



Appeal Decision

Site visit made on 29 November 2024

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2025

Appeal Ref: APP/R3325/W/24/3344122

Land north of Jarman Hill, Barton St David, Somerset TA11 6DA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
- The appeal is made by Mr S Reynolds (SAR Management Consultancy) against the decision of Somerset Council.
- The application Ref 23/00608/FUL was approved on 9 January 2024 and planning permission was granted subject to conditions.
- The development permitted is: "Change of use of land from agriculture to equestrian use (part private, part commercial), creation of a stable building containing 7 stables, 3 private, 4 full livery, erection of a horse walker, hay barn, menage, sand pen and associated development (Retrospective)".
- The conditions in dispute are Nos 4, 9, 10, 11, 13, 15 and 17 which state that:
 - 4: The driveway between the edge of carriageway and the entrance gate(s) shall be properly consolidated and surfaced (not loose stone or gravel) and drainage installed in accordance with details, which shall have been submitted to and approved in writing by the Local Planning Authority. Once constructed the access shall thereafter be maintained in that condition in perpetuity.
 - 9: The Development hereby permitted shall not be occupied until the relevant number of parking spaces for the development and a properly consolidated and surfaced turning space for vehicles have been provided and constructed within the site in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. Such parking and turning spaces shall be kept clear of obstruction in perpetuity and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.
 - 10: No development shall take place, including any demolition works, until a construction management plan or construction method statement has been submitted to and approved in writing by the Local Planning Authority. The approved plan/statement shall be adhered to throughout the demolition/construction period. The plan/statement shall provide for:
 - o 24 hour emergency contact number;
 - o Hours of operation;
 - o Parking of vehicle of site operatives and visitors (including measures taken to ensure satisfactory access and movement for existing occupiers of neighbouring properties during construction);
 - o Routes for construction traffic;
 - o Locations for loading/unloading and storage of plant, waste and construction materials;
 - o Method of preventing mud being carried onto the highway;
 - o Measures to protect vulnerable road users (cyclists and pedestrians)
 - o Any necessary temporary traffic management measures;
 - o Arrangements for turning vehicles;
 - o Arrangements to receive abnormal loads or unusually large vehicles;
 - o Methods of communicating the Construction Management Plan to staff, visitors and neighbouring residents and businesses.
 - 11: A Biodiversity Enhancement Plan (BEP) shall be submitted to, and be approved in writing by, the Local Planning Authority prior to completion of the development. Photographs of the installed features will also be submitted to the Local Planning Authority prior to use of the development: The content of the BEP shall include the following:
 - 1. Installation of at least 2 x 2F Schwegler Bat Boxes (or similar) will be installed on to mature trees on site, facing south or west, at a height above 3m.

2. Installation of 2 x Vivara Pro Woodstone Nest Box (32mm hole version) or similar mounted on to a mature tree on site, at a height between 1.5 and 3m.

13: Where external lighting is to be installed, prior to construction above damp-proof course level, a lighting design for bats, following Guidance Note 08/23 - bats and artificial lighting at night (ILP and BCT 2023), shall be submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed. Lux levels should be below 0.5 Lux on key & supporting features or habitats. All external lighting shall be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the design. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority.

15: A landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscaped areas, shall be submitted to and approved in writing by the local planning authority before occupation of one of the stables hereby permitted. The landscape management plan shall be carried out as approved.

