
Appeal Decision

Hearing Held on 11 October 2022

Site visit made on 11 October 2022

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2022

Appeal Ref: APP/D1265/W/22/3299796

Hawkes Field Farm, Hillside, Hilton DT11 0DN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Mark Gillard against the decision of Dorset Council.
 - The application Ref 2/2020/0782/FUL, dated 10 June 2020, was refused by notice dated 26 November 2021.
 - The development proposed is to erect 1no. dwelling.
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Decision

1. The appeal is allowed and planning permission is granted to erect 1 no. dwelling at Hawkes Field Farm, Hillside, Hilton DT11 0DN, in accordance with the terms of the application Ref 2/2020/0782/FUL, dated 10 June 2020, and the plans submitted with it, subject to the attached schedule of conditions.

Procedural Matters

2. During the Hearing, the Council confirmed that drawing no.120/3A was listed erroneously on the decision notice instead of drawing no. 120/3C, which shows the elevations of the proposed dwelling. I also note that refused drawing no.120/2A relates to the proposed floor and roof plans, rather than to the elevations, as stated on the decision notice.
3. The Council also confirmed that application drawing SK 120/4, which represents an unscaled schematic illustration of the proposed building in relation to existing nearby buildings, did not form part of the refused drawings. I have dealt with the appeal accordingly.

Main Issue

4. Having regard to the Council's reasons for refusal, Officer Report and Appeal Statement, and the subsequent discussion at the Hearing, the main issue is the effect of the proposal on the character and appearance of the area, having regard to the countryside location of the appeal site within the Dorset Area of Outstanding Natural Beauty (the Dorset AONB).

Reasons

5. The appeal site forms part of a wider parcel of land comprising a race horse stabling and training enterprise. It is located on rising land, within open countryside to the northwest of the village of Hilton, and within the Dorset AONB. An existing vehicular access from the road serves an on-site access

track leading to a group of buildings and a parking area located in the southwest corner of the land.

6. The existing buildings are single storey structures consisting of a 20-horse capacity stables barn, a hay and feed store building, and a barn building approved for office and storage use in connection with the equine business. The latter is currently occupied by the appellants and their family for residential purposes. The planning permission for the hay and feed store also granted consent for a single storey tractor shed barn in the southern part of the existing parking area, to the south of the stables block. This has not yet been completed.
7. Public bridleway E10/30 crosses the appellants land, running from the site road access point, westwards then northwards close to the south and west site boundaries. Public footpath E10/29 leads off this bridleway, and runs in a north-westerly direction away from a point on the bridleway close to the proposed new dwelling.
8. The information before me is that the existing business has operated on a full-time basis on the site since 2009, and that an arson attack in 2010 resulted in permanent on-site residential occupation in the interests of security and full-time horse welfare. This was initially by means of on-site mobile caravans, but later moved to within the office and storage barn building referred to above. This has provided full-time staff residential accommodation from April 2015 onwards, until the staff member left the employment and the appellants and their family moved into the accommodation in April 2018. They have since occupied the building as their sole residence.
9. The proposal would provide a new separate 3-bedroomed dwelling over two floors for the appellants and their family, to be occupied in connection with the running/management of the existing race horse stabling and training business. The building would be sited on a grassed area directly behind the existing office/store and hay/feed store buildings.
10. The site of the proposal lies within an elevated and exposed position within the AONB chalk downland landscape, so that the proposed new building would have some impact on the visual amenities of the countryside. I saw during my site visit, that the existing group of business-related buildings appear visible from a number of wider views towards the site, including from various points along the aforementioned public rights of way within the immediately locality of the site, particularly when approaching the site from the north and northwest along the bridleway and footpath. The new building would also be apparent in some views from the nearby roads where there are gaps in roadside hedging and trees, including parts of Cuckoo Lane, and in wider views from bridleway E10/30 when approaching the site from the opposite side of the road.
11. Due to the open character and undulating topography of the landscape within this part of the AONB, and the elevated position of the appeal site, it is also not unreasonable to assume that the appeal site is visible in some much longer views towards the site, including from surrounding ridges.
12. I have had regard to the great weight to be given to conserving and enhancing landscape and scenic beauty in AONBs, which, together with National Parks and the Broads, have the highest status of protection in relation to these issues in

accordance with paragraph 176 of the *National Planning Policy Framework 2021*.

