



Appeal Decision

Site visit made on 13 August 2024

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 August 2024

Appeal Ref: APP/F1610/W/24/3340600

Hill Barn, Lower Swell, Gloucestershire GL54 2JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Fir Farm Ltd against the decision of Cotswold District Council.
 - The application Ref is 23/01058/FUL.
 - The application sought planning permission for the change of use and extension of 2no. agricultural barns to conference hall and function suite without complying with conditions attached to planning permission Ref 18/03618/FUL, dated 13 February 2020.
 - The conditions in dispute are Nos 1, 7, 9, 12 and 20 which state that:
 1. *The development hereby approved shall be carried out in accordance with the following drawing number(s): P19_1572_01 Site location plan; P19_1572_02 Proposed site plan; 0904 - OT 01 Oil Tank; 0904/E 01c Stone Barn; Stone barn ground floor plan; 0904/E 02B Dutch Barn elevations; D1A Ground floor plan; and 1532.05 REV B Landscape proposals.*
 7. *There shall be no regulated entertainment involving amplified music (live or recorded) after midnight (00:00 hrs) on any day.*
 9. *No amplified music to be played in the Dutch barn outside the hours of 08:00 and 00:00 hours. During this time internal noise levels must not exceed 85 dB LAeq,5min and external doors (other than for access) must be kept closed. No amplified music to be played in the stone barn at any time.*
 12. *The functions hereby permitted within the Dutch barn shall not operate for more than 15 events per calendar year, to include a maximum of five evening events. The total number of days that events that can take place within the Dutch barn must not exceed 20 per calendar year. For the avoidance of doubt: "Day time" events shall not be held outside the hours of 08:00 hours and 19:00 hours; and "Evening" events shall cease by 00.30 hours the day after the event.*
 20. *A single marquee measuring no greater than 12m x 6m may be erected within the application site red line for a maximum of 5 consecutive days per annum. The Local Planning Authority shall be notified of the erection of a marquee at least 28 days before its erection. No marquees shall be erected at any other time.*
 - The reasons given for the conditions are:
 1. *For purposes of clarity and for the avoidance of doubt, in accordance with the National Planning Policy Framework.*
 7. *To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with Cotswold District Council Local Plan Policy EN15.*
 9. *To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with Cotswold District Council Local Plan Policy EN15.*
 12. *To protect the amenity of the locality, especially for people living and/or working nearby, in accordance with Cotswold District Council Local Plan Policy EN15.*
 20. *In order to maintain control over the rural character of the site, which is within an AONB, in accordance with Cotswold Local Plan Policies EN2, EN4 and EN5 and the provisions of the NPPF.*
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Decision

1. The appeal is allowed and planning permission is granted for change of use and extension of 2no. agricultural barns to conference hall and function suite at Hill Barn, Lower Swell, Gloucestershire GL54 2JR in accordance with the application Ref 23/01058/FUL, is varied by deleting conditions 1,2,3,4,5,6,7,8,9,10,11,12, 13,14,15,16,17,18,19,20,21,22 and 23 previously imposed on planning permission Ref 15/03618/FUL dated 13 February 2020 and substituting them with the conditions in the attached schedule.

Preliminary Matters

2. Since the Council determined the application a new version of the National Planning Policy Framework (the Framework)¹ came into effect. During the appeal, the main parties have had the opportunity to provide further comments on the revised Framework and, where received, I have taken them into account in my decision. I am satisfied no party would be prejudiced by determining the appeal accordingly.
3. In November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England, including the Cotswolds AONB, became known as National Landscapes. Their statutory status remains unchanged.

Background and Main Issues

4. Planning permission² was granted in 2020 (the original permission) for the change of use and extension of agricultural barns to a conference hall and function suite comprising the Dutch Barn and the Stone Barn at Fir Farm (the venue). The application form subject to this appeal (the varied application) confirms that the approved development has been completed and I observed this to be the case during my site visit.
5. The appellant now wishes to vary the conditions imposed on the original permission relating to the number and length of the events held on the site, including when amplified music can be played and the size and number of days a marquee would be erected. Additionally, amendments are sought to the size of and the materials used in the doors located on the rear elevation of the Dutch Barn.
6. The main issues are, therefore, the effect that varying conditions would have on:
 - the living conditions of occupiers of nearby dwellings, with specific regard to noise; and
 - the character and appearance of the area, with particular reference to the Cotswold National Landscape (the CNL).