17. Prior to the development hereby permitted being brought into use, details of a Stable Waste Management Plan (SWMP) shall be submitted to and approved in writing by the Local Planning Authority. Such details shall include confirmation of the following:

- (a) The maximum number of horses to be stabled and accommodated in the stable building hereby permitted and on the adjoining land edged blue (as indicated on the approved Site Location Plan) at any one time shall not exceed seven;
 - (b) Means of storage of all horse waste on the site. All horse waste should be transferred to a concrete base muck heap, as identified on the approved plan;
 - (c) The means of preventing surface water run-off from the concrete base muck heap to ensure there is no risk of polluting any nearby watercourses, controlled waters, property and ecosystems;
 - (d) Confirmation that no muck/manure will be spread on any parts of the application site and the adjoining land edged blue (as indicated on the approved Site Location Plan) which are to be designated as 'no spread zones'. Such 'no spread zones' shall be indicated on a site location plan to be submitted as part of this SWMP at an agreed scale and subsequently approved in writing by the Local Planning Authority;
 - (e) Clarification as to how often all muck/manure will be removed from the site, including confirmation that such muck/manure will be removed at earlier stages if such storage exceeds the floor/ground area of the approved concrete base muck heap and an agreed height; and
 - (f) Confirmation that no waste shall be burnt on any part of the application site edged red and adjoining land edged blue (as indicated on the approved Site Location Plan).
- Thereafter the SWMP shall be strictly adhered to and there shall be no variation to the SWMP unless otherwise previously approved in writing by the Local Planning Authority.

- The reasons given for the conditions are:
 - 4 & 9 & 10: In the interest of highway safety.
 - 11: In accordance with Government policy for the enhancement of biodiversity within development as set out in paragraph 174(d) of the National Planning Policy Framework, and the Draft Environment (Principles and Governance) Bill 2018.
 - 13: In the interests of the 'Favourable Conservation Status' of populations of European protected species and in accordance with policy EQ4 of the South Somerset District Council Local Plan.
 - 15: In the interest of visual and natural amenity.
 - 17: In order to protect the amenities of the rural area and neighbouring properties, having regard to Policies EQ2, EQ7 and EQ8 of the South Somerset Local Plan and relevant guidance within the NPPF.

Decision

1. The appeal is allowed and the planning permission Ref 23/00608/FUL for change of use of land from agriculture to equestrian use (part private, part commercial), creation of a stable building containing 7 stables, 3 private, 4 full livery, erection of a horse walker, hay barn, menage, sand pen and associated development (Retrospective) at land north of Jarmany Hill, Barton St David, TA11 6DA granted

on 9 January 2024 by Somerset Council, is varied by deleting conditions Nos 4, 9, 10, 11, 13, 16, and 17, and substituting for them the following conditions:

- 9) The development hereby permitted shall not be brought into use until the vehicle parking spaces and a properly consolidated and surfaced turning space for vehicles have been provided in accordance with the approved Equestrian Site Layout (drawing no. A0.02B). Thereafter those spaces shall be retained for the parking and turning of vehicles only.
- 16) No external lighting shall be installed within the development hereby permitted unless full details of the proposed external lighting have been first submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of the hours of operation, location, size, design of luminaries and fittings, type / output of light sources with lux levels, together with isolux drawings to demonstrate the levels of illumination within the site and the amount of overspill of lighting beyond the site boundaries, the location and design of associated equipment, and shall include any existing lighting and a lighting design for bats, following Guidance Note 08/23 - bats and artificial lighting at night (ILP and BCT 2023). The approved external lighting plan shall be implemented in accordance with the approved details and thereafter retained. No other external lighting equipment may then be used within the development other than as approved by the Local Planning Authority.
- 17) The maximum number of horses to be stabled and accommodated in the stable building hereby permitted and on the adjoining land edged red (as indicated on the approved Location Plan (drawing no. A0.01)) at any one time shall not exceed 7.
- 18) The manure and other waste arising from the development hereby permitted shall only be stored and disposed of in accordance with the details contained within Nutrient Neutrality Assessment and Mitigation Strategy prepared by Earthcare Technical (Project Reference ETL 783/2023) (dated 17 February 2023) and the associated Equestrian Site Layout (drawing no. A0.02B) showing the location of the muck trailer. There shall be no burning of any manure or other waste materials on the site.

