



Appeal Decision

Hearing held on 10 April 2024

Site visit made on 10 April 2024

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2024

Appeal Ref: APP/B9506/W/23/3328603

Wootton Heath Farm, Wilverley Road, Wootton, Hampshire BH25 5TX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr and Mrs Adams against New Forest National Park Authority.
 - The application Ref is 23/00431FULL, dated 20 March 2023.
 - The development proposed is refurbishment and change of use of the buildings and associated land to a horse stud (to include the demolition and replacement of one barn and two small store buildings to provide stables, a feed store and storage space). Siting of a mobile home for a temporary period of 3 years to provide accommodation for a member of staff to monitor equine security, health and welfare.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The appeal follows the failure of the Authority to determine the application (23/00431FULL) within the prescribed period. However, the Authority has indicated in its statement, that had it been in a position to determine the application, it would have refused planning permission. The substance of the statement has informed the main issues of the appeal.
3. The appellant submitted a Bat Survey Report produced by Cherry Tree Ecology Ltd (dated 30 August 2023) during the appeal. Whilst this was not submitted with the planning application, as part of the appeal process the Authority and interested parties have had the opportunity to comment on its contents. As such, I do not consider that my taking it into account would prejudice any party.
4. At the hearing, the Authority submitted a response from its ecologist as late evidence. Nevertheless, as this was not a lengthy document, the appellant had the opportunity to consider it during the hearing. An opportunity was also given to interested parties to consider the document during the hearing. Therefore, my acceptance of it would not prejudice any parties.
5. The existing buildings, though originally constructed as farm buildings, currently have an established use for commercial purposes. The main parties submitted a signed Statement of Common Ground (SofCG). The SofCG confirms that the parties are in agreement that the use of the site's buildings and land as a stud farm would be acceptable in principle, given the site's

current lawful use. Based on the evidence before me, I see no reason to disagree with this position.

6. Since the application was determined, a revised National Planning Policy Framework (Framework) was published in December 2023. However, as any policies that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party. I have had regard to the latest version of the Framework and new paragraph numbers in reaching my decision.

Main Issues

7. The main issues in the appeal are:
 - the potential effects on the ecological integrity of the protected European sites, including with regard to nutrient neutrality;
 - whether the provision of staff accommodation on the appeal site through the placement of a mobile home for a temporary period is acceptable;
 - the effect of the proposed development on protected species.

Reasons

8. The appeal site comprises a complex of former agricultural buildings of varying scales and design. The site sits within a rural location and much of the surrounding land is in use as paddocks. It is screened from the main access to Wootton Heath by a belt of trees. The nearby locality of the site includes interspersed residential properties adjoining agricultural land.

Habitat Regulations Assessment and Nutrient Neutrality

9. The proposed development would be in proximity to a number of sensitive sites, including New Forest Special Protection Area (SPA), Special Area of Conservation (SAC), and Solent and Southampton Water SPA and Ramsar. These are protected European and Ramsar sites subject to the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the protected sites. I am the competent authority for the purposes of this appeal.
10. The SPA and SAC have been designated for their nature value. The qualifying features underpinning the SPA designation are the number of very rare birds, including some of which nest on or near the ground during the spring and summer, and the habitats of the SPA which provide suitable feeding for the birds. The qualifying features underpinning the SAC designation are the presence of European dry heaths, northern Atlantic wet heaths, oligotrophic waterbodies, and Molina meadows and the rare species these habitats support.
11. There are also areas in the New Forest designated as Ramsar sites (wetlands of international importance), which are treated as having the same level of protection as the SPA and SAC sites.
12. The appeal site lies within the zone of influence for the SPA and SAC. The proposal therefore has the potential to impact on the integrity of the SPA and SAC through recreational disturbance. This is because the proposed development would increase the population of the local area and in the absence

of suitable alternative recreational space, people are likely to visit the SPA and SAC. This increased recreational pressure may lead to disturbance of protected species and habitats, and therefore have potential effects on the features of the SPA and SAC.