¹ December 2023

² Council ref: 18/03618/FUL

Reasons

Living conditions

7. The proposals would result in an increase in the number of events permissible within the Dutch Barn each year and an extension to the operational finishing time for evening events. These changes would lead to an increase in the number of days and the length of time amplified music may be played in the Dutch Barn. No variation is sought, however, to the maximum internal noise levels or the requirement for external doors (other than for access) to be kept closed. There is no restriction on the number of events held within the Stone Barn, although its size restricts its occupancy and therefore the scale of function which could be held there.
8. A noise survey was undertaken in 2022³ when amplified music was being played during an evening event at the venue. The Noise Report⁴ submitted with the varied application concluded that music was inaudible at the nearest sensitive receptors (NSRs) to the site, with the exception of Hollow Barn, where intermittent faint bass frequencies could be heard. At this location, background noise at Hollow Barn measured 31dB LAeq, which is lower than the maximum levels recommended by the World Health Organisation (WHO) outside bedrooms with an open window at night.
9. However, the level of amplified music played in Dutch Barn at the time the survey was undertaken has not been provided. Therefore, I am unable to conclude with certainty that when music in the Dutch Barn reaches 85dB LAeq (the maximum level permitted) and doors are being opened and closed for access, the noise level indicated above would be measured at Hollow Barn.
10. My attention has been drawn to on-site testing⁵ undertaken by the appellant, alongside residents of properties in the surrounding area. Whilst recognised by Swell Parish Council (SPC) as demonstrating there should be no cause for concern or disturbance to local residents, no substantive information is before me regarding this sound test. In the absence of the methodology, timing, location and noise measurements recorded, the results of the sound test have not been authenticated. Under the circumstances, the sound test does not alter my conclusions above.
11. Concerns have also been raised regarding the impact the variations would have in terms of noise from traffic on surrounding roads. However, no changes are sought to the size of the car park/number of spaces available and the capacity of the barns. Additionally, no request to vary the condition restricting the use of the overflow parking area has been made. Consequently, there is little substantive evidence before me to conclude that the total number of vehicular movements would increase should I be minded to vary the operational hours of the venue.
12. Nevertheless, the proposed changes would mean that guests are able to leave the venue at a later time. Taking the scenario of a wedding comprising 150 guests and with no private coach hire, the Highways Appeal Statement⁶ sets out a comparison of the predicted vehicle movements from events finishing at

³ Saturday 16 July 2022, undertaken by Cass Allen Associates Ltd

⁴ Ref: LR02-19187-R1, letter from Cass Allen, dated 3 April 2023

⁵ Thursday 11 May 2023

⁶ Prepared by Cole Easdon

00:30 (currently permitted) against a 02:00 finish (as proposed). This demonstrates that the vehicle trips from the venue would be likely to be spread out across the latter part of the evening given not all guests would stay until the end of the event. I see no reason to dispute this assertion nor the vehicle occupancy rates used to inform the predictions.

13. Despite this, it is unclear from the evidence before me whether the results of the survey counts undertaken in January 2024 included traffic movements from an event held at the venue, thereby representing the consented baseline or if they comprise the pre-development baseline. In addition, the appropriateness of the dates selected for the survey with respect to typical vehicle movements throughout the year has not been demonstrated. Further, no vehicle movement data has been provided relating to when the background noise levels at the NSRs were recorded in July 2023. As such, whilst the background noise recorded at the NSRs falls below WHO-recommended levels, I am unable to conclude with certainty that vehicle movements at that time are comparable to the traffic counts taken in January 2024. On this basis, it has not been sufficiently demonstrated that extending the time and number of evening events in the Dutch Barn would not unacceptably disturb nearby residents when sleeping or using their gardens during summer evenings.
14. I recognise that, given the countryside location of the site, there would be noise from agricultural vehicles in the fields and travelling along the roads. However, this does not justify permitting development without the certainty that it would not lead to unacceptable disturbance to nearby residents.
15. Based on the evidence before me, the intent of the disputed conditions relating to the operational hours, playing of music and the number of events held in the Dutch Barn is necessary in the interests of the living conditions of occupiers of nearby dwellings, with specific regard to noise. However, to ensure the conditions are kept to a minimum, enforceable, precise and reasonable in all other respects, as required by the Framework, I have undertaken some editing, rationalisation and reordering.
16. To protect the living conditions of nearby residents, and in accordance with Policy EN15 of the Local Plan⁷, **Condition 5** (previously condition 12) sets out the hours, number of days the Dutch Barn can operate and the total number of events permissible per calendar year. This condition also confirms the meaning of a daytime and evening event and restricts the number of days events can be held each year in the Dutch Barn.
17. **Condition 6** covers when and where amplified music (live or recorded) can be played on the site, and the level it must not exceed, again to protect the living conditions of nearby residents, and in accordance with Policy EN15 of the Local Plan (previously conditions 7, 8 and 9). Condition 6 also includes the requirement to keep the doors and windows of the Dutch Barn closed when amplified music is played (formerly condition 10).
18. Whilst suggested by SPC, it is not necessary for a Transport Management Plan to be prepared for each event given the noise and parking management plans required by other conditions.

