



Appeal Decision

Site visit made on 27 September 2017

by R J Jackson BA MPhil DMS MRTPI MCMi

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 06 October 2017

Appeal Ref: APP/Y3940/W/17/3178643

Oakley Farm, Lower Woodrow, Forest SN12 7RB

- 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 Turrell against the decision of Wiltshire Council.
 - The application Ref 17/02578/FUL, dated 14 March 2017, was refused by notice dated 2 June 2017.
 - The development proposed is erection of tourist accommodation.
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Decision

1. The appeal is dismissed.

Application for costs

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

Procedural matter

3. An amended plan was submitted during the consideration of the application by the Council showing the route of the public right of way through the site. The Council's decision notice refers to both the original drawing, 1554/002.A, and the revised drawing, 1554/002.B. Amendments supersede the original, although there is no material difference as to what is proposed, and consequently I will use only the amended drawing in this decision.

Main Issues

4. The main issues are:
 - whether the proposed development complies with development plan policies on tourist development in the countryside;
 - the effect on the character and appearance of the area;
 - whether the location is such that the need to travel will be minimised and the use of sustainable transport modes can be maximised; and
 - whether there are any other material considerations, including the benefits of the scheme, which mean that the development should be determined otherwise than in accordance with the terms of the development plan.

Reasons

5. The appeal site lies in an area of open countryside to the northeast of Melksham. The countryside in the immediate area is generally flat, although with some variation. Field boundaries are made up of hedgerows, although close to the appeal site these are often divided into paddocks by post and rail fences and tapes.
6. The appeal site is a rectangular area of land set a short distance back from the road, Lower Woodrow, which forms part of the National Cycleway Network. It is surrounded by post and rail fences and there is vegetation on the outside. A public footpath (MELW47) passes through the eastern part the appeal site and to the south, although at the time of my visit the route to the south was not apparent or accessible.
7. The main part of the appeal site is laid to grass, although there was a small pile of earth where it was indicated an earlier planning permission for a farm shop had been implemented. The eastern part of the appeal site is laid to hardsurfacing. To the east of the appeal site is a two storey dwelling, Oakley Farm House, with rooms in the roof. In the paddocks to the southeast I saw around 20 alpacas as well as associated activity.
8. To the northeast of the appeal site building works were on-going for what appeared to be equestrian activities, including horse-walkers and stables. There was also a completed ménage with jumps set up upon it. To the south was another building under construction.
9. The proposal is to erect three units of tourist accommodation on the southern part of the appeal site. This would consist of a single storey building with rooms in the roof lit through rooflights. Each unit would have two bedrooms and one of the units would be suitable for those with mobility issues. These would be dwellings since they would enjoy all the facilities necessary for day to day living. If permission was granted the occupation would be restricted through a condition to maximum stays.

Tourist accommodation

10. It is not in dispute that the site lies in the open countryside. Core Policy (CP) 1 (Settlement Strategy) and CP2 (Delivery Strategy) of the Wiltshire Core Strategy 2015 (the CS) direct new development to locations with a range of services and employment opportunities in order to minimise the need to travel. The explanatory text to CP2 indicates that the CS also includes a number of 'exception policies' to seek to respond to local circumstance and national policy. Included with these is CP39 which deals with Tourist Development.
11. CP39 indicates that in exceptional circumstances outside Market Towns (of which Melksham is one), development, and in this context this must refer to tourist and visitor facilities, may be supported where it can be demonstrated that all of a number of criteria are met. The Council indicate that it considers that if all the criteria are met then an 'exceptional circumstance' "may" have been demonstrated since this is the word in the policy. I would accept this proposition, as there may, of course, be other policies and material considerations which are relevant. It makes sense to go through each criterion in turn. Policies should be read objectively in accordance with the language

