



Appeal Decision

Site visit made on 3 October 2023

by J White BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 November 2023

Appeal Ref: APP/Y3940/W/23/3319756

Saddlepack Farm, Fullaway Farm North East to Stert Road, Stert, Wiltshire SN10 3HZ

- 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 & Mrs Elderfield against the decision of Wiltshire Council.
- The application Ref PL/2022/07031, dated 7 September 2022, was refused by notice dated 12 January 2023.
- The development proposed is stable building.

Decision

1. The appeal is allowed and planning permission is granted for stable building at Saddlepack Farm, Fullaway Farm North East to Stert Road, Stert, Wiltshire SN10 3HZ in accordance with the terms of the application, Ref PL/2022/07031, dated 7 September 2022, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr & Mrs Elderfield against Wiltshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the Council made its decision, on 5 September 2023, a revised version of the National Planning Policy Framework (the Framework) has been issued. However, the only substantive revisions relate to national policy for onshore wind development in England, and the changes to national planning policy do not materially affect this appeal. I have taken the Framework into account in reaching my decision.
4. The appeal is supported by a Landscape Appraisal (ref 02760-05) dated 23 February 2023 (the LA). The LA does not alter the appeal scheme. The Council and interested parties have had the opportunity to comment on the content of the LA and I have taken account of it in my determination of the appeal.
5. The scheme was amended during the application process. The Council made its decision against the amended plans, and I have determined the appeal on the same basis. Further amended plans have been submitted with the appeal to illustrate a reduced height of the building and landscaping planting, including trees and a hedgerow. However, the appeal process should not be used to evolve the scheme and it is important that what is considered is essentially what was considered and consulted upon by the Council. I cannot be certain that if I accepted the further amended plans, no party would be prejudiced by my so doing. Consequently, I have determined the appeal on the basis of the plans that were considered by the Council.

6. The Council refused the proposal for three reasons. The third reason relates to a lack of a legal agreement in relation to the prevention of both the appeal scheme and stables approved under a previous planning permission¹ in November 2020 (the 2020 permission) being carried out. However, a signed and witnessed Unilateral Undertaking (UU) has been submitted as part of the appeal process. The UU covenants that, should the appeal succeed, the stables approved by the 2020 permission shall not be erected in the event the appeal scheme is commenced or built or, alternatively, that the appeal scheme shall not be built if the stables approved by the 2020 permission have been erected or commenced. I have had regard to this below.

Main Issues

7. The main issues are:

- the effect of the proposed development on the character and appearance of the area, including the setting of Stert Conservation Area (the CA); and,
- in the event the appeal is allowed, whether the proposed development in combination with the stables granted by the 2020 permission would have an acceptable effect on the character and appearance of the area, including the setting of heritage assets and with regard to highway safety.

Reasons

Character and appearance

8. The appeal site lies within the landscape character area of Trowbridge Rolling Clay Lowland, which has an objective to minimise small scale incremental change. The surrounding area near the appeal site is generally characterised by an undulating landscape of fields bounded by hedgerows and mature trees, with wooded areas and sporadic dwellings and buildings. The area has a pleasant rural and pastoral character.
9. The appeal site is a modest portion of a larger sloping field. To the north on the opposite side of the access track is a farm building and yard area, which is nestled in trees and lies on a similar contour. I also observed a mobile home that I am told is subject of an enforcement notice. Further to the north is the built form of Stert, which is set on higher ground.
10. The field slopes down to the west and towards the appellants riding arena, which has been cut into the field, with a line of mature trees along its edge. Beyond that the land is gently rolling, and the buildings of Byde Farm are noticeable through the trees. To the east is a steep bank that is covered with trees and vegetation, which provides a close backdrop of the site. Beyond that, the land continues to rise towards the public bridleway. At the time of my visit, the field to the south was subdivided by fencing and was being grazed by horses. The southern boundary of the field comprises tall trees, which restricted wider views of the site from that direction.
11. Due to the local topography, with the appeal site set low in the landscape, as well as intervening vegetation, the proposed building would not be obvious in views from the east including the public bridleway.