Application for costs

2. The appellant made an application for costs. This application for costs has been dealt with in a separate decision.

Preliminary Matter

3. A revised National Planning Policy Framework (the Framework) was published in December 2024. Having regard to the main issue in this appeal as set out below, the Framework does not raise any new matters which are determinative to the outcome of this appeal.

Background and Main Issue

4. The appeal site is a parcel of land located to the north of Jarmany Hill in Barton St David. Planning permission was granted in 2022 for change of use of land from agricultural to equestrian to the keeping of horses for private use, erection of stables, storage, tack room, hay barn, horse walker, manège, paddock and new

access arrangements¹ (the 2022 permission). I observed on my site visit that a manège, and a track leading from the carriageway to it, had been constructed.

5. Planning permission was granted in 2024 for change of use of land from agriculture to equestrian use (part private, part commercial), creation of a stable building containing 7 stables, 3 private, 4 full livery, erection of a horse walker, hay barn, menage, sand pen and associated development (Retrospective). The appellant now seeks to vary conditions Nos 4, 9, and 11, replace condition No 17 with a new condition, and to remove conditions Nos 10, 13, and 15.
6. Having regard to the reasons given in the Council's decision notice for the imposition of the above-mentioned conditions, the main issue in this appeal is whether the above-mentioned conditions are reasonable and necessary and meet the other tests for conditions set out in paragraph 57 of the Framework, having particular regard to highway safety, biodiversity, protected species, the character and appearance of the area, and the living conditions of nearby occupiers.

Reasons

Condition No 4

7. Condition No 4 requires that the driveway between the edge of the carriageway and the entrance gate(s) shall be properly consolidated and surfaced. As sufficient detail thereof is shown on the approved plans which are covered by condition No 2 of planning application Ref 23/00608/FUL, this part of condition No 4 is not necessary. Condition No 4 also requires drainage to be installed in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. As this requirement is covered by condition No 8, this part of condition No 4 is also not necessary. For the above-mentioned reasons, condition No 4 in its entirety is not necessary.

Condition No 9

8. As the parking and surfaced turning space details are shown on the relevant plans, it is not necessary for such details to be submitted to and approved in writing by the Local Planning Authority. It is necessary for these areas to be constructed before the permitted development is brought into use, and to be retained for the parking and turning of vehicles only. Condition No 9 should be modified to reflect this.

Condition No 10

9. The permitted development as a whole is of a small scale relative to the total size of the site. There would be ample room within the site for the parking of vehicles of construction site operatives and visitors, and for construction machinery to be sited well away from the carriageway.
10. Jarmany Hill is a narrow road with no footways or street lighting. Even so, the permitted development would incorporate satisfactory visibility splays at the entrance to the site, and the Highway Authority have confirmed that no known use of local accesses are inherently dangerous. For these reasons, the permitted development would not be likely to cause concerns with respect to highway safety.

¹ 22/01311/FUL

A construction management plan / method statement would not be required in these circumstances. Condition No 10 is therefore not necessary.

Condition No 11

11. Condition No 11 requires that a Biodiversity Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority prior to completion of the development. Sufficient detail thereof is however shown on the approved plans which are covered by condition No 2, which include the planting of new hedgerow and trees and the measures stated in condition No 11 relating to bat and bird boxes.
12. Condition No 2 would therefore be sufficient to secure a biodiversity net gain on site, in accordance with paragraph 187 d) of the Framework, and Policy EQ4 of the South Somerset Local Plan (2006 – 2028) (adopted 2015) (Local Plan) which provides that, amongst other things, all proposals for development, including those which would affect sites of regional and local biodiversity, nationally and internationally protected sites and sites of geological interest, will incorporate beneficial biodiversity conservation features where appropriate. Condition No 11 is accordingly not necessary.