13. I acknowledge that the SPA includes the presence of nesting bird species that must be protected from disturbance by recreational activities associated with new development, such as additional footfall, dog walking, cycling and jogging. Although the development of one temporary mobile home is unlikely to have a significant effect on the SPA, when considered in combination with other development in the locality there would be a cumulative impact.
14. In addition, given the nature and scale of the proposed development, the impacts to the SAC would be limited, but nevertheless the proposal would have a harmful impact on the integrity of the SPA and SAC.
15. The Authority has already developed a mitigation strategy to address the effects of development throughout the area. Moreover, Natural England has advised the Authority that an appropriate tariff per dwelling should be collected to fund strategic measures across the SPA. I have consulted with Natural England who have not raised any objections to the proposal in this regard.
16. The appellant has submitted a completed unilateral undertaking, dated 30 April 2024, under S.106 which secures financial contributions towards the New Forest Special Protection Area mitigation contribution. The Framework states that planning obligations must only be sought where they 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.
17. The Authority is satisfied that the unilateral undertaking addresses its concerns over the impact of the proposed development on the SPA and the SAC. Natural England has also confirmed that they are satisfied that the proposed financial contribution to mitigate the effect on the SPA and the SAC would be sufficient to avoid an adverse impact to the integrity of the European Site and relevant features. I have no reason to reach a different conclusion.
18. Consequently, I am satisfied that the planning obligation secured would enable the delivery of mitigation sufficient to address the level of harm from recreational disturbance likely to be created by the development and would be pursuant to the New Forest National Park Authority adopted strategy. I therefore find that, subject to the proposed mitigation, the proposal would not result in an adverse effect on the integrity of the SPA or the SAC either alone or in combination with other projects, in respect to recreational disturbance.
19. However, on the basis of advice from Natural England, all new residential development in the Solent catchment area needs to demonstrate nutrient neutrality. This is because excessive levels of nutrients (especially nitrogen and phosphorus) can speed up the growth of certain plants through the process of eutrophication, which can displace species that are either important in their own right or which act as sources of food and shelter for others. I must therefore have regard to any measures that could be delivered which would avoid or mitigate the adverse effects.

20. The appellant has suggested that a Grampian condition could be imposed to require an avoidance and mitigation package to achieve nutrient neutrality. I have considered whether such a condition could be attached to the decision, if the appeal were allowed, to ensure that within a specific timeframe a site-specific scheme or a planning obligation is entered into to ensure there is mitigation on site, or via some form of off-site credit to offset the pollutants being discharged. However, as the appellant has not provided any detail on the levels of nutrients from the development and has not submitted a nutrient calculation for the proposed development, I am unable to determine the mitigation that would be necessary to achieve nutrient neutrality. Furthermore, there is insufficient assurance that measures can be secured to achieve nutrient neutrality within an appropriate time period, nor whether sufficient off-site credits would be available. As such, I do not have enough information to understand what mitigation would be necessary to offset the harm or what appropriate time frame would be needed to comply with the condition.
21. I acknowledge that there are two mitigation schemes on the Isle of Wight that the Authority has legal agreements with (Kings Manor and Heaton Farms). Nevertheless, Natural England has confirmed that Grampian conditions should only be used where there is reasonable expectation that they can be suitably satisfied, with the required level of certainty under the Habitats Regulations. Moreover, they advise that, if implemented, an additional Appropriate Assessment would need to be completed at the stage of release of the Grampian condition, and Natural England would need to be consulted on this.
22. Therefore, based on the evidence before me, I, as the competent authority, am unable to rule out the possibility that the proposed development, either alone or in combination with other development, would have an adverse effect on the integrity of the protected sites. Consequently, having regard to the Habitats Regulations, permission must not be granted.
23. As such, the proposed development would fail to comply with the Habitats Regulations. It would also fail to accord with Policy SP6 of the New Forest National Park Local Plan (2016 – 2036) (August 2019) (Local Plan). This policy seeks to ensure that development does not have an adverse effect on protected sites. In addition, the proposal would fail to accord with the principles of the Framework that seek to protect wildlife and habitats.

