



Appeal Decision

Site visit made on 22 June 2022

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th July 2022

Appeal Ref: APP/Y3940/W/21/3283827

Furze Farm, Sherfield English Road, Landford SP5 2BD

- 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 M Lucas against Wiltshire Council.
 - The application Ref PL/2021/07390, is dated 26 July 2021.
 - The development proposed is retention of internal and external works to former stable building, use as tourist accommodation and use of land for agricultural purposes.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr M Lucas against Wiltshire Council. This is the subject of a separate decision.

Preliminary Matters

3. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. The Council's appeal statement included a decision notice, dated 29 September 2021, which post-dated the submission of the appeal. This indicated that the Council would have refused the application on the grounds that the proposal relates to the use of an unauthorised building for residential purposes within the open countryside and close to the New Forest National Park (NFNP) where new residential accommodation is strictly limited. It also would have refused the scheme due to its effect on protected habitats sites.
4. The appellant has submitted a draft agreement under section 106 of the Town and Country Planning Act 1990 (as amended) (the s106 agreement). This is not signed or dated. This makes provisions to address nitrogen neutrality in respect of habitats sites. I discuss this later in my decision.

Background and Main Issues

5. Planning permission¹ was granted for change of use of land (agricultural to equestrian) and the erection of a stable block. A further application was made to vary a condition to enable amendments to the approved elevations and materials of the stable block. This was approved² in February 2020. As constructed the appeal building includes internal and external changes that are

¹ Council Ref: 18/11017/FUL

² Council Ref: 19/11984/VAR

not in accordance with either the original permission or the approved variation of condition. This includes the addition of a brick plinth and French doors. The appellant no longer intends to use the building as a stable and is seeking planning permission to retain the alterations and for the use of the building as two units of holiday accommodation.

6. The main issues are therefore:

- the effect of the proposed development on the character and appearance of the area;
- whether or not the building is suitable for conversion to tourist accommodation; and
- the effect of the proposed development on protected habitats sites.

Reasons

Character and appearance

7. The appeal site lies within a rural landscape set some distance back and to the west of Sherfield English Road. There is linear residential development along the road, with one or two properties set a little further back. The site is on the edge of a large area of open land forming part of the larger landholding associated with Furze Farm. The site is fenced and gated to its northern boundary. Beyond this there is a public footpath and vehicular access to the site. A belt of trees extends along this side of the site.
8. The permitted stable is a large building set significantly further back from Sherfield English Road than existing development. The construction of this building has extended built development into the countryside. However, as a stable, the building has a rural character and the activity associated with it would be compatible with the landscape in which it is located.
9. The overall size of the building would not be altered by the proposal. However, the addition of the brick plinth and several sets of French doors gives the building a more domestic appearance. Coupled with parking and other domestic paraphernalia, this would appear incongruous, resulting in an encroachment of residential development away from the road into the rural landscape. Despite the presence of trees, this would be visible from public viewpoints along the footpath. This would be harmful to the rural character of the area.
10. There is evidence that the materials used on the external walls have changed over the period since the building was constructed. At the time of my site visit, the walls were entirely timber clad although the drawings indicate a combination of cladding and render. The use of full timber cladding would help to give the building a more rustic appearance. However, it would not overcome the harm from the introduction of a residential use away from established development in this location.
11. The appeal site is in close proximity to the NFNP, which is indicated to be some 250m to 300m away. The proposal would be within its setting. The National Planning Policy Framework (the Framework) sets out at paragraph 176 that development within the setting of National Parks should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

As the proposal would harmfully encroach into the rural landscape, it would not be sensitively located and would not enhance the character or appearance of the setting of the NFNP.

12. I conclude that the proposed development would adversely affect the character and appearance of the area. It would therefore conflict with Core Policies 24, 39, 48, 51 and 57 of the Wiltshire Core Strategy 2015 (the CS) and Policy C6 of the Salisbury District Local Plan 2003. These policies together require development to be a high quality design that enhances local distinctiveness, to be sympathetic to the landscape, to protect landscape character and to not negatively impact the NFNP.

