



Appeal Decision

Site visit made on 30 August 2022

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8th September 2022.

Appeal Ref: APP/F1610/W/22/3298013

North Field House, Tetbury Lane, Leighterton, Tetbury, Gloucestershire GL8 8UP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Mark Osborne against the decision of Cotswold District Council.
 - The application Ref 21/02701/FUL, dated 12 August 2021, was approved on 10 February 2022 and planning permission was granted subject to conditions.
 - The development permitted is: *Addition of dormer window and alteration of existing dormer windows to the rear elevation of house, change of use of land from agricultural to agricultural/equestrian and addition of access track and hardstanding with associated works.*
 - The condition in dispute is No 4 which states that: *Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any other statutory instrument amending or replacing it, no means of enclosure, shall be erected in the application site other than that permitted by this Decision Notice.*
 - The reason given for the condition is: *The site is located within the Cotswolds Area of Outstanding Natural Beauty and additional fencing may detract from its character or appearance in accordance with Local Plan Policy EN5 and Section 15 of the NPPF.*
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Decision

1. The appeal is allowed and the planning permission Ref 21/02701/FUL for addition of dormer window and alteration of existing dormer windows to the rear elevation of house, change of use of land from agricultural to agricultural/equestrian and addition of access track and hardstanding with associated works at North Field House, Tetbury Lane, Leighterton, Tetbury, Gloucestershire GL8 8UP granted on 10 February 2022 by Cotswold District Council, is varied by deleting condition 4 and substituting for it the following condition:
 - 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, or any other statutory instrument amending or replacing it, no fencing or other means of enclosure shall be erected within the 'agricultural and equestrian use' area on Site Location Plan 101 Rev A until a Management Statement/plan has been submitted to and approved in writing by the Local Planning Authority. This shall comprise details of the type, materials, colour and finish of any fencing or means of enclosure proposed, and details of the total number of divisions within the site. Any fencing or other means of enclosure erected within the area shall comply with the details agreed in the Management Statement/plan thereafter.

Background and Main Issue

2. Planning permission for the development including the change of use of the field to agricultural/equestrian use included condition 4 that removed permitted development rights for the erection of means of enclosure in the application site.
3. The Council considers that condition 4 complies with the six tests set out within the Planning Practice Guidance (PPG) and the National Planning Policy Framework (the Framework), including that it is reasonable and necessary to protect the character and appearance of the Cotswolds Area of Outstanding Natural Beauty (AONB). The appellant however objects to the condition on the basis that it is not reasonable.
4. The main issue is whether condition 4 is reasonable and necessary in the interests of the character and appearance of the AONB.

Reasons

5. The appeal site consists of a dwelling and an adjoining field. The landscape here forms part of a mosaic of small scale arable and pasture lands identified in the Cotswolds AONB Landscape Strategy and Guidelines, March 2016 (LSG) as being within the High Wold Dip-Slope character designation. The field is largely open and gently slopes away from the houses, giving it an attractive, rural appearance.
6. The LSG identifies the potential harmful implications of 'horsiculture' use on the landscape. These include the proliferation of visual clutter and the sub-division of fields using uncharacteristic boundary treatments, such as white ribbon fences and post-and-rail fences. These concerns are echoed by the advice of the Cotswolds Conservation Board's The Keeping of Horses and Ponies, June 2017 (KHP).
7. It is common ground that as a result of the proposed equestrian use division of the field is likely to be required. Without some control, it would be possible for it to be divided into multiple enclosures, using boundary treatments that could detract from the attractive and open landscape. The visual effects of this would be particularly noticeable here given the public footpaths that cross or adjoin the site. As such, a condition controlling the means of enclosure is reasonable and necessary to maintain the character and appearance of the AONB.
8. However, as part of the proposed use, fencing is necessary to limit grazing to a small area, to prevent overweight equines from excessive eating and to separate horses from footpath users, sheep and other horses. Furthermore, the necessary positioning of fencing can vary on a regular basis, depending on the grazing requirements and use by the equines, as well as the weather and the level of rainfall.
9. The PPG is clear that the blanket removal of freedoms to carry out small scale proposals that would otherwise not require planning permission is unlikely to meet the tests of reasonableness and necessity. Obtaining consent can be a lengthy and time-consuming process. In requiring planning permission for any form of fencing, that may change on a regular basis, the condition as worded would be impractical and excessive for the proposed use, so would not be reasonable or necessary.

10. In response to the appeal, the Council has suggested a re-worded condition, requiring the submission and approval of a management statement/plan, that would provide details of the type of fencing and its proposed location, including any rotational sequence. However, any agreed rotation would not be sufficiently flexible or practical given that the position of a means of enclosure may need to change frequently and at short notice.
11. Nevertheless, it is possible to word a condition to require details of the type, colour and materials of the fencing, but to only require details of the total number of divisions within the field, without requiring the exact position of the enclosures. This would allow the Council to retain control, to ensure that fencing blends into the landscape and without excessive proliferation, whilst also giving the appellant some flexibility to vary the exact position of the boundary treatments within the field.
12. As such, a condition worded on this basis would achieve the requirements of policy EN5 of the Cotswold District Local Plan 2011-2031 (adopted August 2018) that, within the AONB, the conservation of the natural beauty of the landscape will be given great weight. It would also meet the similar requirements of the Framework, the LSG and the KHP.

Conditions

13. For the reasons given above, I have concluded that a condition is reasonable and necessary in the interests of the character and appearance of the AONB, but that as currently worded condition 4 would be excessive and impractical in its extent of control. The Council can exercise sufficient control by means of a condition that requires submission and approval of the details of the fencing and the total number of divisions within the field. This would accord with the advice in the PPG and the Framework.
14. I have sought the views of the main parties to the wording of such a condition. The appellants have suggested that the condition could instead refer to three divisions using temporary fencing, but with post-and-rail or wire fencing alongside the footpath. I understand that this would avoid the need to make a further application to the Council and would resolve the situation.
15. However, I do not have enough information about the proposed fencing for such a condition to be sufficiently precise, for example in respect of the proposed permanent fencing. Details of the fencing and of the acceptable number of divisions should be determined in conjunction with the Council. I have therefore imposed a condition requiring a management statement/plan to be submitted to them.

Other Matters

16. I have taken into account the comments made in representations, but these essentially relate to matters that were considered by the Council during the application rather than about condition 4. They do not alter my conclusion on the main issue.

Conclusion

17. I conclude that the planning permission should be varied as set out in the formal decision.

O Marigold

INSPECTOR