¹ Ref: 20/08044/FUL

12. The boundary of the CA lies approximately 240 metres to the north of the appeal site. Statute places a duty on me to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. The significance of the CA lies, in part, in Stert's historic core, traditional built vernacular and its verdant setting.
13. The Council has referred me to two key views from elevated areas within the CA. During my site visit I stopped at St. James Church and its churchyard. I found that the appeal site would typically not be noticeable from views to the south of the churchyard. I also walked the roads within Stert and viewed the site from the highway in the vicinity of Manor Cottage, Barn Cottage and Pound Cottage. Whilst I noticed that partial views of the appeal site can be achieved, this was generally fleeting and at some distance. Moreover, the site is set down within a large panoramic view, the building would typically be partially screened by trees and would be read within the context of the roof of the existing larger agricultural building. As a result, it would have a negligible effect on the setting of the CA and would not harm its significance.
14. I have little substantive basis to consider that the ground levels at the site as observed during my site visit have been significantly altered. Nonetheless, even if the ground levels have been changed, having regard to the topography of the field, the site does not appear incongruous within its setting. The appeal scheme would be a relatively small structure in the context of agricultural developments that are visible in the locality. From wider views, including from Stert and to the west, it would be read as part of the existing developments, including the access track, farm building, yard and the riding arena, forming part of a group of existing development within the landscape.
15. It would be located against the backdrop of the surrounding fields and amongst trees, thus it would not be seen as a prominent building. It is not unusual to see such buildings/stables within countryside locations, for example those at Byde Farm which are located at a similar elevation. Given the context of the existing developments, the appeal scheme would not unacceptably intrude into the landscape setting nor would it diminish the scenic beauty and verdant appearance of the surroundings.
16. No external lighting is proposed. Whilst light spill from within the building would be possible, I am mindful that lights would not be permanently on. I am not persuaded that any light spillage associated with the building would be such that it would diminish the character and appearance of the area.
17. I therefore conclude that the development would not result in harm to the character and appearance of the area including the setting of the CA. Consequently, it would accord with Core Policies 51, 57 and 58 of the Wiltshire Core Strategy (the WCS). Together these policies, amongst other things, require development to protect, conserve and where possible enhance landscape character and the historic environment, and have a high standard of design.

2020 permission

18. A signed and dated planning agreement has been submitted. The Council has been provided with an opportunity to comment on the content of the UU. As stated above, the UU would ensure that in the event the appeal scheme is

commenced the stables granted by 2020 permission would not be, ensuring that only one scheme could be constructed.

19. Whilst I have found the appeal scheme would have an acceptable impact on the character and appearance of the area including the setting of the CA, there is no dispute between the main parties that there would be harm if both the appeal scheme and the extant scheme were built. From all that I have seen and read I have no basis to disagree.
20. I am therefore satisfied that the covenants within the UU are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. The UU, therefore, complies with the requirements of Regulation 22 of the Community Infrastructure Levy Regulations 2010 and the Framework. These are matters which I afford full weight.
21. Consequently, the UU allows me to conclude that the appeal scheme would have an acceptable effect on the character and appearance of the area, including the setting of heritage assets and with regard to highway safety. Therefore, the proposal would not conflict with Policies 51, 57, 58, 60 and 64 of the WCS. These policies together, amongst other things, seek to protect, conserve and where possible enhance landscape character and the historic environment, and encourage sustainable, safe and efficient travel.

Other Matters

22. The Council refer to Grade II listed buildings within Stert's CA, including St James Church. Due to the separation distance and limited intervisibility, as described above, there is no cogent basis to consider the proposal would harm the setting and significance of listed buildings. The Council has not refused the application due to its effect on the setting of listed buildings, and I have found no basis to disagree.
23. The site lies approximately 0.6 kilometres southwest of the North Wessex Downs Area of Outstanding Natural Beauty (AONB), which encompasses a higher elevated area. Due to the scale of the appeal scheme, its distance from the AONB, the nature of the local topography and the intervening vegetation, the proposed development would not harm the landscape and scenic beauty of the AONB.
24. I note that local residents and the Parish Council have raised additional concerns about the proposal including increased traffic, biodiversity, manure storage, surface water drainage and incremental development.
25. In terms of highway safety, whilst the local access road is relatively narrow and a bridleway passes the entrance to the site, the stables are proposed for private use. The Highways Officer has examined the details and has concluded that subject to appropriate conditions in any approval, no objection is raised. I place substantial weight on this advice. The application was not refused for highway reasons, and I have found no reason to disagree with the Council on this matter.
26. The site is outside the Priority Woodland habitat. The application was not refused for reasons of its likely effect on the Priority Woodland. Further, and although the potential for amphibians and reptiles at the site has been identified, the Ecology Officer has advised that the siting of the stables would

be unlikely to have a significant effect on biodiversity due to the condition and regular use of the site. The existing trees would be retained, and the appellants have suggested further planting of native trees and shrubs to support biodiversity. These measures could be secured by condition. On the basis of the evidence before me, I conclude that issues in respect of wildlife and biodiversity can be addressed through appropriate conditions.

