



Appeal Decision

Site visit made on 8 November 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th December 2022.

Appeal Ref: APP/K0425/W/22/3302080

Hawkins Farm, Frieth Road, Marlow, Buckinghamshire, SL7 2QU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Sheikh Al Thani against the decision of Buckinghamshire Council.
 - The application Ref 21/06872/VCDN, dated 17 June 2021, was refused by notice dated 19 January 2022.
 - The application sought planning permission for redevelopment of disused farm buildings to create ancillary residential accommodation including conversion of traditional barn, replacement of two farm buildings and demolition of disused agricultural structures, without complying with a condition attached to planning permission Ref 19/06553, dated 26 August 2020.
 - The conditions in dispute are numbers 2, 3, 6 and 7. The specification of these conditions and the reasons given for them are as follows:
 - Condition 2 "The development hereby permitted shall be built in accordance with the details contained in the planning application hereby approved and plan numbers SD201; SD202; SD206; SD207; SD210; SD211; SD212; SMBAT/05/13; S1867-1; S1867-2; S1867-3; 1867B-1S; unless the Local Planning Authority otherwise first agrees in writing. Reason: In the interest of proper planning and to ensure a satisfactory development of the site".
 - Condition 3 "The development hereby permitted shall be finished in accordance with the details contained in the planning application hereby approved and plan numbers SD201; SD202; SD206; SD207; SD210; SD211; SD212; SMBAT/05/13; S1867-1; S1867-2; S1867-3; 1867B-1S; and the amended Design & Access statement 2020. No other materials shall be used unless the Local Planning Authority otherwise first agrees in writing. Reason: In the interest of proper planning and to ensure a satisfactory development of the site".
 - Condition 6 "The development shall take place in accordance with the Arboricultural Method Statement (AMS) and Tree Protection Plan submitted as part of the planning application. Any permitted works within the Construction Exclusion Zone and other works which are specified in the AMS will take place under the supervision of a retained arboricultural specialist. A single page report and photographic record showing the supervised works will be submitted to the Local Planning Authority (LPA) within 7 days of each supervised event. Reason: To ensure that the retained trees, shrubs and hedgerows are not damaged during the construction process and in the long term interests of local amenity value".
 - Condition 7 "The development hereby approved shall be implemented in accordance with the Landscape & Visual Appraisal 2020 together with plan number SD207 unless otherwise agreed in writing by the Local Planning Authority. Reason: To ensure biological enhancements within the AONB".
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment of disused farm buildings to create ancillary residential accommodation including conversion of traditional barn, replacement of two farm buildings and demolition of disused agricultural structures, at Hawkins Farm, Frieth Road, Marlow, Buckinghamshire, SL7 2QU, without complying with conditions 2, 3, 6 and 7 previously attached to planning permission Ref 19/06553, dated 26 August 2020, but subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Planning permission reference 19/06553 has been granted and at the time of my site visit the development was underway with the walls and roof substantially complete, but unfinished internally. The general layout of the development at the time of my site visit was in accordance with the previously approved plans so this appeal has been dealt with under S73 of the Act. Accordingly, I shall consider only the question of the conditions subject to which planning permission was granted and will not undertake a complete re-consideration of the previous application.
3. Application reference 21/06872/VCDN, which is the subject of this appeal, sought permission to amend the previously approved scheme for a U shaped residential annex, by extending one of the wings of the building. It sought to achieve this by varying conditions which specify the approved drawings and substituting amended drawings. Condition 2 of the previous permission is the main plan specification condition and was largely repeated in condition 3. The proposed amendments to the building would necessitate amendments to tree protection measures and landscaping, which are set out under conditions 6 and 7 of the previous permission.
4. An Arboricultural Method Statement and Tree Protection Plan was submitted with application 21/06872/VCDN. I am informed that it was submitted late and as a result the Council determined the application without reference to it.