- used read in its proper context, although the explanatory text can be used to clarify this.
12. The first criterion is there is evidence that the facilities are in conjunction with a particular countryside attraction. Although the appeal site is around 2.5 km from the popular tourist village of Lacock, as well as other tourist destinations in the area, it cannot be said that this development would be associated with this particular or any other specific attraction. It is not providing accommodation directly associated with Lacock. Consequently the proposal is contrary to this criterion.
 13. The second criterion is that no alternative existing buildings or sites exist which are available for re-use. The appellant makes the point that there are no buildings on site in his case for the development. (I will discuss any potential re-use of the farm shop building in the section dealing with other considerations below.) However, as the policy refers to "or sites" it has not been demonstrated that there are no other locations which would not be more suitable. Again, the proposal is contrary to this criterion.
 14. Thirdly, that scale, design and use of the proposal should be compatible with its wider landscape setting and should not detract from the character or appearance of the landscape or settlement and should not be detrimental to the amenities of residential areas. The first part of this is the second main issue, and I conclude below that the proposal would be moderately harmful. The proposal is sufficiently separated so that it would have no material effect on the living conditions of any residential area.
 15. There is no dispute that the fourth criterion, that the building would be supplied by adequate access and infrastructure, is met. The fifth criterion is that the site has reasonable access to local services and a local employment base are covered in the third main issue, and I conclude below that this would not be the case.
 16. As such the proposal would not comply with development plan policies relating to tourist development in the countryside and would be contrary to CP39 of the CS as set out above. I give this full weight. It would also be contrary to paragraph 28 of the National Planning Policy Framework (the Framework) which indicate policies should support sustainable rural tourism which respect the character of the countryside. It would also be contrary to paragraph 55 of the Framework in that it would represent the provision of isolated new dwellings in the countryside without a necessary special circumstance.

Character and appearance

17. The appeal site lies in an attractive area of open countryside. The proposed development would represent an urbanisation of the area through the provision of an additional building used for residential purposes. While there is development in the surrounding area this is associated with rural activities, and as such is expected to be encountered in such a location. From Lower Woodrow the proposal would be only visible in a glimpsed view. However, for anyone using the public right of way through the appeal site the proposal would have a significantly harmful urbanising effect.
18. In addition to the effect of the building, there would be the parking of cars from those staying in the holiday accommodation along with ancillary activities, for

example outside tables and chairs from those taking advantage of good weather which would have a further urbanising effect detrimental to the character and appearance of the countryside.

19. The Council has indicated that it considers the design, and in particular the materials, would be out of keeping with the area. However, subject to the precise specification of those materials being agreed through a condition, the design of the building of itself would have been acceptable. In this regard the proposal would comply with CP57 of the CS.
20. However, through its siting and effects the proposal would be significantly harmful to the character and appearance of the area. It would therefore be contrary to CP39 and CP51 of the CS as set out above, and in that it would not protect or conserve landscape character. It would also be contrary to paragraph 17 of the Framework in that it would not recognise the intrinsic character and beauty of the countryside.

Locational Accessibility

21. The appeal site is located approximately 1.25 km northeast of Melksham and 2.5 km southwest of Lacock. However, in the former case this is the edge of the town with the main facilities being further to the southwest. There is no footway on Lower Woodrow and pedestrians are required to walk in the carriageway.
22. The public rights of way network passes through the appeal site. To the west it emerges at the junction of Lower Woodrow with New Road. At the time of the site visit this right of way was not visible or passable immediately to the west of the appeal site, but for the purposes of this appeal I will assume that this is maintained and fully accessible as should be the case. When the footpath joins the main highways network there is no footway in the northeastern section of Woodrow Road, and none of the roads in the nearby vicinity are lit.
23. Those using the accommodation as a base for a walking holiday may not use the private car to go to and from the appeal site, and the site is very close to part of the National Cycle Network so similar considerations would apply for those on a cycling holiday. While there is a shopper bus this only operates for two days a week. Particularly in the dark, the network would not be attractive to the user of non-car modes. The reality is that most visitors will use the private car for their transport as it is not a reasonable walk to nearby facilities due to the distances and nature of the rights of way (including the roads) in the area. Locations in or closer to principal settlements, market towns, local service centres and large and small villages would create less of a need to travel and allow greater use of sustainable transport modes.
24. This is clearly a matter of balance since as it reasonably pointed out those on holiday are likely to travel to attractions. However, in looking at this proposal in the round the location is such that the need to travel will not be minimised and the use of sustainable transport modes cannot be maximised and this weighs against the proposal but only with moderate weight. As such the proposal is contrary to CP39, CP60 and CP61 of the CS, as set out above, in that it would not be located so as to reduce the need to travel, particularly by the private car. It would also be contrary to paragraph 34 of the Framework as the need to travel will not be minimised and the use of sustainable transport modes maximised.