Condition No 13

13. Both condition Nos 13 and 16 require the approval of any proposed external lighting by the Local Planning Authority. As only one condition is required for this purpose, condition No 13 is not necessary. Condition No 16 on its own would ensure that an appropriately-detailed scheme relating to all external lighting equipment on site would be scrutinised and approved by the Local Planning Authority, including with respect to use in the evenings and early mornings (should the Local Planning Authority deem this necessary). This would ensure that no adverse impacts would occur with respect to the character and appearance of the area, the living conditions of the occupiers of nearby dwellings, and with respect to highway safety.
14. For the avoidance of doubt, condition No 16 should be modified to include reference to bats. This would ensure that protected species are not harmed, in line with Policy EQ4 of the Local Plan. The first sentence of condition No 16 contains missing words, and therefore should be modified accordingly.

Condition No 15

15. Condition No 3 of the 2022 permission required a detailed scheme of landscaping, which has subsequently been formally discharged. That condition contained measures to ensure that actions are taken if any trees or plants die, are removed or become seriously damaged or diseased. Similarly, although details of the proposed landscaping features are shown on the approved plans which are covered by condition No 2 (which includes the planting of new hedgerow and trees), a condition is necessary to secure the retention, management, and maintenance of these landscaping features over the long-term. Condition No 15, which requires that a landscape management plan shall be submitted to and approved in writing by the Local Planning Authority, would achieve this.
16. This would ensure that the permitted development would comply with Policy EQ2 of the Local Plan, which provides that, amongst other things, development will be

designed to achieve a high quality, which promotes South Somerset's local distinctiveness and preserves or enhances the character and appearance of the district, and with Policy EQ5 of the Local Plan which provides that, amongst other things, development proposals should provide and/or maintain a network of connected and multifunctional open spaces that, where appropriate, enhance and/or maintain the character and local distinctiveness of the landscape. For the above-mentioned reasons, condition No 15 is both necessary and reasonable.

Condition No 17

17. Condition No 17 requires details of a Stable Waste Management Plan (SWMP) to be submitted to and approved in writing by the Local Planning Authority. The condition requires that such details shall include confirmation of, amongst other things, that the maximum number of horses to be stabled and accommodated in the stable building and on the adjoining land edged blue at any one time shall not exceed 7.
18. The 2022 permission contained no limitation on the number of horses permitted to be kept on site. The permitted development would not therefore be likely to result in any material intensification of the equine use of the site in planning terms over-and-above the already-permitted development under the 2022 permission, which is still extant.
19. Nevertheless, the 2022 permission related to the keeping of horses for private use, whereas the permitted development under consideration in this appeal includes a commercial element. In this regard, the Earthcare Technical report has been produced in support of a Habitats Regulations Assessment in relation to the Somerset Levels and Moors Ramsar Site, and its assessment, mitigation strategy, and conclusions, are all based on the presumption that a maximum of 7 horses would be stabled on site. The report states that these 7 horses are already stabled within the relevant catchment, and so there would be no overall increase in horse numbers within it.
20. The Officer's Report relating to planning application Ref 23/00608/FUL mentioned that horses within the Somerset Levels and Moors Surface Water Catchment would be moved on site, whereas if the number of horses on site were unrestricted, under the commercial use horses could potentially be moved on site from other catchments elsewhere. This could result in an overall increase in horse numbers within the site's catchment, a scenario which the submitted Earthcare Technical report does not address.
21. As such, on the basis of the information before me, it would not be possible to conclude that more than 7 horses on site would avoid any adverse effects on the integrity of the Ramsar site with respect to nutrient neutrality. Hence, a restriction on the number of horses on site is necessary.
22. Condition No 17 (b), (c), and (e) refers to a concrete base muck heap, but that is not the method of manure storage that proposed. The Earthcare Technical report states that manure is to be stored within a purpose-built covered trailer. The report contains adequate measures to ensure that manure arising from the permitted development would be appropriately managed, including with respect to the storage of horse waste and the imposition of a 10 metres 'no spread buffer zone' to surface water at the eastern and southern boundaries of the site.

