the northern and western boundaries. Furthermore, if the development led to the removal of the existing mobile homes and bunkabins this would result in a modest improvement in the appearance of the farm complex.
28. The proposed accommodation would be designed with the outward appearance of a traditional barn. Its design would therefore be appropriate for its context, as accepted by the Council, with its representative at the Hearing confirming that it had no issues with the building's scale, mass or bulk.
29. I therefore conclude that the proposed development would not be harmful to the character and appearance of the area. Accordingly, in this respect, it would not conflict with Policy SP26 of the Local Plan. It would also comply with Policy QD02 of the Local Plan, to which the appellant refers, which requires high quality design.

Justification

30. The majority of the full-time workers on the farm live in farm-owned properties, including a pair of semi-detached houses and a former farm building converted to dwellings at the farm itself. Planning permission has been granted for two more semi-detached dwellings but these have yet to be

constructed with only the footings currently in place. The remainder of the full-time workers live off the farm in St Nicholas at Wade or in the surrounding area.

31. At the Hearing the appellant confirmed that the farm enterprise employs 7 seasonal workers, although the submitted evidence refers to 9 such workers. These workers have historically been accommodated in bunkabins or mobile homes on the farm. The appellant contends that the quality of accommodation is a limiting factor in attracting and retaining skilled workers. Whilst this is a reasonable premise, the appellant accepted at the Hearing that no evidence had been submitted to confirm this contention. Without that, this factor is of only limited weight in favour of the proposal.
32. The Council relies on Policies SP24 and SP26 of the Local Plan to support its case on this issue. However, as noted above, there is no requirement in Policy SP24 for need to be demonstrated. Given my conclusion on the effect of the proposed development on the character and appearance of the area above, there is no need for a demonstration that the proposal is essential for the social or economic well-being of the area as set out in Policy SP26.
33. However, the appellant draws my attention to Policy HO17 of the Local Plan, which allows new dwellings for rural workers only where an essential need for them to live at or near their place of work is demonstrated. The Council did not refer to this policy in its evidence and it forms no part of the Council's case. At the Hearing, the Council's representative suggested that Policy HO17 is taken to refer to permanent dwellings for permanent workers but accepted that this is not set out in the policy or its supporting text. On a plain reading of the policy, therefore, it is relevant to this appeal.
34. 'Essential' is not defined in Policy HO17. Seasonal workers normally work on average a 60-hour week, longer at harvest time. It is therefore important that accommodation is available close at hand in the interests of the welfare of the workers. However, it is not contended that it is essential for seasonal workers to be on the farm to deal with emergencies; the appellant accepted at the Hearing that the provision of on-site accommodation related to the welfare of the workers rather than the operational needs of the farm enterprise.
35. Moreover, no evidence has been provided to me to demonstrate that affordable, accessible and appropriate seasonal worker accommodation could not be found or provided within a settlement within a reasonable distance of the farm. Consequently, whilst I understand the desirability of providing on-farm accommodation for seasonal workers, insufficient evidence has been provided to fully satisfy me that there is an essential need for these workers to be accommodated on the farm.
36. I therefore conclude that an essential need for the proposed development has not been demonstrated. Accordingly, in this respect, the proposal would not accord with Policy HO17.

Conclusion on Appeal B

37. The proposal would provide inadequate living conditions for future occupants. In addition, I have concluded that it is not essential for such accommodation for seasonal workers to be provided on site to support the operation of the farm. The proposal therefore conflicts with the development plan taken as a

whole even though it would not cause harm to the character and appearance of the area. There are no material considerations to indicate that a decision should be made other than in accordance with the development plan.

Other Matters

Listed buildings

38. The complex of buildings at St Nicholas Court Farm includes the Grade II* listed St Nicholas Court and a Grade II listed barn. In considering whether or not to grant planning permission I must have special regard to the desirability of preserving the settings of these listed buildings. In addition, the Framework recognises that development within the setting of a heritage asset can harm its significance.
39. St Nicholas Court dates from the 16th Century with a 14th Century crypt and later alterations. The barn is 17th Century. The special interest of both buildings is principally historic and architectural, with St Nicholas Court also of archaeological interest. The setting of these assets has changed over time with the development of various buildings, but has remained a largely agricultural context, reflecting the origins of these listed buildings.
40. The proposed farm worker crew building would be seen in views to and from both listed buildings. It would therefore form part of the surroundings in which these heritage assets are experienced i.e. within the setting of both. The proposed building would retain this agricultural setting and be sympathetically designed. The proposed farm worker accommodation building is not within the setting of these listed buildings due to intervening buildings.
41. Consequently, both proposed developments would preserve the setting of the listed buildings. I therefore concur with the parties that neither of the proposed developments would result in any harm to the significance of these designated heritage assets.