Other considerations

25. The appellant has pointed to a number of other considerations which he considers to be material to this case. First, is the planning permission for the farm shop on the site. A letter has been provided from the Council whereby it indicates that the planning permission has been implemented and could be completed. The planning permission may be completed, but the planning permission dates from January 2012 and only limited works have undertaken to date. While I consider that there is a greater than theoretical possibility that the farm shop may be built out I consider that this is not a likely event and only give this limited weight.
26. This building would have a similar footprint to the proposal but would be lower by 1.3 m. The farm shop building would have a more rural aesthetic when compared to the proposed tourist accommodation. The parking areas for the farm shop and the tourist accommodation would have similar effects. Above I have indicated there may be outside tables and chairs and it may be that there are outside activities associated with the farm shop, so these effects would be similar to each other. Overall I consider that the farm shop would have less of an effect on the character and appearance of the area than the proposal. The harm from the proposal in respect on its effect on the character and appearance of the area is therefore reduced from significant to moderate, and I will use that in the final planning balance.
27. The appellant points out that if the farm shop was to be constructed it would then represent a building which could be converted under the second criterion of CP39. However, as a less tall building less accommodation is likely to be provided, which would have lesser effects. This reduces the harm in respect of the second criterion of CP39 but only by a very limited amount due to the likelihood I have found that the farm shop would actually be completed.
28. The appellant has drawn attention to what he sees as a lack of tourist accommodation in the area with that in existence being booked up. Both the appellant and Council have provided evidence as to what they see as the demand, or lack of it, for accommodation through websites. The problem with such evidence is that it depends on the search criteria used and is dynamic, and no tourist website will be comprehensive. The supporting text to CP39 does emphasize the importance of tourism to Wiltshire's economy and this proposal would add to that part of the economy and, in line with paragraph 19 of the Framework, I give this significant weight.
29. Paragraph 28 of the Framework promotes the diversification and development of agricultural and other land-based rural businesses. However, it must be remembered that the CS post-dates the publication of the Framework and must have had regard to its policies. The supporting text to CP1 of the CS makes clear that the exception policies, which include CP39, are to respond to local circumstance and national policy and it is reasonable to conclude that the extent of these policies is to meet the needs of the area. These policies include CP48 (Supporting Rural Life), but there is no reference to farm diversification within that policy.
30. It is also not clear whether the proposal is actually part of a farm diversification project in the sense of the term as set out in the Planning Practice Guidance¹,

¹ See Reference ID: 13-112-20170728

that being to enhance the sustainability of the farm business and benefit the local community, as opposed being a stand-alone project. The appellant has indicated that the alpaca farm has been affected by two stock losses and may be affected in the future by the decision to leave the European Union. However, he indicates that this business is viable and this proposal would strengthen the overall business. While there is no development plan requirement to show accounts this does not prevent a promoter of development from supporting their case by the provision of such accounts or a business plan. No such financial case has been provided, and given that it is indicated that the existing enterprise is viable, I can give no additional weight on top of that I have already given to the more general economic benefits of the development.

31. The appellant has referred to an appeal decision at Firs Farm, Little Somerford² and sees parallels between the two sites. Here the Inspector concluded that the particular site was "relatively accessible" while I have found, on the information in front of me, that this would not be the case for the appeal site. There are therefore differences between the two sites.

Planning Balance

32. I have found that the proposal would be contrary to development plan policies in respect of tourist development located away from settlements. I give this full weight. There would be harmful effects on the character and appearance of the area, although these would only be of moderate weight. The location is such that the need to travel would not be minimised and the use of sustainable transport modes maximised and I give this moderate weight. Set against this is the significant benefit to the economy of the area. Overall, the benefits of the development are not sufficient to outweigh the presumption that the proposal should be determined in accordance with the terms of the up-to-date development plan as reiterated in paragraph 12 of the Framework. As such the appeal should be dismissed.

