



Appeal Decision

Site visit made on 3 May 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2023

Appeal Ref: APP/D1265/W/22/3298936

Land of Higher Crockermoor Farm, Pondsmead Farm & former Portland Farm, Corscombe & Halstock DT2 0PD & BA22 9RY

- 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 Richard Fry, Mr Harry Fry and Mrs Ciara Fry against the decision of Dorset Council.
 - The application Ref WD/D/20/001239, dated 29 May 2020, was refused by notice dated 17 November 2021.
 - The development proposed is described as a private way and two works hardstandings.
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Decision

1. The appeal is dismissed insofar as it relates to the private way and bridge.
2. The appeal is allowed insofar as it relates to the hardstanding and planning permission is granted for the hardstanding at Land of Higher Crockermoor Farm, Pondsmead Farm and former Portland Farm, Corscombe & Halstock, DT2 0PD & BA22 9RY in accordance with the terms of the application, Ref WD/D/20/001239, dated 29 May 2020, so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plan:
 - 3630 01 drawing no. 07 – Location Plan (May 2020)
 - 2) Prior to any further works to the hardstanding, details of the construction materials shall be submitted to and approved in writing by the local planning authority. The works shall be carried out prior to the development being used and strictly in accordance with the approved details and maintained as such thereafter.
 - 3) Within 3 months from the date of this decision, a soft landscaping scheme shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to the development being used and retained thereafter. Any planting removed without the written consent of the local planning authority, or found to be seriously diseased or damaged, dead or dying within a period of 5 years following planting or seeding shall be replaced in the next planting season with specimens of such size and species and in such positions as shall be agreed in writing with the local planning authority.

Preliminary Matters

3. In the banner head above, I have used the description of development included on the application form. However, within my decision I have used the description of development as specified on the decision notice and the appeal form as it more accurately reflects the three key elements of the proposed development: the creation of a hoggin 'private way' along the full length of the site; the construction of a racehorse bridge; and an area of hardstanding located near the end of the gallop track close to Clarkham Cross.
4. The application form indicates that works commenced on 30 March 2020 but had not been completed before the submission of the planning application. Based on the appeal documentation and my observations during my site visit, I note that whilst some elements of the proposed development have been completed as per the submitted plans, others hadn't. Specifically, a dashed line is indicated on the application plans, between points marked A and B, and this reflects the alignment that has been constructed, however this alignment is located outside the appeal site. Consequently, I have based my assessment of the development proposed on the submitted plans.
5. A split decision has been made (in accordance with s79(1)(b) of the Town and Country Planning Act 1990 (as amended) allowing only part of the proposal. This has been done on the basis that this part of the development is physically and functionally severable from the rest of the proposal.

Main Issues

6. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, and the natural beauty of the Dorset Area of Outstanding Natural Beauty (the AONB);
 - nature conservation interests, with particular regard to the Priority Habitat.

Reasons

Character and appearance

7. The appeal site forms part of a wider landholding and primarily comprises a long and narrow strip of land connecting the existing access driveway to the main yard at Higher Crockermoor Farm to a recently constructed gallop track. It is located in the AONB, therefore I have had regard to Chapter 15 of the National Planning Policy Framework (the Framework) which requires that great weight should be given to conserving and enhancing the natural beauty of the area. Further, the AONB has the highest status of protection concerning these issues, reflecting the statutory purpose of the AONB. The special qualities of the AONB are principally derived from the landscape character of the area including an undulating topography of predominately pastureland, divided into small fields defined by hedgerows and discrete woodland and orchard areas. Built form is limited to isolated farmsteads and dispersed, small settlements connected by narrow and winding hedge-lined lanes.
8. The proposed private way would run the full length of the appeal site. Where the proposed private way approaches Adams Green Lane from the main yard, it enters an area of orchard trees. Although the proposed alignment of this section would be sited close to the boundary hedgerow and stream, it is likely

that the private way would require the removal of some of the orchard trees. In the absence of further detail regarding the precise alignment of the private way in this location and any existing trees which may be lost, I am not persuaded that it would not cause harm to the orchard as one of the key characteristics of the AONB and therefore the character and appearance of the area.

