



Appeal Decision

Site visit made on 26 October 2022

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2022

Appeal Ref: APP/D3125/W/22/3299348

Church Farm, Church End, South Leigh, Witney OX29 6UR

- 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 Church Farm Partnership against the decision of West Oxfordshire District Council.
 - The application Ref 21/01628/FUL, dated 29 April 2021, was refused by notice dated 30 March 2022.
 - The development proposed is change of use of land to Use Class E, siting of 3 no. glamping wagons and use of land for tent camping. Erection of bike storage shed, provision of 4 no. parking spaces and creation of pond.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of land to allow the siting of 3 glamping wagons together with the erection of a bike storage shed and provision of 4 no. parking spaces at Church Farm, Church End, South Leigh, Witney OX29 6UR in accordance with the terms of the application, Ref 21/01628/FUL, dated 29 April 2021, subject to the conditions in the attached Schedule.

Application for costs

2. An application for an award of costs was made by Church Farm Partnership against West Oxfordshire District Council. This application is the subject of a separate decision.

Preliminary Matters

3. Notwithstanding the description of development used in the heading above, the proposed development was amended prior to determination of the application by the Council. The revised description removed reference to use of land for tent camping as this is no longer proposed. It also removed reference to creation of a pond as that was granted through a separate planning application (Ref 21/02106/FUL). Therefore the description of development used in the decision above is taken from the Council's decision notice for this appeal scheme and the appellant's appeal form.
4. During the course of the Council's determination of the application, the proposed location of the bike shed was moved to be closer to the site access and vehicle parking area (Block Plan Rev B). As the revised location was considered by the Council's planning committee, that is also the location that I have considered in this appeal.

5. The appellant has submitted to this appeal a further iteration of the Proposed Block Plan (Rev C). This includes a new area of woodland planting and proposes an alternative location within the appeal site for one of the three proposed shepherd huts. Though relatively minor changes, the appeal process should not be used to evolve a scheme¹, particularly where it would deprive those who should have been consulted on the changed development the opportunity of such consultation. Therefore, applying the Wheatcroft Principles², and in the interests of fairness and transparency to all parties, I have determined the appeal on the basis of the plans considered by the Council's planning committee (Block Plan Rev B).

Main Issues

6. The main issues are:

- the effect of the proposed development on the character and appearance of the surrounding area;
- the effect of the proposed development on the living conditions of the occupants of neighbouring properties, with particular regard to noise and disturbance;
- whether the location of the proposed development is acceptable, with particular regard to the development plan strategy.

Reasons

Character and appearance

7. Church End comprises a small collection of houses together with South Leigh village hall, a church and farm. Church End, the road, is not a through route and is without pavements which contributes to a low density, rural feel. The appeal site comprises a relatively flat, triangular shaped field. It is accessed from a rural track that leads off an area of hardstanding adjacent to Church Farmhouse. It is bordered on two sides by open fields with a public right of way running along its southern boundary. Its third boundary is with another triangular shaped field that adjoins residential gardens and contains an outdoor pool.
8. The boundaries of the appeal site comprise mature vegetation and trees. It consequently appears well contained by existing vegetation. Combined with its modest size, this creates a somewhat domesticated appearance in comparison to the considerably more expansive fields in the vicinity. It nonetheless has a tranquil feel due to its position away from public roads and the absence of immediately adjacent buildings. On its southern boundary, there is visibility into the site from the public right of way. This view is limited by the mature vegetation to either side of it.
9. The West Oxfordshire Landscape Assessment (June 1998) (the Assessment) classifies the appeal site as being within an area of semi-enclosed rolling vale farmland, in the Eynsham Vale landscape character area. The Landscape Enhancement Strategy within the Assessment shows the site within a 'strengthen A' area. This means a rural, attractive landscape that is not quite so special as some others in the district. The Assessment identifies these

¹ Procedural Guide - Planning appeals – England (March 2021): Paragraph M2.1

² As established in *Bernard Wheatcroft Ltd v SSE* [JPL 1982 P37]

landscapes as benefiting from some enhancement 'to strengthen weakened landscape structure and reinforce local distinctiveness'.