Essential Need

24. It is common ground between the appellant and the Authority that the site falls outside of a settlement boundary or village boundary as defined in Policy SP4 of the Local Plan. As such, the site is regarded as being in the countryside for the purposes of planning policy.
25. Policy SP19 of the Local Plan states that new residential development will be permitted within the National Park to maintain the vitality of local communities and support local services where the proposal involves a number of criteria, including "e) housing for New Forest Commoners (Policy SP29); Estate Workers (Policy SP30) and tied agricultural dwellings (Policy DP31)."
26. Policy DP31 of the Local Plan states that "permission will be granted for an agricultural or forestry worker's dwelling provided a) the nature of the work concerned makes it essential for one or more people engaged in the enterprise to live at, or very close to, their place of work; b) the functional need could not

be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned." It also states that "where evidence of the financial soundness and future sustainability of the holding/enterprise appears inconclusive, consideration may be given to permitting a caravan or other temporary accommodation for a limited period in order to provide time for the viability of the enterprise to be proven."

27. The purpose of the policy is to ensure that only dwellings specifically permitted to meet the needs of the rural economy are permitted. The Authority explained at the hearing that the continuation of agriculture and forestry in the New Forest is an important contributor to both its cultural heritage and landscape. Paragraph 182 of the Framework states that great weight should be given to the conservation and enhancement of cultural heritage, and landscape and scenic beauty in the National Parks.
28. The proposal seeks permission for a temporary mobile home. This is shown on the submitted site layout plan as a static caravan. Although Policy DP31 makes provision for agricultural and forestry worker's dwellings, it does not explicitly restrict other forms of rural worker dwellings in the countryside. Furthermore, there is no evidence before me which indicates that there is a greater need specifically for agricultural and forestry workers in the National Park, as opposed to other types of rural workers. Indeed, no evidence has been put forward by the Authority that the proposed development contravenes this policy.
29. During the hearing the Authority stated that Policy DP31 does not include a test on isolation. However, the appellant suggests that the proposal would satisfy the criteria set out in paragraph 84 of the Framework. This advises that "planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply, including a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside, and c) the development would re-use redundant or disused buildings and enhance its immediate setting."
30. The proposal would reuse redundant buildings in accordance with paragraph 84 of the Framework. Although the appeal site is near to the built form of other existing buildings, due to the intervening vegetation and the surrounding landscape, the site is not visually read in conjunction with the existing built form. The proposed mobile home itself would also be sited close to the existing buildings on site. It would therefore be hard to see from any public vantage which would result in a sense of visual isolation. In addition, at the hearing and during my site visit, it was apparent that the site is poorly placed in relation to services and facilities, with the nearest settlement being around 3km away. Consequently, I find paragraph 84 of the Framework is applicable.
31. My attention has been drawn to a previous appeal case¹. Whilst I have arrived at a different conclusion regarding the applicability of the Framework's advice relating to isolated homes in the countryside, the Inspector for the previous appeal case was referring to a proposal in a different location. This limits the equivalence of the other case to the current proposal. Moreover, the current

¹ Appeal Ref: APP/B9506/W/18/3199995

appeal proposal has its own circumstances, and I shall determine it on its own merits.