13. During the Hearing, the Council confirmed that its concerns regarding the materials and glazed openings of the previously refused scheme¹ have been satisfactorily addressed through the appeal scheme, and that its first reason for refusal relates to the siting and height of the proposed building.
14. The site ground levels rise to the rear of the office/store building, so that the proposed dwelling would be positioned on elevated ground in relation to that of the adjacent buildings, with the consequence that the overall height of the building would exceed that of the adjacent office/store building.
15. There are some discrepancies within the information before me in respect of the proposed ridge height of the new building. The Council's Officer report notes that it would be 7.2m, Block plan drawing no. 120/1A shows 6.7m, and elevational drawing no. 120/3C, on the basis of the indicated eaves height, suggests that it would be lower than 6.7m.
16. The planning application drawings do not include scaled cross-sections confirming the existing and proposed ground levels or scaled comparison drawings showing the proposed height of the new building in relation to the adjacent office/store building. During the Hearing, the Council confirmed that the eaves figure given in the Officer Report was a typing error, and the appellants confirmed that the height indicated on drawing 120/1A was an error.
17. The appellants' Statement of Case confirms that the proposal is to excavate into the ground to ensure that the new building would not exceed the roof height of the adjacent office/store building. Having regard to the existing land level differences within the vicinity of the buildings, and the relatively steep pitched roof design of the single storey office office/store building in comparison with the more shallow roof form of the proposed building, I consider that, notwithstanding that the new dwelling would be two storey in nature, it would be feasible to construct the new dwelling so that its overall height would be similar to that of the office/store building. Moreover, the implementation of the scheme in accordance with an appropriate ground level for the new dwelling is capable of being secured by means of a pre-commencement planning condition in respect of the approval of details of levels.
18. With this in mind, notwithstanding that the proposal would have an overtly two-storey design incorporating higher eaves than those of the adjacent office/store building, I am not persuaded that the proposed building, as a result of its height, would have a materially harmful impact on the character and appearance of the AONB landscape.
19. Also, due to its proposed proximity to the existing buildings, and its rural design, the dwelling would be perceived as forming part of the existing group of rural buildings on the site, particularly in wider views from within the AONB, such as surrounding ridges, from where its proposed height and scale would appear compatible with those of the existing buildings, and from where its detailed design would not be overtly discernible amongst the group of buildings within which it would sit.

¹ Ref 2/2018/1486/FUL

20. In closer views towards the site, the proposed barn-like design of the new dwelling would be more apparent, and this building style, together with the use of materials which reflect the local vernacular, would mean that the building would not appear visually incongruous within the group of rural buildings within which it would sit.
21. I have noted the third party concerns regarding the potential impact on the AONB arising from lighting associated with the new dwelling. The fenestration openings would be limited in number, with the largest areas of fenestration facing southwards towards the existing buildings and away from the public rights of way to the west of the site, and with roof lights that occupy a small part of the roof slopes. In addition, some ground floor fenestration would be set below the height of the surrounding ground due to the proposed reduction in ground levels.
22. As such, and subject to planning conditions to remove permitted development rights for any future installation of additional fenestration within the building, and to control the design of any subsequently proposed external lighting, I find that the proposal would not have an unduly harmful impact upon the dark skies of the AONB landscape.
23. The visual impact of the proposal would also be further softened in certain wider views from within the AONB by combined factors including its location behind the existing equine business structures, the presence of existing field boundary hedging and trees, including hedging along the western edge of the bridleway where it runs north to south within the site, roadside verge landscaping, and the rising land levels northwards beyond the appeal site.
24. As such, I find that the appeal scheme would result in a relatively small expansion of built development within the open downland which distinguishes this part of the AONB countryside, and, for the above reasons, it would not appear significantly visually intrusive or incongruous within wider views within the AONB given its rural design and close proximity to the existing built residential development.
25. The appeal scheme would also afford the opportunity for new tree and soft landscape planting, as proposed by the appellants, to be secured as part of the development, whilst ensuring that new landscaping is appropriate to the building setting and the landscape character of this part of the AONB.
26. I acknowledge the Council's view that the conversion of the existing office/store building to provide a permanent occupational dwelling on the site could potentially result in less landscape and visual impact on the AONB than the proposed provision of an additional building on the site. The Council's concern is that this has not been appropriately explored, having regard to the requirements of Policy 33 of the *North Dorset Local Plan Part 1, 2011 - 2031* (2016) (the Local Plan), which only permits proposals for permanent occupational dwellings subject to a number of criteria, including that the functional need could not be fulfilled by any other means.
27. This was not raised as a concern by the Council in the determination of the previously refused application for a dwelling in November 2019. However, I accept that the use of the building as a residence by the appellants has become more notably more established since that date, thereby arguably presenting a stronger case for its continuance without the need for a new building.