10. Given the relatively enclosed nature of the appeal site, visibility of the proposed shepherd huts from outside of the site would be limited to a very short section of the public footpath. There may also be oblique views from upper storeys of residential accommodation between the appeal site and the church, albeit these would be private views and at some distance. The proposed position of the huts close to the appeal site boundaries would minimise their prominence in these public and private views, with the shepherd huts viewed against a backdrop of retained trees and vegetation around the perimeter of the site.
11. The huts are proposed to be positioned on railway sleepers, avoiding the need for hardstanding that would have a more urbanising effect. In addition, whilst not of a style that is prevalent in the vicinity, the proposed wooden finish of the huts would help them to blend in with their natural surroundings to a certain extent. There would also be potential for additional landscaping along its site boundaries. This could enhance the landscape structure and provide additional screening, and could reasonably be secured by condition. The proposed development would consequently retain the enclosed nature of the site and its contribution to the mature landscaped setting of the Parish.
12. Whilst the huts would comprise a new form of development in the locality, their use would be associated with recreation and enjoyment of the countryside. Therefore the character of the development would not appear out of place in this rural setting. The character of any noise from use of the development would also be associated with recreational enjoyment of the countryside. In addition, due to the modest scale of the proposal such noise would not be of a scale that would harm landscape character or the tranquillity of the setting. A limited amount of external lighting is proposed however this could be controlled via a planning condition to ensure that it would not be harmful with respect to dark skies. A suitably sensitive design could be achieved to ensure that such lighting would not result in an overly domesticated appearance given its countryside setting.
13. Although not covered by any policy designation for its landscape value in the West Oxfordshire Local Plan 2031 (September 2018) (Local Plan) or South Leigh Neighbourhood Plan (January 2019) (Neighbourhood Plan), the Council considers the site to be an open area that is important to the setting of Church End. However, whilst part of the rural setting of Church End, I have found that the rural character of the site would not be lost and much of the site would remain without built development. As such, the limited scale and rustic appearance of the proposal would not conflict with its location in semi-enclosed rolling vale farmland. An outdoor swimming pool has been installed in the adjacent field and can be accessed from the appeal site. The pool is also visible from the public footpath. Consequently, the appeal scheme would appear as a logical addition in the adjacent field.
14. Therefore the proposal would not harm the character and appearance of the surrounding area. Accordingly it would comply with Policy OS2 of the Local Plan. Amongst other matters, this Policy requires that development in open countryside is limited to proposals that are appropriate for a rural location and respect the character of the area. This includes development that would

support an existing business and sustainable tourism, and contribute to farm diversification. It would also satisfy the general principles established by this Policy, including being compatible with adjoining uses, complementing the existing scale and pattern of development and character of the area, and avoiding loss of important open space.

15. It would further accord with Policy OS4 of the Local Plan which generally seeks to ensure the design of new developments is appropriate including with respect to the character and quality of its surroundings. I also find compliance with Policy EH2 of the Local Plan which generally seeks to ensure proposals conserve or enhance the local landscape character, including avoiding harm to landscape character from noise and light pollution. In addition, it would accord with the requirements in Policy SLE1 of the Neighbourhood Plan for proposals to respect and safeguard the countryside, including features such as trees and hedges.
16. Also, it would comply with Policy SLE7 of the Neighbourhood Plan relating to maintaining dark skies. Similarly, it would be capable of compliance with Policy EH8 of the Local Plan which, amongst other matters, seeks to ensure external lighting is unobtrusive and avoids harm to local character. Similarly it would comply with the general approach in the West Oxfordshire Design Guide (2016) which seeks to ensure developments achieve a high standard of design, in keeping with the character of the area. It would also accord with paragraph 130. c) of the National Planning Policy Framework (Framework) which requires that proposals are sympathetic to local character including its landscape setting.

Living conditions

17. The Council considers that harm to the living conditions of the occupants of nearby houses would arise as a result of increased noise from activities on the appeal site. Reference is made to potential noise from singing around the campfire, outdoor sports and swimming in the outdoor pool. However, the appeal site is separated from the nearest houses and gardens by the adjacent field and mature vegetation. As such, any noise from the appeal site would be likely to dissipate over intervening land. There may be capacity for more than two to sleep in each hut. Even so, the number of users of the proposal at any one time would be constrained by the small number of huts available, particularly in light of the provision for tent pitches having been removed from the proposal.
18. Furthermore, due to the limited scale of the proposal and the separation between its access and neighbouring houses, any noise associated with vehicles accessing the site is unlikely to be particularly intrusive to nearby residents or users of the footpath. The site's location in a rural area means that noise from agricultural vehicles in the vicinity of the site would likely be a regular occurrence in any event. Therefore I find that the levels of noise arising from the proposal would not be so significant and of sufficient regularity so as to be harmful to residents in nearby gardens. No robust evidence is before me to indicate otherwise.
19. The Council also raised concerns over the potential for bonfires on the site to cause disturbance to nearby residents due to smells and fumes travelling from the appeal site. However, as with potential noise, the intervening distance and vegetation would considerably limit the potential for it to be intrusive for

nearby residents. Prevailing wind from the south west would also tend to carry smoke away from nearby residential gardens. Therefore, I conclude that the proposal would not unacceptably harm the living conditions of nearby residents with respect to noise, smell or fumes. Consequently, it would accord with the requirement in Policy EH8 of the Local Plan for new developments to avoid unacceptable harm to existing occupants from noise and disturbance. It would also accord with paragraph 130 of the National Planning Policy Framework (Framework) which seeks to provide a high standard of amenity for existing and future users.