9. Where it would be sited parallel and close to the field boundary hedgerows, this would reflect the relationship between the lanes or tracks and hedgerows in the surrounding area. Some sections of the proposed private way would, however, be sited away from existing field boundaries such as that between the western edge of the gallop and point D as marked on the plans and, as a result, would be visible in the wider landscape, including from public vantage points. Notwithstanding this, given the modest width of the private way, the sympathetic construction material and its primary use for racehorses being ridden between the main yard and the gallop track, in my view, it would not be a discordant feature in the rural context.
10. A racecourse bridge is proposed where the private way crosses a stream. Designed to minimise the sense of enclosure experienced by the horse or rider and prevent injury to the rider should a horse stumble or be spooked by the water, the bridge would be constructed from wooden rails and slats. The overall height of the bridge would be lower than the adjacent roadside hedgerow and gaps in the side slats would allow views through, resulting in a visually permeable structure. Due to the topography and existing landscape features in the surrounding area, the views of the bridge would be limited. Whilst similar bridges are not common feature in the surrounding landscape, it would not, in my view, be an unsympathetic addition. A condition requiring new landscape planting to increase the screening of the bridge could also be imposed and, as suggested by an interested party, the wood materials painted green.
11. Combined with its modest size, the siting of the proposed area of hardstanding in the corner of the gallop track field, immediately adjacent to existing hedgerows, would be predominantly screened from the nearby lane. Given its use for vehicle parking, including larger horse transporters, when racehorses are being ridden on the gallop track, it would support activities appropriate to the character and appearance of the surrounding area. Consequently, it would not be a prominent or harmful feature in the landscape and so would accord with policies of ENV1, ENV10 and ENV12 of the West Dorset, Weymouth & Portland Local Plan (the Local Plan) in this regard.
12. Nevertheless, I conclude that the proposed private way which would serve the bridge would cause unacceptable harm to the character and appearance of the area, and the natural beauty of the AONB, and would conflict with policies of ENV1, ENV10 and ENV12 of the Local Plan. These policies, amongst other provisions, seek to protect the area's exceptional landscapes, ensure new development is located and designed so it does not detract from the local landscape character and contribute positively to maintaining and enhancing local identity. It would also conflict with Chapter 15 of the Framework with respect to the great weight to be given to conserving and enhancing the natural beauty of the area.

Nature conservation interests

13. Part of the appeal site, between Adams Green Lane and the gallop track, is located within a Natural England designated traditional orchard, identified as a Priority Habitat and subject to a Remediation Notice¹. This notice requires the appellant to reinstate the land to its former condition. The proposed private way is not identified on the Restoration Notice Map nor was a Biodiversity Plan (BP) submitted with the planning application.
14. Since the Council made its decision on the appeal application, a BP has been prepared for the site and submitted for certification by the Council. Based on the evidence before me, although the BP was initially certified, the approval was subsequently withdrawn by the Council given the BP's conflict with the Remediation Notice and how the baseline assessment in the supporting Ecological Impact Assessment (EcIA) was derived. Notwithstanding whether or not there are no legislative reasons why a BP cannot encompass two related developments or that the planning system should not repeat or duplicate separate legislation, the baseline assessed in the EcIA referred to 'improved grassland'. Regardless of being described as a 'technical matter', the EcIA, and therefore the BP, do not adequately assess the effect of the proposed development on the Priority Habitat.
15. Whilst a further revised BP and EcIA have been submitted as part of the appeal, this has not been certified by the Council. Furthermore, I have little substantive evidence before me regarding the nature conservation value of trees which would need to be removed to provide the alignment of the private way in the orchard field on the main yard side of the proposed bridge. Consequently, it has not been demonstrated that the proposed development would not cause significant harm to nature conservation interests or, in the event that such harm cannot be avoided, adequate mitigation would be provided.
16. I conclude that the proposed private way would cause unacceptable harm to the nature conservation interests in the area and the Priority Habitat, contrary to Policy ENV2 of the Local Plan. This policy, amongst other aspects, restricts development that would adversely affect nationally designated wildlife sites unless benefits clearly outweigh the impacts on the site and broader nature conservation interests. I also find conflict with Chapters 11 and 15 of the Framework which encourage opportunities to achieve net environmental gains whilst promoting conservation, restoration and enhancement of priority habitats.

