



Appeal Decision

Site visit made on 14 September 2023

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2023

Appeal Ref: APP/C1625/W/23/3314920

Land at Wickwar Road, Kingswood, Gloucestershire

- 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 Browning against the decision of Stroud District Council.
 - The application Ref S.22/1192/FUL, dated 27 May 2022, was refused by notice dated 21 July 2022.
 - The development proposed is agricultural building for the storage of machinery and fodder.
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Decision

1. The appeal is allowed and planning permission is granted for Agricultural building for the storage of machinery and fodder at Land at Wickwar Road, Kingswood, Gloucestershire in accordance with the terms of the application, Ref S.22/1192/FUL, dated 27 May 2022, subject to the conditions set out in the attached schedule.

Preliminary Matter and Main Issues

2. The application was initially refused for 3 reasons. The third reason for refusal related to insufficient information regarding the ecological implications of the scheme, in particular whether the proposal would result in any adverse impacts to Great Crested Newts (GCN's). However, the appellant has submitted a Preliminary GCN Appraisal¹ with the appeal. Based on this appraisal, the Council have confirmed that the third reason for refusal has been addressed and that no objections are raised regarding ecological implications, subject to recommended conditions. I have therefore determined the appeal on this basis.
3. Therefore, the remaining main issues in this case are whether the proposal is essential to the maintenance or enhancement of a sustainable farming enterprise and the effect of the proposal upon the character and appearance of the area, including the impact on the Public Right of Way.

Reasons

Whether the Proposal is Essential

4. The appeal site consists of agricultural land, situated to the south of Wickwar Road. At the time of my site visit there was cattle grazing on the level parcel of land, although I note that no cattle stock levels or herd information has been submitted. My site visit confirmed that there are currently no existing buildings

¹ Prepared by Cotswold Ecology and dated January 2023

on the land, and I note that the appeal site is situated away from the appellant's main holding.

5. The appeal site is used for the grazing of native breeds of cattle for its suckler herd to be outwintered. This is not possible at the main holding due to the soil type which could lead to issues with the cattle's health and welfare, with a risk of damage to their feet and hips. I also note that during the winter months, the cattle require supplementary feeding as the nutritional value of the grass deteriorates over the winter. However, there is currently nowhere to store the fodder and consequently, during the winter months, the cattle have to be taken off the land and back to the main holding to be kept inside. I also recognise the issues associated with feeding the cattle close to the gateway at the bottom of the hill, both in terms of security of the fodder and the health and safety of repeatedly moving the cattle up and down the hill.
6. At present, there also appears to be a lot of movement between the appeal site and the appellant's main holding in terms of the cattle themselves and machinery. The building would be used for the storage of silage bales to feed the cattle in the winter months and used to store machinery in association with the feeding and silage production, to include a telehandler which would lift and stack the bales when produced but would also be used to move the bales when feeding in the winter. Therefore, based on the evidence before me, on the balance of probabilities and given the current issues experienced on site, it would be essential for an agricultural building to be located on the site in order to assist the appellant to maintain and enhance their sustainable farming enterprise.
7. Therefore, I am satisfied that there is a sustainable farming enterprise being undertaken on the appeal site and that the proposal is essential to the maintenance and enhancement of this enterprise. The proposal would be in accordance with criterion 1 of Policy CP15 of the Stroud Local Plan (Local Plan) (adopted 2015) which allows new development in the countryside where it is essential to the maintenance or enhancement of a sustainable farming or forestry enterprise within the district.

Character and Appearance

8. The appeal site is enclosed with established vegetation and hedgerows run along the field boundaries. There is a Public Right of Way (PROW) known as Kingswood Footpath 34, which runs along the eastern boundary of the northern section of the appeal site before running off to the east. The Council mention that there are other PROW's close to the site but have not provided me with any further details of their locations.
9. The topography of the appeal site is challenging. Whilst there is roadside level access from the gateway along Wickwar Road, the land steeply rises up to a level area of land which measures approximately 13 acres. The proposal would be sited on this flat area of land, which is raised above Wickwar Road.
10. The surrounding area is very much rural in both its character and appearance, with open agricultural fields and sporadic residential properties and other farmsteads visible. However, the railway line, which runs to the east, is highly visible in the landscape, and I also noted the presence of a wind turbine close by, which is visible over the hillside.