⁷ Cotswold District Local Plan 2011-2021 (the Local Plan)

19. Consequently, subject to the aforementioned conditions the development would not harm the living conditions of nearby occupiers, with specific regard to noise. As it would not result in an unacceptable risk to the living conditions of nearby residents in terms of noise, it complies with the relevant provisions set out in Policy EN15 of the Local Plan and the Framework's objective of ensuring healthy living conditions for all.

Character and appearance

20. As the appeal site is located in the CNL, in considering the appeal scheme I have had regard to Chapter 15 of the Framework which requires that great weight should be given to conserving and enhancing the landscape and scenic beauty of the area. Further, as a National Landscape, the CNL has the highest status of protection concerning these issues, reflecting its statutory purpose. Policy EN5 of the Local Plan is consistent with this approach.
21. As one of the special qualities of the CNL is its tranquil character, a large number of interested parties have raised concerns that an increase in the frequency and length of events would result in increased music and traffic noise, to the detriment of the CNL. As set out above, it has not been substantiated that the variations sought would lead to acceptable noise levels for nearby residents. Consequently, it follows that the effect of the varied operational hours on the tranquillity of the CNL has not been determined. In the absence of such verification, the existing operational restrictions on the use of the venue are reasonable and necessary to avoid harm to the CNL.
22. The original permission limited the number of days a marquee could be erected on the site to a maximum of 5 consecutive days per annum. The proposals seek to marginally vary the size of the marquee, the number of occasions and the length of time it would be erected. The appellant indicates that the marquee will be used for catering purposes.
23. Positioned adjacent to the rear elevation of the Dutch Barn, the marquee would be discretely sited and, given its scale, would not detract from the character and appearance of the barn or its surroundings. Therefore, I see no reason to conclude that varying the occasions and length of time the marquee is in place to align with the number of events permissible would cause harm to the character and appearance of the area. Rather, it would enable the marquee to be dismantled safely during daylight hours.
24. The proposals also comprise alterations to the width of the doorway and the materials used on the door in the rear elevation of the Dutch Barn. As these minor alterations complement the design and appearance of the barn, they do not harm the character and appearance of the area, including the CNL. Varying the plan's condition to incorporate the revised plans is, therefore, necessary and reasonable.
25. I conclude that the variations sought with respect to the marquee and the door on the rear elevation of the Dutch Barn would not harm the character and appearance of the area, with particular regard to the CNL, in accordance with the design quality requirements set out in Policy EN2 of the Local Plan.
26. In the interests of precision and for the avoidance of doubt, it is necessary for the list of approved plans (**Condition 1**) to include the revised plans showing the new Dutch Barn door and the location of the marquee.

27. Restrictions relating to the size of the marquee and the number of days it can be erected are necessary to protect the character of the area, including the CNL, in accordance with policies EN2, EN4 and EN5 of the Local Plan and Chapter 15 of the Framework. These are incorporated into **Condition 12** (formerly condition 20). Whilst suggested by SPC, it is not reasonable or necessary to restrict the use of the marquee, as this would not alter its appearance.
28. However, it has not been sufficiently demonstrated that the increased use of the venue would not unacceptably harm the character and appearance of the area, with particular regard to the tranquillity of the CNL. Therefore, subject to the conditions set out above, the development would not conflict with policies EN4, EN5 and EN15 of the Local Plan which, amongst other things, seek to protect the natural landscape, including the tranquillity of the countryside. This is consistent with the Framework's objective of conserving and enhancing the landscape and scenic beauty of the area.