28. The appellants have confirmed that their intention was to occupy the office/store building on a temporary basis, pending gaining planning permission for a separate dwelling. This process began with a pre-application advice request in the first half of 2018, around the time that they moved into the building. Having regard to the timeline associated with the pre-application advice, refusal of the first application, and the subsequent submission and determination of the certificate of lawfulness application prior to the determination of the second application, the subject of this appeal, it is reasonable to accept that the appellants did not initially intend to reside in the building for as long as they have done to date.
29. The information before me is that the converted residence which is occupied by the appellants does not have the benefit of planning permission. I saw, during my site visit, that whilst there is a separate living/dining room which has been partitioned from the remainder of the ground floor, the kitchen is shared between the residence and the staff facilities. Moreover, the upstairs bedrooms and bathroom accommodation are below a standard which would reasonably be expected within a permanent dwelling, including a lack windows to any of the rooms, significant areas of floorspace with low ceiling heights, boarded ceiling/walls akin to a boarded loft accommodation and sole access via a covered timber 'external' staircase with a roped handrail.
30. As such, it is reasonable to assume that the building, whose structure is akin to that of a large barn incorporating loft storage, would require significant alterations, and likely enlargements, to compatibly and satisfactorily accommodate a permanent occupational dwelling appropriate to the needs of the appellants and their family, in addition to the office/store needs of the business, which requires office and staff rest facilities as well as space to host visiting clients, prospective buyers and jockeys, including overnight stays.
31. On this basis, I consider that there is sufficient information before me to enable me to be reasonably satisfied that the accepted functional need for the proposed occupational dwelling could not be satisfactorily achieved by means of the part conversion and use of the office/store barn as a permanent occupational dwelling for the appellants, in addition to the building continuing to fulfil the business needs that it can lawfully accommodate.
32. For the above reasons, I therefore conclude that the proposal would not materially harm the character and appearance of the area, having regard to the countryside location of the appeal site within the Dorset AONB. As such, the appeal scheme would accord with Local Plan Policies 4 and 33 and Policies C1, C2 and C4 of the *Dorset Area of Outstanding Natural Beauty Management Plan, 2019 – 2024*, in so much as these policies aim to safeguard the countryside and ensure that the AONB and its setting is conserved and enhanced by good planning and development.

Other Matters

33. I have noted third party concerns that a number of activities and developments have taken place on the site without the required planning permissions, and comments regarding the Council's enforcement of such matters. It is not for me, under a section 78 appeal, to determine whether or not other uses or developments are lawful. To that end, it is open to the appellants to apply for a determination under sections 191/192 of the Act, and my determination of this

appeal under section 78 does not affect the issuing of a determination under section 191/192 regardless of the outcome of this appeal.