Location of development

20. Policy SLD6 of the Neighbourhood Plan supports development that enables the expansion of existing rural businesses subject to certain criteria. Although of a modest scale, the appeal proposal is intended to support the Church Farm business as part of a farm diversification scheme, providing an additional income stream. Further, it would be compatible with the continued operation of the farming operation as a whole. No robust evidence is before me to the contrary.
21. With respect to Policy SLD6 I have found that the proposal would be in keeping with the character of its surroundings (bullet 1). Also, that it would not unacceptably harm the living conditions of nearby occupants (bullet 2). In addition, given the limited number of huts proposed it would not significantly increase traffic in the locality (bullet 3). However the proposal would not comply with the requirement for the proposal to fall under Use Classes B1, B2 or B8 of the Use Classes Order (bullet 4).
22. Although the Use Classes Order has since been updated, these were employment related uses covering offices, general industrial and storage or distribution. Whilst the proposal could not be said to fall within those uses, it nonetheless would contribute to employment within the farm business by providing an additional source of income. Therefore whilst not in compliance with the final criterion of Policy SLD6, it would accord with the overall policy aim of supporting an existing rural business through a use that does not harm its setting or local surroundings.
23. The proposal's contribution to the continued operation of the farm business is supported by Policy E2 of the Local Plan. In accordance with that policy, and for the reasons given above, the proposal would be consistent with its countryside location. I also find that it would be suitably located with respect to the scale of the development, its accessibility and that it would be acceptable in respect of its effect on the character and amenity of the area. As such, it would comply with Policy E2 as a whole.
24. Furthermore, Policy E4 of the Local Plan addresses proposals for sustainable tourism. Glamping generally necessitates a rural location to allow its users to enjoy the experience of residing in the countryside. This Policy also requires that proposals are necessary for farm diversification in accordance with Policy E2. Accordingly, the proposal would comply with Policy E4 as a whole.
25. I therefore conclude that the location of the proposed development is acceptable, with particular regard to the development plan strategy. As such, it would also comply with paragraph 84 of the Framework which supports expansion of all types of business in rural areas, diversification of agricultural

businesses, and sustainable rural tourism that respects the character of the countryside.

Other Matters

26. The Council's evidence makes reference to historic buildings in the vicinity of the site. Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses when dealing with planning applications.
27. Church Farmhouse, Church End is a grade II listed building situated to the west of the appeal site. It is described as a timber framed house dating from the early 16th century, now a farmhouse, with later alterations. Insofar as it is relevant to this appeal its significance primarily derives from its architectural interest, including internal design features. The appeal site is somewhat removed from Church Farmhouse, separated from it by intervening land. Further, there is nothing to indicate that the site has a particular historic resonance with the building other than being a small part of a very broad setting. Therefore the proposal would not harm the setting of this listed building.
28. In addition, the Church of St James, Church End, is a grade I listed building. The south wall of the nave has two three-light windows, one either side of the south porch. The nave and tower are distinctive with their crenellations. Insofar as it is relevant to this appeal, its significance primarily derives from its architectural interest and historic association with the surrounding rural landscape. The appeal site is separated from the church by intervening land and a substantial terraced building adjacent to the Church. Therefore the appeal site makes very little contribution to its setting. Accordingly I find that the proposed introduction of three shepherd huts within the appeal site would not harm the setting of this listed building.
29. Concerns have been raised over the potential for approval of this proposal to create a precedent, following which it would be difficult for the Council to refuse other similar schemes in the Parish. However, the number of other similar examples is likely to be relatively small and no robust evidence indicates otherwise. Moreover, it is the scale, context and surroundings particular to this scheme that mean it would be acceptable here. As such, my assessment is context specific and I foresee no potential for this decision to set an unwarranted precedent or lead to a reduction in the quality of the surrounding landscape over time. Whether or not there are other potentially more suitable sites within the appellant's control that might accommodate the proposal is unclear. In any event, I have found the proposal to be acceptable in the location proposed.
30. Comments in respect of the outdoor pool are not relevant to the appeal scheme as the pool is subject to a separate planning permission. As I have found that the proposal would be acceptable with respect to its effect on the character and appearance of the surrounding area, it has not been necessary to consider conditions requiring the removal of the huts from site in quieter months.