23. Condition No 17 should therefore be modified to remove the requirement for the submission of a SWMP to the Local Planning Authority, but retaining the requirement that the maximum number of horses on site shall not exceed 7. As condition No 17 would be substantially altered, and for clarity, the requirement for compliance with the Earthcare Technical report (suggested by the appellant) should be imposed as a separate condition (condition No 18).
24. For the reasons given above, this would ensure that both the Ramsar site and the living conditions of nearby occupiers would not be adversely affected, including with respect to smells from horse waste, in compliance with Policies EQ2, EQ7 and EQ8 of the Local Plan which collectively provide that, amongst other things, development that, on its own or cumulatively, would result in air, light, noise, water quality or other environmental pollution or harm to amenity, health or safety will only be permitted if the potential adverse effects would be mitigated to an acceptable level by other environmental controls, or by measures included in the proposals.

Summary

25. For the reasons given above I consider that, as drafted, conditions Nos 4, 10, 11, and 13 are not necessary, in conflict with paragraph 57 of the Framework, that variations are required to conditions Nos 9, 16, and 17, and that the requirement for compliance with the Earthcare Technical report should be imposed as a separate condition (condition No 18).
26. In addition to the policies cited above, this would ensure that the permitted development would comply with Policies TA5 and TA6 of the Local Plan which collectively provide that, amongst other things, all new development shall be required to address its own transport implications and shall be designed to maximise the potential for sustainable transport through ensuring that the expected nature and volume of traffic and parked vehicles generated by the development would not have a detrimental impact on the character or amenity of the area and would not compromise the safety and/or function of the local or strategic road networks in terms of both volume and type of traffic generated.

Other Matters

27. I have had regard to the representations of all interested parties, which have been considered as part of my assessment of the main issue. The variation of planning permission Ref 23/00608/FUL as described above would not alter the effect of the permitted development with respect to other matters considered in detail by the Council at application stage, including, amongst others, flood risk.
28. The site is separated from nearby residential dwellings by Jarmany Hill and the restricted byway to the west of the site, thereby limiting the potential for noise and disturbance arising from equine activities on site, which in any event would be limited to a maximum of 7 horses at any one time.
29. The 2022 permission authorised an equestrian use on site, with the keeping of horses for private use. The stable building would contain 3 stables under that permission. The permitted development would augment this to 7 stables (3 private, 4 commercial). The evidence indicates that the maximum number of trips would not likely exceed more than 10 two-way movements per day, and additional

movements to and from the site relating to the commercial element of the permitted development (including horseboxes) would not be significant in number.

30. The submitted plans show that acceptable visibility splays can be achieved at the site access, even taking account of the nearest bend to the west of the access, and the bend to the east of the access. This is secured by condition No 5 of planning permission Ref 23/00608/FUL. A 30mph speed limit is in effect in the vicinity of the site, and the Highway Authority have confirmed that no known use of local accesses are inherently dangerous.
31. On this basis, whilst Jarmany Hill can occasionally be busy, the permitted development would not have an unacceptable impact on highway safety, and the residual cumulative impacts on the road network would not be severe, in line with paragraph 116 of the Framework, and Policies TA5 and TA6 of the Local Plan (summarised above).
32. As such, even if I were to find that the permitted development constituted a 'larger scale' enterprise for the purposes of Policy EQ8 of the Local Plan, the permitted development would not be unacceptably harmful to highway safety in the terms of that policy. For the same reasons, the modest amount of traffic generated by the permitted development would not be likely to increase levels of noise and disturbance to a level which would be harmful to the living conditions of nearby occupiers.
33. Any proposed expansion of the use of the site for equestrian events, competitions and / or exhibitions would require planning permission in its own right. Any future planning application would be considered by the Local Planning Authority on its own merits.

Conclusion

34. For the reasons given above, I conclude that the appeal should succeed. I will vary the planning permission by deleting some of the disputed conditions and substituting others, as explained in detail above.

Alexander O'Doherty

INSPECTOR