The integrity of the TCSBSPA

42. The TCSBSPA includes a wide variety of coastal habitats including areas of chalk cliff, rocky shore, shingle, sand and mudflats, saltmarsh and sand dunes. The qualifying features of the TCSBSPA are a nationally important breeding population of little tern, a nationally important wintering population of European golden plover and an internationally important wintering population of ruddy turnstone.
43. Disturbance from recreational activities by visitors to the TCSBSPA is considered by Natural England (NE) to have a likely significant effect on the important bird populations. Net additional housing development within the zone of influence is likely to increase recreational pressure with consequently likely adverse impacts on the integrity of the TCSBSPA.
44. The Conservation of Habitats and Species Regulations 2017 (as amended) require a decision maker to undertake an Appropriate Assessment (AA) before giving any permission where there are likely significant effects on the integrity of designated habitats sites from the proposal, either alone or in combination with other plans and projects. Therefore, had I reached a different conclusion on the issues of living conditions and need for Appeal B, it would have been

necessary for me to screen the proposal for likely significant effects on the integrity of the TCSBSPA.

45. Had I found such effects, I would have needed to undertake an AA and give consideration to the likely effectiveness of mitigation measures. In doing so, I would have had regard to the alternative UUs submitted by the appellant. However, as I am dismissing this appeal for other reasons, this has not been necessary.

Other considerations

46. Objections to both applications were made by St Nicholas-at-Wade with Sarre Parish Council on the basis of them being unnecessary and by a local resident on the basis of the design and proportions of the buildings and potential future applications for a change of use to dwellings. I have dealt with the matters of need and design above. Any future application for a change of use of the proposed rest and training building would be a separate matter for the Council in the first instance and is not a reason for withholding permission.

Conditions for Appeal A

47. The Statement of Common Ground set out a number of agreed conditions for each appeal in the event that planning permission was granted. These formed the basis of discussions and revision at the Hearing. I have assessed these against the tests set out in paragraph 56 of the Framework.
48. A condition requiring compliance with the approved plans is necessary in the interests of certainty. Details of foul and surface water drainage are needed to ensure that the site is satisfactorily drained. The appellant accepted the need for these to be submitted prior to commencement to ensure that the development is undertaken in a satisfactory manner. The approval of materials is justified in the interests of the character and appearance of the area. An ecological enhancement plan is required in the interests of biodiversity. Control over the use of the building is necessary to ensure that it remains available for the uses for which it is permitted.
49. At the Hearing the appellant expressed a willingness to accept a condition requiring the removal of the existing rest room. Although of utilitarian construction and appearance, it is not significantly harmful to the character or appearance of the farm complex. I do not consider its removal necessary to make the proposed development acceptable in planning terms and so such a condition would fail the tests for conditions in paragraph 56. I have therefore not imposed it.

Overall Conclusions

50. For the reasons given above, and having had regard to all other matters raised, Appeal A is allowed and Appeal B is dismissed.

Martin Small

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Jane Scott Planning Consultant, Finn's
Ian Moss Farm Manager, St Nicholas Court Farms Limited

FOR THE LOCAL PLANNING AUTHORITY

Iain Warner Senior Director, Tetlow King Planning Ltd

DOCUMENTS SUBMITTED AT AND AFTER THE HEARING

Annotated aerial photograph of the St Nicholas Court Farm complex submitted by the appellant.

Copy of correspondence between the Council and the appellant submitted by the Council.

Revised unilateral undertaking submitted by the appellant.

Schedule of Conditions for Appeal A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 376_02 Site Location Plan; 376_08A Proposed Site Block Plan; 376_09 Proposed Ground & Attic Floor Plans; 376_10 Proposed Front & Side Elevations; and 376_11 Proposed Rear & Side Elevations.
- 3) No development hereby permitted shall be commenced until a scheme for foul and surface water drainage has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before any part of the development hereby permitted is first brought into use and thereafter retained as such.
- 4) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) Within 3 months of works commencing on site an ecological enhancement plan shall be submitted to and approved in writing by the local planning authority. The plan shall include full details of any external lighting, including fittings, illumination levels and spread of light. The plan shall subsequently be carried out in accordance with the approved details before any part of the development hereby permitted is first brought into use and thereafter retained as such.

- 6) The use of the farm worker rest and training accommodation hereby permitted shall be limited solely to purposes incidental to the operation of St Nicholas Court Farm and shall at no time be used for independent business or commercial purposes.

End of Schedule