34. Moreover, whilst I have considered the evidence before me in respect of the occupation and use of the site in so far as it is material to this appeal, including the current use of the building annotated as "office" on drawing 120/1A, I must, however, determine the appeal having regard to the merits of the appeal scheme before me.
35. I have taken account of third party concerns regarding the date of the Rural Business Appraisal and business accounts submitted in support of the planning application and the time that has since elapsed, having regard to how relevant that information is for the determination of the appeal scheme now. In this respect, additional information was provided by a third party prior to the Hearing regarding information held by Companies House in relation to the appeal site. Both main parties were given the opportunity to comment upon the submission, and there remains no disagreement between them that the proposal meets the functional and financial tests for a new occupational dwelling in relation to the existing equestrian business.
36. On the basis of the information before me, including my site visit where, in terms of the presence of horses and staff, the occupation of the stables and the horse training paraphernalia on the site, I saw no obvious evidence that the business was not fully functioning as expected, I have no cogent evidence before me to reasonably take a different view.
37. In reaching this opinion I have taken account of the sequence of planning application procedures and decisions that have, not unreasonably, led to a delay between the submission of the original evidence and the determination of the appeal planning application. Moreover, the additional information provided by the third party does not include a detailed analysis of how this demonstrates the current non-viability of the appellants business. At the Hearing the appellants confirmed that the submitted Companies House information primarily relates to a separate business which has been operating from the appeal site independently of the horse training business, and that, as such, it does not directly affect the viability of the existing equine business. The appellants also confirmed that Mr Gillard remains a licensed race horse trainer, the requirements for which include demonstrating a viable business.
38. I acknowledge the third-party objections in respect of additional traffic and noise, and parking and access concerns associated with the appeal scheme. The Council has raised no objection on these grounds, and neither do I, having regard to the small-scale nature of the proposal, which would share the existing equestrian business access and would not add significant traffic movements or noise over and above those currently associated with the business use of the site.
39. The proposal would enable sufficient on-site parking to remain for the existing use as well as the new dwelling, and a planning condition could ensure that the proposed integral garaging remains as such, both in the interests of securing separate covered parking close to the living accommodation, and to address third party concerns that the garaging could be converted into additional residential accommodation, thereby enlarging the dwelling to beyond that necessary in respect of its functional role in supporting the business.

40. I have also noted the third party concerns about the impact of the proposal on the public right of way bridleway that crosses the appeal site, and comments that it has been informally re-routed to run through the land upon which the new dwelling is proposed. Whilst there appears to have been a history of issues associated with the use of the bridleway, which runs through private land, the County Council rights of way map within the appeal documents shows the bridleway route running alongside the western site boundary, and as such, whilst vehicular access to the garaging and parking associated with the new dwelling would involve traversing over a short part of the bridleway, this would be over the appellants land. The route of the bridleway would not be blocked by the new dwelling or its garden. As such, I am satisfied that this is not a matter that would constitute a reason for refusing the appeal scheme.
41. Having regard to third party concerns regarding the availability of utilities and drainage facilities to serve the proposal, the appellants have confirmed that the site is already serviced by utilities and that foul sewage would be dealt with by means of a septic tank. As such, these matters are not determining factors in the consideration of this appeal.

Conditions

42. In the event that the appeal was allowed, the Council and the appellants have agreed upon a number of suggested conditions, following discussion during the Hearing. I have considered these in the light of the tests set out in Paragraph 56 of the Framework and the National Planning Practice Guidance (PPG), and imposed them where I consider them to be necessary and reasonable, incorporating amendments for the sake of clarity and precision.
43. In addition to the standard implementation condition (1), it is necessary to define the plans for certainty (2). The list of plans referred to in condition 2 includes drawing no. 120/3C in lieu of drawing no. 120/3A listed on the decision notice, as confirmed by the Council as the correct drawing.
44. Condition 2 also confirms that permission is not granted for the roof ridge heights and ground levels figures shown on drawing no. 120/1A, following confirmation from the appellants at the Hearing that these figures were not intended to form part of the scheme and could be erroneous.
45. Condition 3 is necessary to provide certainty in respect of the finished levels of the development in the interests of protecting the character and appearance of the AONB. Pre-commencement submission and approval of the levels details is necessary since the details need to be taken into account in the construction of the development, and therefore go to the heart of the planning permission.
46. Also, in the interests of protecting the character and appearance of the AONB, conditions are necessary to ensure appropriate materials (4), since these are not explicitly described on the approved plans, the removal of specified permitted development rights (5), control over the design of any future external lighting to the new dwelling (6), and the provision of an appropriate landscaping scheme (7) and (8).
47. Condition 5 is also necessary in the interests of ensuring that the dwelling remains of a size which is appropriate to that of a rural worker's dwelling. A restricted occupancy condition in respect of the new dwelling (9) and a condition ensuring that not more than one dwelling will exist on the site (10)