Planning Balance

31. The proposal would not harm the character and appearance of the surrounding area and would not give rise to harm to the living conditions of nearby residents. Furthermore, it would support the diversification of an existing rural business in accordance with the policies of the Local Plan. I also afford considerable weight to policies in the Neighbourhood Plan, including Policy SLD6. Whilst it would not comply with the uses envisaged by Policy SLD6, it would nonetheless support its overall policy aims.
32. I note that the Neighbourhood Plan is slightly more recently adopted than the Local Plan. I also note the high level of local support for the Neighbourhood Plan at referendum stage. In any event, for the above reasons, the policy conflict relates to only one criterion of one Neighbourhood Plan policy. A degree of conflict with one particular policy does not inevitably mean there is non-compliance with the development plan as a whole. Therefore, for the above reasons, and in the absence of identifiable harm, I find that despite a degree of conflict with Policy SLD6 the proposal complies with the development plan when taken as a whole.

Conditions

33. The Council suggested conditions in the event that the appeal is successful. I have considered these and amended them as necessary, without altering their meaning, in light of the Framework and Planning Practice Guidance. It is necessary to impose a condition requiring compliance with the relevant plans for certainty. An additional condition requiring compliance with the approved materials is unnecessary on that basis.
34. Conditions 3, and 4 relating to compliance with the Great Crested Newt District Licensing requirements are necessary in the interests of the protected species. The appellant confirmed their agreement to these conditions. Conditions requiring details of external lighting and a biodiversity enhancement plan are required to ensure the development makes suitable provision for wildlife, including bats, and in respect of maintaining dark skies.
35. A condition requiring submission of a landscaping scheme is necessary to maintain the character and appearance of the area. A condition relating to contamination is required in the interests of protecting health and minimising pollution. Notwithstanding the information already provided on the approximate location of the sewage treatment plant and drainage, I have added a condition requiring approval of sewage disposal and drainage details prior to first occupation. This is necessary in the interests of pollution prevention.
36. A condition requiring that the development is used solely as holiday accommodation and not as any person's main place of residence is necessary to ensure the development does not conflict with the development strategy for the district. The appellant confirmed their agreement to this additional condition.
37. A condition requiring compliance with section 5 of the Ecological Impact Assessment is not necessary as part of this relates to the pond which is subject to a separate planning permission. Other aspects of section 5 would be duplicated by conditions relating to biodiversity enhancements and compliance with Great Crested Newt mitigation principles.

38. Given the limited scale of the development and the extent of the existing soft landscaping that is to be retained, a condition requiring submission of a Landscape and Ecology Management Plan is not necessary in addition to the conditions requiring approval and subsequent implementation of a biodiversity enhancement plan and a landscaping scheme.

Conclusion

39. Therefore, having considered the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Rachel Hall

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 and details: KCC2924-05A Location Plan (Rev A); KCC2924-06B Block Plan (Rev B); KCC2924-08A Bike Shed (Rev A); Larkworthy Wagon Elevations and Floor Plan; proposed materials and finishes as described on Planning Application Form (dated 29/04/2021).
- 3) The development hereby permitted shall be carried out in accordance with the terms and conditions of the Council's organisational licence (WML-OR46-2019-1) and with the proposals detailed on plan 'Church Farm Impact Map for Great Crested Newt District Licencing (Version 1)', dated 29th March 2021.
- 4) The development hereby permitted shall be carried out in accordance with Part 1 of the GCN Mitigation Principles, as set out in the District Licence WML-OR46-2019-1. In addition, the development shall be carried out in accordance with the following:
 - Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.
 - Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e. hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development).
 - Amphibian fencing and pitfall trapping must be undertaken at suitable habitats and features, prior to commencement of the development.
- 5) Prior to the installation of any external lighting, a lighting scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall:

i) identify the areas/features on site that are particularly sensitive for foraging bats; and

ii) identify how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications), to avoid disturbance to foraging bats.

All external lighting shall be installed in accordance with the approved details.

- 6) Before the development hereby permitted is first occupied, a biodiversity enhancement plan shall be implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The plan shall include for the provision of bat and bird boxes and gaps in boundary features for hedgehogs. The plan shall be implemented prior to first occupation of the development hereby permitted and retained for the lifetime of the development.
- 7) The development hereby permitted shall not be occupied until a detailed landscaping scheme shall have been submitted to and approved in writing by the local planning authority. The scheme must show details of all planting areas, tree and plant species, numbers and planting sizes. Any proposed means of enclosure and screening should also be included, together with details of any hard surface materials to be used throughout the proposed development. The approved scheme shall be carried out in the first planting season following first occupation of the approved development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) Any contamination that is found during the course of construction of the approved development shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 9) The development hereby permitted shall not be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 10) The development hereby permitted shall be used solely for holiday accommodation and shall not be occupied as any person's sole or main place of residence. The owners/operators shall maintain an up-to-date register of the names and main home addresses of all owners/occupiers of the holiday units, and shall make this information available at all reasonable times to the local planning authority.

End of Schedule