Main Issues

5. The main issues are the effect of the proposed amendments to the previously approved development, as set out in the amended drawings, on:
 - The character and appearance of the site and the surrounding area, with particular regard to the extent to which it would conserve or enhance the landscape character and natural beauty of the Chilterns Area of Outstanding Natural Beauty (AONB).
 - Protected trees and biodiversity.

Reasons

Character and appearance

6. The site has permission for a U shaped residential annex. The proposal subject to this appeal would extend the roof profile and elevations of the southern wing to create an additional bedroom. Notwithstanding any previous discussions to reduce the size of the scheme, the increase in footprint and volume would be very modest in the context of the site and the scale of the building that has already been approved. Such a modest increase would not erode the legibility

of the Farmhouse as the principle habitable accommodation and would not constitute overdevelopment of the site.

7. The proposal would result in a development where the wings were of roughly equal lengths, balancing the U shaped building within the natural constraints of the site. The design and materials would be simple and in keeping with the surrounding buildings. The introduction of additional glazing, including in the top of the proposed extended gable, would be in keeping with the rest of the previously approved building which incorporates extensive glazing. In views of the development from outside of the site, the visual impact of the proposed amendments would be limited and would have no greater impact on the character and appearance of the surrounding landscape and the Chilterns AONB than the previously approved development.
8. Under this appeal, the appellant submitted a landscaping scheme which had been revised since the version refused under the application. The revised landscaping scheme includes the north/south hedgerow and is the same as the previously approved scheme, except for a modest change in the location of 2 hedges to be planted to account for the change in position of the end of the southern wing. Consequently, the visual impact of the landscaping, and the mitigation it would provide, would be the same as the previous permission.
9. I conclude that the proposed development would not cause harm to the character and appearance of the site and the surrounding area and would conserve the landscape character and natural beauty of the Chilterns AONB. Consequently, the development would comply with Policies CP1, CP9, CP10, DM20, DM30, DM32, DM34, DM35, DM36 and DM44 of the Wycombe District Local Plan 2019 (WDP) and DM1 of The Adopted Delivery and Site Allocations Plan for Town Centres and Managing Development July 2013 (DSAP). Together, amongst other things, these policies seek to ensure that development is of a high quality design that responds positively to its context, conserves the natural environment including the Chilterns AONB and protects positive key characteristics of the landscape.

Trees and biodiversity

10. There are trees covered by a tree preservation order in relatively close proximity to the southern wing of the building and the proposed amendments would bring this southern wing closer to these trees. The appellant has provided an Arboricultural Method Statement with Tree Protection Plan¹. This demonstrates that while the amended building would be closer to the trees, it would be a few metres outside of the root protection area, with sufficient space for a tree protection fence during construction works. Therefore, subject to compliance with the Arboricultural Method Statement and Tree Protection Plan, which can be secured by condition, the amended development would not result in harm to protected trees.
11. As set out above, the appellant submitted a revised landscaping scheme under the appeal, which is, to all intents and purposes, the same as the previously approved scheme. As such, the amended development would have no greater impact on biodiversity than the previously approved development and appropriate mitigation and enhancement can be secured by condition.

¹ The original Arboricultural Method Statement and Tree Protection Plan, dated July 2021, was revised and submitted under this appeal, dated June 2022, to incorporate the revised landscaping scheme.

12. I conclude that the proposed development would not cause harm to protected trees or biodiversity. Consequently, the development would comply with Policies CP1, CP9, DM20, DM30, DM34 and DM35 of the WDP and DM1, DM13 and DM15 of the DSAP. Together, amongst other things, these policies seek to ensure that development conserves the natural environment and protects and enhances biodiversity and green infrastructure features.