27. Manure would be stored on a trailer and used as fertiliser on surrounding fields. Surface water would be managed via soakaway. I have no compelling evidence to consider that there would be a greater risk of flooding or harm to the water environment as a result of the proposed development. I have considered the appeal scheme on its merits and for the reasons outlined above, I have found that it would cause an acceptable impact. I note the concerns regarding potential future development. As no such works are shown on the proposed plans, I cannot consider them in this appeal and a further planning application may therefore be required. As such, this does not provide justification to refuse planning permission.
28. The appeal scheme would be some distance from residential properties within Stert. Therefore, whilst the building may be visible from some properties it would not be harmful to the outlook of the occupiers of those dwellings. I have little basis to consider that the appellants would not comply with conditions imposed on any planning permission. In any event, this would be a matter for the Local Planning Authority. I am satisfied the details of the appeal scheme as shown on the plans and details in the written evidence allow a reasonable assessment of the development sought.
29. The appeal site is located between two known medieval settlement sites, located at Byde Farm and Fullaway Farm. As such, there is potential for unrecorded archaeological subsurface features to exist at the site. Wiltshire Council Archaeology Service has advised that monitoring of the ground works should be secured via a condition. I place substantial weight on this advice, and I conclude that issues in respect of archaeological deposits can be addressed through an appropriate condition.

Conditions

30. The Council has not suggested conditions within this appeal. A list of conditions has been sent to both parties. I have limited the use of pre-commencement clauses to where it is essential for the condition to achieve its purpose. I sought the written agreement of the appellants to the pre-commencement conditions.
31. The statutory time limit is required and a condition specifying the approved plans is necessary in the interests of certainty. Imposing a condition to not allow commercial usage is reasonable and necessary given the location of the development and to limit the volume of traffic attracted to the site in the interest of the safety of highway users.
32. Conditions to restrict external lighting and to secure a landscaping scheme are required in the interests of biodiversity. In order to minimise disruption to wildlife and to safeguard highway safety, including the bridleway, a condition requiring a Construction Management Statement to be submitted and approved is reasonable and necessary. Given the integral nature of the Statement to the

construction of the development it is necessary to secure the details prior to commencement.

33. A pre-commencement condition requiring the approval and implementation of an archaeological investigation scheme would be manifestly necessary to protect any archaeological remains within the site. A cross section drawing has been submitted. Together with what I observed during my site visit, I am satisfied that a condition requiring further details of ground levels is not necessary or reasonable.

Conclusion

34. For the reasons given above and taking into account the development plan as a whole and all other material considerations identified, I conclude that the appeal should succeed.

J White

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin no 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: Nos 02760-00-E (location plan) sheet 01, 02760-05-B (plan and elevations) sheet 01, 02760-00-F (site section) sheet 06, and 02760-00-E (block plan) sheet 02.
- 3) The use of the stables hereby approved shall be restricted to the private equestrian use of the application site owner and shall not be used for any commercial purposes, including livery stables, riding school or any other business or commercial use.
- 4) Prior to the installation of the stables a landscape plan shall be submitted to and approved in writing by the Local Planning Authority, the details of which shall include:
 - Location and current canopy spread of all existing trees and hedgerows within the application site;
 - Details of any habitat to be retained, together with measures for their protection in the course of development;
 - A detailed planting specification showing all proposed habitat to be left unmanaged, and any planting of scrub, trees and hedgerow, the plant species, supply and planting sizes and planting densities; and,
 - Means of enclosure.

The approved landscaping scheme shall be fully implemented in accordance with the approved details within the first planting season following the first use of any part of the development. The approved landscaping scheme shall be maintained in accordance with the approved scheme thereafter. Any trees or plants which, within a period of 5 years from the date of planting, die, are

removed or become seriously damaged or diseased shall be replaced no later than the next planting season with others of similar size and species.

- 5) No external lighting shall be installed at the site unless otherwise agreed in writing by the Local Planning Authority.
- 6) No development shall commence on site, until a Construction Management Statement has been submitted to and approved in writing by the Local Planning Authority. The details shall include the following:
- wheel washing facilities;
 - a scheme for recycling/disposing of waste resulting from construction works;
 - measures for the protection of the natural environment;
 - hours of construction; and,
 - a pre-development condition survey of the site.

The so-approved Statement shall be adhered to throughout the construction period. The development shall not be carried out otherwise than in accordance with the approved Construction Method Statement without the prior written permission of the Local Planning Authority.

- 7) No development shall take place on the site until a Written Scheme of Investigation shall have been submitted to and approved in writing by the Local Planning Authority. The scheme shall include an assessment of significance and research questions, and:
- i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

*****End of Schedule*****