32. The Framework does not define a 'rural worker' and neither Policy DP31 nor the Framework provide further guidance on how 'essential need' should be judged. Nevertheless, the Planning Practice Guidance (PPG) sets out considerations that are relevant to take into account when applying the provisions of paragraph 84 of the Framework. These include evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural, forestry or similar land-based rural enterprise; the degree to which there is confidence that the enterprise will remain viable for the foreseeable future; and, in the case of new enterprises, whether it is appropriate to consider granting permission for a temporary dwelling for a trial period. I consider the PPG to provide useful guidance in this case, and I have taken it into account.
33. At the hearing the parties agreed that an equestrian worker would fall within the scope of a rural worker, to which I agree. It was also apparent that the proposed stud farm would require a rural location in which to operate. This is mainly because it would require space and suitable land to graze and exercise horses, which would be difficult to achieve in an urban location. However, the proposal would be different in nature to a normal horse paddock and stable set up, as the stud farm would involve the management and breeding of horses as livestock. Moreover, the stud farm itself would represent a rural enterprise that would undertake land-based activities linked to horse breeding.
34. The appellant explained that the temporary mobile home would be needed for the proposed stud enterprise. They consider it is essential that a staff member lives on site as the horses would require 24-hour supervision, due to the type of horses kept, for example to attend to a horse during foaling, and to inspect regularly for signs of illness, distress, or injury, and to deal with unforeseen emergencies. Often a vet will need to be called at short notice to assist where a horse is sick or foaling. I was also made aware of the value of such horses and the need for on-site security for the animals from theft or malicious attack. Thus, the appellant indicated that the proposed stud farm would not be possible unless the welfare and security of the horses can be assured with an on-site 24-hour staff presence. This was not disputed by the Authority. From the evidence before me, what I heard at the hearing and saw during my site visit, I have no reason to disagree with this position.
35. The Authority states that the management or use of land for commercial equine purposes does not make the same contribution to the stewardship of the National Park's landscape as agricultural or forestry uses. However, at the hearing it was accepted by the main parties that although a stud farm for racehorses would be an unusual type of use within the New Forest, the keeping of horses would not be harmful to the character and cultural heritage of the area, to which I agree. Furthermore, the stud farm would be distinct from other commercial businesses, as it would be a rural activity requiring 24-hour supervision for the breeding and keeping of horses.
36. At the hearing, the appellant explained that the proposed temporary dwelling would need to be located in very close proximity to the appeal site to enable 24-hour supervision of the horses and a quick response during emergencies. The nearby existing dwellings are large, valuable dwellings that are not suitable

nor available. I also accept that the dwellings in the surrounding area are likely to be beyond the means of a typical rural worker's salary. A situation where the essential staff member working on the site must commute into the area every day does not reflect the objective of national policy.

37. Accordingly, I am satisfied that there is an essential need for a rural worker to reside on site to provide out of hours care for the horses, to deal with any emergencies with the horses, as well as to provide security. I therefore find that the proposed use generates a need for a temporary mobile home to provide an essential on-site staff presence linked to horse breeding, whilst the use becomes established.
38. Nevertheless, as the mobile home would be located in the countryside where a dwelling would not normally have been permitted, an occupancy condition would be necessary. Such a condition could allow the flexibility for the mobile home to be occupied by either a person connected with the stud enterprise or by a person connected with agriculture or forestry.
39. For the reasons given, the proposal would comply with Policy DP31 of the Local Plan, which allows a temporary mobile home in countryside locations provided there is an essential need. It also complies with Paragraph 84 of the Framework, which allows dwellings in isolated locations provided there is an essential need for a rural worker. In coming to this conclusion, I have had regard to the statutory purposes of the National Park, including to conserve and enhance the natural beauty and cultural heritage of the New Forest.
40. In addition, the proposal would also accord with Policy SP42 of the Local Plan, which amongst other things, seeks to ensure small scale employment developments that help the well-being of local communities will be permitted through the re-use or extension of existing buildings, the redevelopment of existing business use employment sites and farm diversification schemes. Paragraph 88 of the Framework also supports the sustainable growth and expansion of all types of business in rural areas, through the development of well designed, beautiful buildings, and decisions should enable the development and diversification of agricultural and other land-based rural businesses.