Suitable for conversion to tourist accommodation

13. The appeal site is located in Landford, a small settlement which is not identified in the settlement hierarchy as set out under Core Policy 1 of the CS. The site is therefore considered to lie in the open countryside for planning purposes. Core Policy 2 seeks to restrict development outside the defined limits of development unless permitted by other plan policies.
14. The proposal is for tourist accommodation. The scheme would be considered under Core Policy 39 of the CS which is concerned with tourist development. This states that in exceptional cases development may be supported outside the settlement hierarchy where it can be demonstrated that all of a number of criteria can be met. These are i) there is evidence that the facilities are in conjunction with a particular countryside attraction; ii) no suitable alternative existing buildings or sites exist which are available for re-use; iii) the scale, design and use of the proposal is compatible with its wider landscape setting and would not detract from the character or appearance of the landscape or settlement and would not be detrimental to the amenities of residential areas; iv) the building is served by adequate access and infrastructure; and v) the site has reasonable access to local services and a local employment base.
15. In terms of criterion i), the building is close to the NFNP and Paultons Park theme park, both of which are large tourist attractions, and could be visited by people staying in the proposed accommodation. However, there is no evidence that the proposed development would be provided in conjunction with these countryside attractions. This criterion is not therefore met.
16. I recognise that there are no other buildings on site for the proposal. However, the suitability of the appeal building for the conversion is a matter of dispute since it is considered to be an unauthorised development. I return to this later in my reasoning.
17. Due to its distance from neighbouring properties, the proposal would not cause any undue harm to neighbouring amenity. Nevertheless, due to the harm to the character and appearance of the area that I have already found, criterion iii) would not be met.
18. The appeal site is served by an adequate access off Sherfield English Road. In this regard, I note the highway authority has not objected to the scheme. The appellant has also advised that the building can be connected to existing infrastructure for water and electricity. I have no reason to disagree with this. I therefore consider the proposal meets this criterion of the policy.

19. The site is located close to a convenience store, petrol filling station and public house on the A36. There is also a bus stop on the A36 providing services to nearby larger settlements. However, I have no information as to the frequency of these services. Nevertheless, occupants of the accommodation would not be solely reliant on the private car to access services and facilities. Given the scale and nature of the proposed use the proposal would not generate significant employment and its location within close proximity to the small settlement would be satisfactory in this regard. I therefore conclude that criterion v) is met.
20. In terms of Core Policy 39, the proposal would only meet two of the criteria. It would therefore not comply with the requirements of this policy in relation to tourist development outside of the settlement hierarchy.
21. Core Policy 48 of the CS explains that proposals to convert or re-use rural buildings for tourism uses will be supported where it satisfies a number of criteria. The Council disputes that the appeal building can be considered to meet the requirement of this policy in terms of it being the conversion or re-use of a rural building. This is due to the building that has been constructed not being a stable.
22. The appellant has stated that the approved stable building was substantially completed in Summer 2020. The brick plinth, which he considers would be a non-material amendment, was installed in October 2019 due to a concern about water ingress although it is stated that the floor level itself was not raised. This was prior to the application to vary the condition and would have been in place at the time the Council undertook its site visit. The Council's report in relation to the variation of condition does not refer to the plinth.
23. Irrespective of the timings as to when the plinth was installed, the building as constructed neither accords with the original permission nor with the amended drawings approved through the variation of condition. It does not therefore benefit from planning permission.
24. The building as originally approved was for a stable building, with level floor access, no plinth and stable doors. The appellant has stated that the building has never been used as a stable due to a change in his circumstances and the impact of Covid-19. Notwithstanding this, between Summer 2020 and April 2021, he asserts the stables were complete and capable of being used for stabling of horses. In support of this, he has advised that some of the changes were made after he had decided to convert the building to holiday lets. This included internal works and the addition of French doors.
25. At my site visit, I observed that the brick plinth creates a substantial step into the building. It therefore makes the use of the building as a stable less practical. Whilst the higher roof may provide space to accommodate the height of a horse, the plinth would make it awkward to access the stables either by horses or by those looking after them, for example, in barrowing in hay or for mucking out. I acknowledge that ramps could be used to provide access but this would be an impractical solution in the long term.
26. Furthermore, the submitted drawings indicate that it was intended that the western 'wing' of the building would also be used for vehicle storage. Whilst the floor within this part of the building has not been raised, the presence of the brick plinth makes this impossible for the storage of vehicles.

27. The building has never been used as a stable and, in its built form, is not practical to be used for these purposes. I conclude that on balance the building as built is not a rural building but is an unauthorised building, tantamount to a dwelling, in the countryside. For this reason, it would not be a rural building in terms of Core Policy 48.
28. Even if I am wrong and the building could be considered a rural building, there is limited evidence before me as to why the building is redundant. I appreciate that the appellant's circumstances may have changed although few details have been provided in support of this. Furthermore, it is not clear why this would prevent the use of the building for the purposes for which it was granted planning permission by someone else.
29. In any event, the policy sets out a number of criteria of which numbers ii), iii) and iv) in relation to character and appearance, access and infrastructure and reasonable access to local services are the same or similar to criteria iii), iv) and v) of Core Policy 39. As I have already found that there would be harm to character and appearance from the proposal, the scheme would not meet criterion ii) of Core Policy 48.
30. In addition to these, there is a criterion as to whether the building is structurally sound and capable of conversion without major rebuilding, and with only necessary extension or modification which preserves the character of the original building. Given how recently built the building is, it would be structurally sound. However, as I have already set out, the character of the building would be altered as a consequence of the proposals. A further requirement relates to the conversion of heritage assets and would not apply here.
31. Core Policy 48 sets out that in isolated locations conversion to residential will only be considered in special circumstances. The appeal property is not isolated as it is close to other residential development. This would not apply here. For the same reason, paragraph 80 of the Framework, cited within the Council's reason for refusal, which relates to development of isolated homes in the countryside would also not apply.
32. The appellant considers there is a fallback position in that he could use the building as a stable for a period after which if it were to be found that the stable was no longer needed then the current situation would exist. I appreciate that such a scenario could arise in the future and a view on the acceptability of the proposal would need to be taken should that occur. However, at this time, I do not consider the building on site is a stable as I have set out. I therefore give this fallback position very limited weight.
33. I conclude that the proposed development would not be suitable for conversion to tourist accommodation. It would therefore conflict with Core Policies 1, 2, 39 and 48 of the CS as referred to above. I have not found conflict with paragraph 80 of the Framework for reasons set out above.