Other Matters

29. Increasing the number of events permissible within the Dutch Barn and extending the hours for evening events would be beneficial to the appellant, as demonstrated in the Business Plan⁸ submitted with the varied planning application. Whilst some social and economic benefits would result from an increase in local employment, these would be limited due to the scale of the changes sought. Similarly, I acknowledge the environmental benefits which arise from organic farming and the diversification which the appellant contends is financially supported by the events held on the site. The identified benefits are, therefore, limited in scope and scale such that they do not outweigh the great weight I attach to the harm identified above and conflict with the development plan when read as a whole.
30. The appellant has drawn my attention to the Naunton Barn⁹ development which has been approved by the Council. As Naunton Barn is associated with a golf club, when determining the application, the Council took into account the effect the development would have on the local economy by supporting the long-term viability of an existing business and by providing additional employment. In the case of the appeal venue, whilst the variations proposed would support the further diversification of an existing farm business, no additional employment opportunities are indicated in the Business Plan. This represents a significant difference between the two schemes.
31. Other event venues¹⁰ within the area which have been approved by the Council have been referred to by the appellant, including venues with fewer restrictions on the length and number of events permissible per calendar year. Even if I were to consider an inconsistent approach has been taken by the Council in refusing the varied application, the full details of these other permissions, including any submitted noise assessments or transport statements, are not before me. This limits the equivalence of these cases to the circumstances of the appeal scheme which I have assessed on its own merits.

⁸ Dated 17 August 2023, prepared by Brockthorpe Consultancy

⁹ Council ref: 18/02377/FUL

¹⁰ Lapstone Barn, Chipping Campden; Stone Barn, Aldsworth; Upcote Farm, Withington; Old Gore Barn, North Cerney; and Cripps Barn, Winson

32. Although highlighted by several interested parties and subsequently recognised by the appellant that there have been issues relating to compliance with the conditions of the original permission, these are not determinative in my decision. Even if the representations submitted during the application or appeal process have been canvassed, this does not alter my decision.

Other Conditions

33. The guidance in 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 have limited information before me about the status of the other conditions imposed on the original permission, I have imposed all those that I consider to remain relevant. If some have been discharged, that is a matter which can be addressed by the main parties.
34. As the development under the original permission was granted retrospectively, it is not possible to use a negatively worded condition to secure the approval and implementation of various works. These works are necessary for the protection of wildlife, ensuring the safety of highway users and the requirements of Policy EN2 of the Local Plan relating to the design of the built form. In the event, therefore, that the approval and carrying out of the works associated with the access and visibility splays, signage, bird and bat boxes, and satellite dish have not been completed I have set out a strict timetable for compliance and implementation within **Condition 2** (formerly conditions 2,3,4,11 and 13). This ensures that the development can be enforced if the requirements are not met.
35. Similarly, I have taken this approach with respect to **Condition 3** relating to a Parking Management Plan (formerly condition 5) and a Noise Management Plan in **Condition 4** (formerly condition 6). Whilst I note that the Case Officer Delegated Report refers to an approved compliance decision¹¹ and as the documents are not before me, it is not evident whether the plans need to be revised in light of this decision. Conditions 3 and 4 are therefore imposed in the interests of highway safety and living conditions of nearby occupiers respectively, and to ensure compliance with Policy EN15 of the Local Plan and the Framework.
36. I have not found it necessary to attach a separate condition (formerly condition 15) requiring a detailed record of events to be kept on the site for a year as this isn't the only method available for the Council and SPC to be informed. Rather, such arrangements can be included within the Noise Management Plan and agreed upon as part of Condition 4.
37. To protect the living conditions of those living nearby and the character and appearance of the area, **Conditions 7, 8, 9, 10 and 11** are imposed setting out requirements with respect to the use of fireworks, burning waste, external lighting, permitted development rights and parking (previously conditions 14, 16, 17, 18, 19 and 23). These are required for the development to accord with policies EN2, EN4, EN5, and EN15 of the Local Plan and the provisions of the Framework. Although an external lighting scheme may have already received approval, Condition 9 ensures any changes to the lighting on the site are appropriately considered.

¹¹ Council ref: 20/02093/COMPLY

38. **Condition 13** stipulates the requirements for the planting and retention of trees and plants on the site (formerly conditions 21 and 22). This is necessary in the interests of the character and appearance of the area, including the CNL, and to accord with Policy EN2 of the Local Plan and the provisions of the Framework.