11. The Council have advised that the proposal is situated within the landscape area known as 'Kingswood Vale – South'. The Stroud District Landscape Assessment SPG (2000) states that one of the key characteristics of this area is irregular undulating terrain that becomes gentler to the south. Key priorities include protecting the views from the AONB escarpment, and also to ensure strict control of any future development to protect the predominately rural character of the area.
12. Whilst the elevated position may not be ideal, I acknowledge that in the circumstances of the case, due to the topography of the land and the use of the building, the siting of the proposal would be the most practical location for the farming enterprise. Furthermore, it would be sited parallel to an established field boundary and close to another field boundary, which whilst not as mature as the vegetation along the railway line, would still assist in mitigating its visual impact. The field hedgerows would also be retained, and I note that a gap behind the proposal would be left which would allow for the appropriate management of the hedgerows in the future.
13. Taking in to account the size of the holding and the accepted essential need for a covered building to be provided on site in order to store fodder and machinery, I am satisfied that the proposal would be proportionately sized and appropriately designed for its intended use. I also accept that the materials used are common for those used in the construction of agricultural buildings in the area. Therefore, the location, materials, scale and use of the proposal would be sympathetic to the landscape character.
14. Furthermore, I have concluded above that the proposal would be essential to the enhancement and maintenance of the farming enterprise. Therefore, the proposal would not be an 'unwarranted encroachment into the open countryside'. Consequently, the proposal would protect any views from the AONB escarpment.
15. I acknowledge that it would be visible from the nearby PROW. However, this does not necessarily equate to harm. The proposal would be an appropriately sized building, suitable for its rural location. I also note that this footpath crosses through other farms in the area. Therefore, the visibility of an agricultural building from the PROW would not appear as particularly incongruous and would protect the rural character of the area.
16. I note the alternative location suggested by a third party. However, this is not the scheme before me, and I have considered the proposal on its own merits and found the proposed siting to be acceptable for the reasons set out above.
17. Therefore, the proposal would not harm the character and appearance of the area, including the PROW. It would be in accordance with criterion (ii) of Policy CP15 and Policy ES7 of the Local Plan which, in combination, seek to ensure development does not lead to the excessive encroachment or expansion of development away from the original buildings, and that proposals should conserve or enhance the special features and diversity of the different landscape character types found within the district. Development will only be permitted if the location, materials, scale and use are sympathetic and complement the landscape character, and natural features, such as hedgerows that contribute to the landscape character and setting of the development, should both be retained and managed appropriately in the future.

Other Matters

18. The site lies within a red zone for GCN's. GCN's and their resting places are protected by The Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended). A local resident has raised concerns regarding the timing and content of the 'Preliminary GCN Appraisal'. I also note the alleged existence of GCN's on neighbouring sites, on the other side of the railway track. Whilst I note the points raised by a third party, I have no technical evidence before me that warrants me to disregard the findings of the appellants appraisal. I also note that the Council's biodiversity team have considered the appraisal and no longer object to the proposal on the grounds of ecological implications.
19. Furthermore, a condition would be attached to ensure that a 'GCN Precautionary Working Method Statement' is submitted and approved by the Council prior to development taking place. This is considered necessary in order to safeguard protected species. The tailpiece phrase has been deleted for certainty.
20. The appellant has expressed concerns regarding difficulties in communicating with the Council during the application process, in particular that the application was quickly refused and requests for more time to provide additional information were ignored. Whilst this must have been frustrating for the appellant, this does not materially affect my consideration of the planning merits of the appeal proposal.
21. I also note that a local resident makes reference to the planning history of the site and that the previous owners were refused planning permission for a house on the appeal site. Clearly, what is before me now is an entirely different proposal. Therefore, I can only attach this limited weight in my decision.

Conditions

22. In addition to the requirement for a 'GCN Precautionary Working Method Statement' to be submitted, a condition setting a time limit for commencement of the development is required by statute. It is also appropriate that there is a condition requiring the development to be carried out in accordance with the approved plans for certainty.
23. In the interests of the protection and enhancement of the site for biodiversity, a Construction Ecological Management Plan (CEMP) is considered both reasonable and necessary.

Conclusion

24. For the reasons set out above, the appeal should therefore be allowed.

Laura Cuthbert

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 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: submitted 23/06/2022
 - Elevation and Floor plan: Ref - 22-14594 submitted 27/05/2022
- 3) No development shall take place (including construction, ground works, vegetation clearance) until a Great Crested Newt Precautionary Working Method Statement has been submitted to and approved in writing by the local planning authority. The method statement shall include measures that will be taken to protect Great Crested Newts and other amphibians during the clearance of the site. The approved method statement shall be adhered to and implemented strictly in accordance with the approved details.
- 4) No works shall take place (including construction, ground works, vegetation clearance) until a Construction Ecological Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include, but not limited to the following:
 - a. Details of deep excavations to be infilled or ramped access provided to prevent pitfall danger to wildlife;
 - b. The details of any external lighting to be used during works to avoid harm to nocturnal wildlife;
 - c. Details of measures taken to protect retained hedgerows with Root Protection Zones;
 - d. Responsible persons and lines of communication,
 - e. Compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.