Other Matters

17. Broadly, where development provides benefits to rural businesses these will, in turn, support other local businesses and services whilst also providing employment opportunities. This is supported by the Framework. The proposed development would provide benefits to the operation of a rural business by providing a dedicated route for riding racehorses to the gallop without the need to use the local highway network. This would also be beneficial to other highway users by reducing the potential conflict with racehorses, including those in large groups, and any inconvenience or risk to safety that may result. However, although not preferable, racehorses could still be ridden on the local

¹ Natural England file ref: EIA 314745, dated 3 December 2020

lanes to access the gallop track. Furthermore, interested parties have drawn my attention to another horse bridge nearby which provides an alternative, off-road route. As a result, it has not been demonstrated that the proposed private way and bridge are essential for the operation of the appellant's business. These modest benefits, therefore, would not outweigh the substantial harm I have identified above.

18. I have been referred to plans submitted as part of the planning application for the gallop track², which included a dashed line showing an unsurfaced route from Adams Green Lane to the end of the gallop. The main parties dispute whether or not the unsurfaced route was considered as part of the determination of the gallop track planning application. Regardless, even if I were to consider this route to represent a fallback scenario, given its unsurfaced nature, it would be less harmful than the proposed private way. Therefore, it does not weigh in favour of the grant of planning permission.
19. My attention has been drawn to representations from interested parties regarding the proposed development. In respect of the impact on the surrounding highway network, as the proposed development would provide facilities primarily for racehorses, I have little substantive evidence before me to conclude that traffic and any associated noise would unacceptably increase as a result. Similarly, given its modest size, I am not persuaded that there would be an unacceptable increase in traffic to or from the proposed hardstanding.
20. I acknowledge the complex planning history of the appellant's landholdings, other developments implemented with or without planning permission and other planning applications currently under consideration. However, these are not matters that fall to me to consider as part of my decision. Similarly, other developments within the wider area are not determinative in this case.
21. Several interested parties have raised concerns regarding matters that fall outside the remit of this decision. These include the infilling of a gully outside the appeal site, the number of people employed by the business and their accommodation arrangements, illegal parking in the surrounding area, roadside hedgerow maintenance and other legislative regimes. Additionally, whether or not the appellant was aware of the need for planning permission and any concerns regarding the due process during the determination of this, and other, planning applications made by the appellant are not a matter for this appeal.
22. I have also been referred to another appeal decision³. Whilst this also concerns horse-related development, as it relates to a site within the New Forest National Park, it was determined against different planning policies. Therefore, it is not determinative in this appeal.

Conditions

23. I have imposed a condition, for the avoidance of doubt, specifying the approved plan. To ensure the materials used to construct the proposed hardstanding are sympathetic to the character and appearance of the area, including the natural beauty of the AONB, I have imposed a condition requiring details to be submitted to and approved by the local planning authority.

² Council ref: WD/D/17/002016

³ Appeal ref: APP/B9506/W/21/327159 & APP/B9506/C/21/3271326

24. To ensure that adequate mitigation for the landscape and visual impact of the proposed hardstanding is provided and maintained, I have imposed a condition requiring a landscaping scheme to be agreed upon with the Council and for planting to be maintained. There is no need for me to set out a list of matters to be included in this condition to make it precise or enforceable.
25. Whilst both parties have suggested a condition relating to the submission of a biodiversity plan, given its scale, it is not necessary for me to impose this condition to make the proposed hardstanding acceptable.
26. The Council refer to the need to limit the use of the proposed hardstanding to vehicles only and restrict the construction of buildings or other structure in the Officer Report, although this has not been included in their list of suggested conditions. In the absence of a clear justification to limit or restrict permitted development rights, I am not persuaded that such a condition is necessary to make the proposed hardstanding acceptable.

Conclusion

27. The proposed development, insofar as it relates to the private way and bridge, conflicts with the development plan when considered as a whole, and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development conflict. Therefore, I conclude the appeal should be dismissed insofar as it relates to the private way and bridge.
28. Insofar as it relates to the works hardstanding, I conclude that the appeal should be allowed.

Juliet Rogers BA (Hons) MA MRTPI

INSPECTOR