Habitats sites

34. The appeal site lies within the catchment of the River Test which is identified as a Special Area of Conservation (SAC). The site is also within an 8km buffer around the New Forest Special Protection Area (SPA). These sites are protected as European Sites of Nature Conservation Importance and are subject to

statutory protection under the Conservation of Habitats and Species Regulations 2017. Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the European site. I am the competent authority for the purposes of this appeal.

Nutrient impacts

35. The River Test drains into the Solent Catchment which Natural England (NE) has advised is in an unfavourable condition due to excessive nutrients. The sources of these nutrient inputs are from wastewater from existing housing and agriculture. NE has advised that there is the potential for future housing development across the region, including overnight accommodation for visitors, to increase nutrient inputs into the Solent Catchment.
36. NE advises that the nutrient impacts of any new plans and projects, including new development proposals, on habitats sites should be considered. This should assess whether those impacts may have an adverse effect on the integrity of a habitats site that requires mitigation, including through nutrient neutrality.
37. The appellant is willing to provide mitigation to achieve nutrient neutrality. He originally proposed a combination of a package treatment plant (PTP) and planting of a wildflower meadow in order to address the concerns about nitrates entering the SAC. Concerns about the effectiveness of a wildflower meadow were raised by NE resulting in the scheme being amended during the course of the appeal to provide tree planting instead of the meadow.
38. The PTP would be capable of reducing the amount of discharge of nitrates into the SAC and the Solent catchment although based on the appellant's submitted calculations, even with the PTP, there would be some increase in nitrogen load arising from the proposal. The proposed tree planting is intended to mitigate this.
39. The effectiveness of the PTP is reliant on ongoing monitoring and maintenance. The submissions indicate what will be required, including for the system to be replaced if required to maintain treatment efficiency. The draft s106 agreement would appear to secure this.
40. An area of 0.35 hectares would be planted to deciduous trees and fenced from use. There is sufficient land in the appellant's ownership to accommodate this. It is proposed to secure this tree planting through a planning condition although I note that the previous proposal sought to secure this through a planning obligation. It is not clear why this change was made and whether a planning condition would secure the use of this land in perpetuity.
41. The proposal additionally includes an area of land to be returned to agricultural use from equestrian use. The appellant's Nutrient Neutrality Assessment and mitigation report, dated 30 March 2021, explains that the land is in grass and indicates that by removing the land from use by livestock or for the purposes of growing hay or silage there would be a predicted reduction in nitrogen. However, I have no firm evidence of how this land would be used in the event the change of use were to be allowed. Given that agriculture has been identified as a contributor to nutrient inputs, I would require further information.

42. Had I been minded to allow the appeal, I would have sought clarification on both the land use and the use of a planning condition to secure tree planting in perpetuity. However, as I am dismissing for other reasons I do not need to pursue this matter further.
43. I recognise that the earlier scheme for the conversion of the building to tourist accommodation which was refused did not seek nitrate neutrality. However, I have no information about the guidance in place at that time. In any event, I must base my decision on evidence before me which I have done.

Recreational pressures

44. The appeal site is located within approximately 300m from the New Forest protected sites. It has been established that new dwellings and visitor accommodation are likely to increase visitor numbers to the protected sites, therefore causing harmful effects, particularly to ground nesting birds. These recreational pressures would harm the integrity of the sites unless satisfactory mitigation is put in place.
45. The Council is developing a generic mitigation strategy for the New Forest but has advised this has not yet been finalised. In the absence of this, it has advised that it would be difficult to justify a refusal on the basis of harm to the New Forest SPA. Whilst this position is noted, for the purposes of this appeal, I am the competent authority. I must be satisfied that there is no reasonable scientific doubt as to the effects of the proposal.
46. I have been provided with no details of mitigation in respect of recreational pressures on the New Forest protected sites. Had the appeal proposal been acceptable in all other respects, I would have sought additional information on this to enable me to carry out an appropriate assessment. However, as there are other reasons for dismissing the appeal, I do not need to pursue this matter further.

Other Matters

47. The proposed development would provide overnight accommodation, this would contribute to increased expenditure in the local area by visitors to the area. This would deliver some modest economic benefits. Whilst the accommodation may be high quality, it seems to me that these would be private benefits for occupiers of the proposed development. I therefore give this benefit very limited weight.

Conclusion

48. The proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Rachael Pipkin

INSPECTOR