Conditions

13. This appeal grants a new planning permission. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also restate the conditions imposed on earlier permissions that continue to have effect. As I do not have sufficient information about the current status of some of the conditions previously imposed, I shall reimpose all those conditions that I consider to remain relevant. In the event that some have in fact been discharged, that is a matter which can be addressed by the parties.
14. As the external walls and roof have already been substantially completed, it is not necessary to impose a condition requiring commencement within a set period. However, it is necessary to specify the list of amended and approved drawings as this provides certainty and defines the permission. Condition 3 of the previous permission was largely a repeat of condition 2, so in the interest of clarity and brevity, I have combined these conditions.
15. In order to protect the setting of the AONB and the character and appearance of the site and wider landscape, it is necessary to ensure the use of appropriate materials and the implementation of landscaping. I have therefore reimposed the materials and landscaping conditions, with amended triggers to ensure effectiveness and timely implementation, and the specification of the amended landscape scheme drawing.
16. A pre-existing building is to be retained as part of the overall development. It is therefore necessary to ensure its protection and temporary support during any demolition works. It is also necessary to protect the trees which are in close proximity to the building so the tree protection condition remains necessary. I have specified the amended Arboricultural Method Statement and Tree Protection Plan within the condition to ensure clarity and certainty. It also remains necessary to ensure implementation of biodiversity mitigation and water efficiency measures. Finally, the previous permission was approved on the basis of being ancillary accommodation. It therefore remains reasonable and necessary to secure its use as such under a condition.

Conclusion

17. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed. I will grant a new planning permission with the relevant conditions varied and the undisputed conditions reimposed, where they remain reasonable and necessary.

Helen Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in strict accordance with the following list of approved drawings and details: SMBAT/218 SD201; 454_PL_10; 454_PL_11; 454_PL_12; 454_PL_15; SMBAT/05 SD206 Rev A; SMBAT/05 SD207 Rev A; and SE-407/1.
- 2) Prior to their use in the development hereby approved, details of the following shall be submitted to and approved in writing by the Local Planning Authority:
 - All external materials, including for hard landscaping;
 - Boundary treatments;
 - Joinery for windows, doors, glazed links and walkways;
 - Rainwater goods;
 - Roof lights (which should be conservation type, fitted flush with the roof slope).
- 3) The building to be retained shall be subject to the following:
 - Protection/temporary support during demolition of existing accretions;
 - All making good/repairs to barn structure to use matching original materials;'
 - Any new brickwork/brickwork repairs to use matching size, colour, coursing and bond of bricks laid in lime mortar;
 - There shall be no barge boards;
 - Eaves shall have exposed rafter feet;
 - Existing timber roof structure shall be retained in situ;
 - No structural members - beams, ties, purlins etc - to be cut or removed;
 - Insulation shall be lightweight and breathable;
 - Underpinning shall generally be avoided but where strictly necessary should be undertaken in 1m strips.
- 4) The development shall take place in accordance with the Arboricultural Method Statement and Tree Protection Plan submitted as part of the planning application. Any permitted works within the Construction Exclusion Zone and other works which are specified in the Arboricultural Method Statement will take place under the supervision of a retained arboricultural specialist. A single page report and photographic record showing the supervised works will be submitted to the Local Planning Authority within 7 days of each supervised event.
- 5) In the first planting season following completion of the development hereby approved, or the first occupation, whichever is sooner, the landscaping scheme shall be implemented in full accordance with drawing SMBAT/05 SD206 Rev A.
- 6) Notwithstanding the details submitted a scheme including detailed specifications and plans, sections, and planting in respect of the pond to be re-instated shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the pond will be implemented in accordance with the details agreed.
- 7) The development hereby approved shall be implemented in accordance with the details within the Amended Bat Survey. A scheme for new bat and bird boxes (especially swifts) shall be submitted to and agreed in writing by the Local Planning Authority. They shall thereafter be retained on site.

- 8) The development, hereby permitted, shall be designed and constructed to meet a water efficiency standard of 110 litres per head per day.
- 9) The development or use hereby permitted shall only be occupied in connection with and ancillary to the occupation of the existing premises or use and shall at no time be severed and occupied as a separate independent unit.

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