are necessary having regard to the exceptionally justified need for a dwelling where a dwelling of unrestricted occupation would not normally be appropriate.

Conclusion

48. For the reasons given above, I conclude that the appeal should succeed, and planning permission be granted subject to conditions.

S Leonard

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan ref OS100035409 and drawing nos.120/1A, 120/2A and 120/3C, except in respect of the roof ridge heights and ground levels shown on drawing no. 120/1A.
- 3) No development shall take place until the following information shall have been submitted to, and approved in writing by, the local planning authority:
 - A full site survey showing: the datum used to calibrate the site levels; levels along all site boundaries; levels across the site at regular intervals and floor levels of adjacent buildings;
 - Full details of the proposed finished floor levels of the dwelling hereby permitted and the ground levels of the area shown as enclosed garden on drawing no. 120/1A; and
 - Cross section drawings showing the finished height of the dwelling hereby approved in relation to the existing adjacent office and hay store buildings.

The development shall be carried out in accordance with the approved details.
- 4) The external surfaces of the dwelling hereby permitted shall be constructed in flint with brick dressings for the walls under a slate roof, as indicated on the planning application form.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement(s), alteration(s) or outbuilding(s) to the dwellinghouse hereby approved, as defined within Part 1 of Schedule 2, Classes A, B, C and E of that Order, shall be carried out. For the avoidance of doubt, this includes alterations to the approved fenestration and the installation of additional windows and/or doors and alterations to the ground floor integral garage.
- 6) No external lighting shall be installed in connection with the use of the dwelling hereby permitted unless details of such are first submitted to,

and approved in writing by, the local planning authority. The lighting shall then be installed, maintained and operated in accordance with the approved details.

- 7) No development shall take place above slab level until a scheme of landscaping has been submitted to, and approved in writing by, the local planning authority. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained, and set out measures for their protection throughout the course of development. The landscape scheme shall include planting plans, specification (including cultivation and other operations associated with plant and grass establishment), schedules of plants, noting species, planting sizes and proposed numbers/ densities where appropriate, the design, type, position and scale of boundary treatments, hard surfacing materials and an implementation programme.
- 8) The approved landscaping shall be carried out in accordance with the approved details and implementation programme, with the soft landscaping scheme to be carried out in the first planting and seeding seasons following the first occupation of the development. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced in the next planting season with others of similar size and species.
- 9) The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly working, or last working, in the equestrian business operating at the site, or a widow or widower or surviving civil partner of such a person, and to any resident dependants.
- 10) Within 2 months of the first occupation of the dwelling hereby permitted, the residential occupation of the building annotated as "office" on drawing no.120/1A shall cease.

*****End of Conditions*****

APPEARANCES:

For the appellant:

- Mrs Pippa Gillard - appellant
- Mr Mark Gillard – appellant
- Mr Edward Dyke, FRICS, FAAV – Symonds and Sampson
- Ms Morgan Clement – Symonds and Sampson

For the Local Planning Authority:

- Ms Emily Jones, MRTPI - Senior Planning Officer

Others:

- Mr Stephen Musgrave
- Ms Mari Simpson

- Ms Catherine Langham
- Mr Robert Nichols
- Ms Gillian Terry
- Mr Stephen Terry
- Mr William Earp
- Mr Rupert Hardy