Protected Species

41. A Preliminary Roost Appraisal and Hibernation Survey, produced by Cherry Tree Ecology Ltd (dated 26 February 2023) was submitted with the planning application. This recommended that a more detailed 'phase 2' bat survey should be undertaken between May and August. The appellant provided a Bat Survey Report (dated 30 August 2023), in support of the proposed development. The survey stated that Building 4 has been assessed as a confirmed roost due to the presence of bat droppings within the building. Cladding roost locations were also confirmed on Building 2. With regard to the impact of the development proposed, it accordingly sets out a range of mitigation measures. There is no evidence before me to suggest that these measures would not be effective and accordingly the proposal would otherwise maintain the bat population at a favourable conservation status.
42. However, the survey reports remain focused on statutory protection of bat species and resting birds in connection with the buildings and do not address any wider ecological issues. Neither ecology report acknowledges the potential

for wider biodiversity impacts, such as the nearby pond which might host amphibian species. In the absence of evidence, it is not possible to conclude whether the appeal scheme would avoid or adequately mitigate unacceptable harm to the wider biodiversity.

43. Both parties indicated at the Hearing that they are content to make use of a condition to cover provision of a further survey, and specification of mitigation measures specific to the appeal scheme. This was indeed suggested by the Authorities ecologist during assessment of the planning application. Therefore, although some elements remain unresolved, these can be addressed by means of planning conditions. I have no substantive basis to consider differently.
44. Accordingly, I conclude that adverse effects on any protected species can be mitigated against by way of appropriate conditions and therefore the proposal would be acceptable in this regard. As such, the proposed development would accord with Policies DP2 and SP6 of the Local Plan, which seeks amongst other things, to ensure that developments respect biodiversity, and protects, maintains and enhances habitats and species of biodiversity importance. It would also comply with paragraph 180 of the Framework which seeks to contribute to and enhance the natural and local environment.

Other Matters

45. I have noted concerns raised by interested parties. There would be views of the development from neighbouring properties, including from 'The Gate House', but given the scale of the buildings and the separation that would be provided, the relationship would not lead to unacceptable loss of outlook or privacy for neighbouring occupiers. In particular, the proposed roof lights on building 4 would be sloped and upward facing and the intervening vegetation on the site's boundary would be retained. Accordingly, the proposed rooflights would not be harmful to the living conditions of neighbouring occupiers. I also consider that the separation would be sufficient to avoid unacceptable noise disturbance from use of the buildings themselves. Lighting on the site could be controlled by a planning condition to avoid unacceptable harm to neighbouring occupiers.
46. Concern was raised as to whether the proposed mobile home would be of a size which would be appropriate to the essential need or whether it would be unnecessarily large. However, the site layout plan indicates that it would be a static caravan. Therefore, it would be of an appropriate size without being larger than necessary.
47. I note letters of support from neighbouring residents. However, these are neutral matters and do not weigh in favour of the scheme.

Planning Balance and Conclusion

48. In view of the above, to allow the temporary mobile home on the appeal site would run contrary to the Habitats Regulations, and Policy SP6 of the Local Plan, which opposes development that would have an adverse effect on the integrity of protected sites.
49. I have set out above that an essential need has been demonstrated. However, it does not automatically follow that a temporary dwelling should be permitted. I have also found no harm in respect to protected species for the third main issue. However, this is a neutral effect.

50. The socio-economic benefits associated with the proposal would be limited, even taking account of the direct and indirect employment benefits and the associated economic benefits to other rural businesses in the local area. There would be a new dwelling but this would be linked to the business and not available to a wider market.

51. Therefore, in conclusion, whilst acceptable in some regards, the proposal conflicts with the development plan as a whole and there are no material considerations, including the Framework, which outweigh that conflict. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal is dismissed and planning permission is refused.

H Smith

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mark Adams	Appellant
Matthew Holmes	Director, Spruce Town Planning Ltd
Peter Williams	Reading Agricultural Consultants

FOR THE LOCAL PLANNING AUTHORITY:

Carly Cochrane	New Forest National Park Authority
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INTERESTED PERSONS:

Mr J. Wilson
Mrs S. Wilson