Conclusion

39. For the reasons given above and, taking into account all other relevant matters raised, I conclude that the appeal should be allowed.

Juliet Rogers

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with drawing nos:
 - P19_1572_01: Site location plan
 - P19_1572_02: Proposed site plan
 - 0904 - OT 01: Oil Tank
 - 0904/E 01c: Stone Barn
 - Stone barn ground floor plan
 - 0904/E 12: Dutch Barn elevations
 - 0904/E 14: Dutch Barn floor plans
 - 1532.05 REV B: Landscape proposals
 - HIL-MP-10-005 F: Proposed detail area plan
- 2) Unless within three [3] months of the date of this decision, the following works are implemented, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time the works are implemented:
 - The existing roadside frontage boundaries shall be set back to provide visibility splays extending from a point 2.4 metres back along the centre of the access measured from the public road carriageway edge (the X point) to a point on the nearer carriageway edge of the public road 117 metres west and 120 metres east (the Y points). The area between those splays and the carriageway shall be reduced in level and thereafter maintained so as to provide clear visibility between 1.05 metres and 2 metres at the X point and between 0.26 metres and 2 metres at the Y point above the adjacent carriageway level.
 - The vehicular access shall be laid out and constructed in accordance with the approved plans with any gates situated at least 10 metres back from the carriageway edge of the public road and hung so as not to open outwards towards the public highway. The area of the access road within at least 10 metres of the carriageway edge of the public road shall be surfaced with bound material.
 - Signage requesting guests to leave the premises quietly shall be erected at all exit points of the buildings.
 - Artificial bird nesting boxes and artificial bat boxes shall be installed in accordance with the Stone Barn plan ref 0904/E01C.
 - The satellite dish and awning on the Stone Barn shall be removed and the barn restored to its former condition.

Once implemented the works specified in this condition shall thereafter be retained and maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 3) Unless within three [3] months of the date of this decision, a Parking Management Plan (PMP) is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within three [3] months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no PMP in accordance with this condition is approved within six [6] months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Once the PMP specified in this condition is approved, the parking area hereby permitted shall thereafter be managed in accordance with the approved PMP.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 4) Unless within three [3] months of the date of this decision, a Noise Management Plan (NMP) is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within three [3] months of the local planning authority's approval, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme is approved and implemented.

If no NMP in accordance with this condition is approved within six [6] months of the date of this decision, the use of the site shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed until such time as a scheme approved by the local planning authority is implemented.

Once the NMP specified in this condition is approved, the development hereby permitted shall thereafter be managed in accordance with the approved NMP.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

- 5) No more than 15 events or functions per calendar year shall be held in the Dutch Barn, with a maximum of 5 taking place in the evening. The total number of days events taking place in the Dutch Barn shall not exceed 20 per calendar year.

The use hereby permitted shall only take place between the following hours:

Daytime events: 08:00-19:00

Evening events: 19:00-00:30

- 6) Amplified music, live or recorded, may only be played in the Dutch Barn between 08:00 and 00:00. The level of noise measured in the Dutch Barn shall not exceed 85 dB LAeq 5 min.

All doors and windows on the Dutch Barn shall be kept closed, except for the explicit purpose of entry or exit, when amplified music is played.

No amplified music shall be played in the Stone Barn or outside at any time.

- 7) No fireworks shall be set off from the site at any time.
- 8) No burning of waste or other materials shall be undertaken on the site at any time.
- 9) Prior to the installation of external lighting, full details including the height, design, location and intensity of the light installation shall be submitted to and approved in writing by the local planning authority. The lighting installation shall then be implemented in accordance with the approved details, retained and maintained thereafter.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gates or walls shall be erected within the site other than those hereby permitted.
- 11) The overflow car park as shown on the Proposed Site Plan (ref: P19_1572_02) shall be used for parking additional cars on a maximum of two consecutive days per calendar year.
- 12) A marquee, no larger than 10 metres x 7 metres, may be erected on the site, as shown on the Proposed Detail Area Plan (ref: HIL-MP-10-005 F), for a maximum of 20 events per calendar. The marquee may be erected no earlier than the day before an event and dismantled no later than the day after an event. No marquees shall be erected at any other time or in any other location.
- 13) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants within a period of five [5] years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

**** End of Schedule ****