Conclusion

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

RJ Jackson

INSPECTOR

² APP/Y3940/W/16/3158480



The Planning Inspectorate

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Your Ref: 16/03206/ful
Our Ref: APP/Y3940/W/16/3158480

Wiltshire Council
Development Services
The Council House
Bourne Hill
Salisbury
SP1 3UZ

19 January 2017

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Mr David Clifford
Site Address: Firs Farm, Little Somerford, CHIPPENHAM, SN15 5BJ

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours faithfully,

Jasmine Rogers

Jasmine Rogers

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>

Appeal Decision

Site visit made on 20 December 2016

by **David Walker MA MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 19th January 2017

Appeal Ref: APP/Y3940/W/16/3158480

Firs Farm, Swindon Road, Little Somerford, Wiltshire SN15 5BJ

- 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 D Clifford against the decision of Wiltshire Council.
 - The application Ref 16/03206/FUL, dated 4 April 2016, was refused by notice dated 28 June 2016.
 - The development proposed is demolition of existing outbuilding to be replaced with 4 No tourist accommodation units with associated parking.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing outbuilding to be replaced with 4 No tourist accommodation units with associated parking at Firs Farm, Swindon Road, Little Somerford, Wiltshire SN15 5BJ in accordance with the terms of the application, Ref 16/03206/FUL, dated 4 April 2016, subject to the conditions in the attached Schedule.

Main Issues

2. The main issues in the appeal are:
 - i) whether the proposal accords with policies for the location of new tourist accommodation; and
 - ii) the effect of the proposal on the living conditions of future occupants having regard to the proximity of existing commercial uses and in relation to noise and disturbance.

Reasons

Policies for the location of new tourist accommodation

3. There is no dispute between the parties that the appeal site is located in the open countryside. In these circumstances the Council has pointed me to the settlement strategy contained at Core Policy 1 of the Wiltshire Core Strategy 2015 (the CS), and the associated delivery strategy at Core Policy 2. These seek to direct new development to locations with a range of services and employment opportunities in order to minimise the need for travel. It is an approach consistent with the Government's expression of what sustainable development means in practice as set out within the National Planning Policy Framework, particularly at paragraph 17.
 4. However, it is clear from the supporting text to Core Policies 1 and 2 of the CS that they are primarily aimed at new site allocations for housing and
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- employment development. The provision of rural tourist accommodation is specifically identified as being a necessary exception to the settlement strategy within paragraphs 4.17 and 4.25 of the supporting text to the policies.
5. Moreover, the supporting text to Core Policy 39 of the CS explains the importance of tourism to the local economy and the wealth of assets, including the countryside, that are to be found in Wiltshire. In this regard I am mindful of the support for the proposal provided by interested parties including the submitted evidence which identifies a shortage of self-catering accommodation in the north of the district.
 6. I find the extent to which the proposal would replace an existing building within the confines of the grouping of buildings at Firs Farm would safeguard the landscape and environmental requirements of the Core Policy 39 of the CS. The Council's main objection therefore, and that of the Local Highway Authority (LHA) and Lea and Cleverton Parish Council, is that the proposal would be isolated from services and so result in travel patterns that would not accord with the aim of reducing private car usage set out at Core Policies 60 and 61 of the CS.
 7. However, Core Policy 39 only requires that new tourist accommodation is located in close proximity to small villages. While there would undoubtedly be some car usage, the appeal site is located within a reasonable walk over the country footpath network of the villages of Lea and Little Somerford, and within a moderate cycle ride of Malmesbury. I acknowledge that although there is a frequent bus service that access on foot along the B4042 to the bus stops at Lea Crescent would not be attractive due to the lack of suitable footways.
 8. By rural standards, therefore, I find the appeal site to be relatively accessible and that occupiers of the holiday accommodation would have a realistic alternative to the private car for some journeys. Overall, the proposal would accord with the requirements of Core Policy 39 of the CS which read as a whole and in the context of the stated exceptions at Core Policies 1 and 2 is favourable toward the provision of new tourist accommodation at rural locations.

Living conditions

9. The proposed accommodation would be located at a different site to the existing commercial operations, albeit immediately adjacent and in the same ownership. It would, however, be physically separated by existing store and office buildings and share an independent access with Firs Farmhouse. From my site inspection it is clear that the immediate setting to the proposal would be more akin to being residential than commercial in character.
10. I acknowledge that with civil engineering and builder's yard related activities in close proximity some noise and disturbance would be inevitable. However, I accept the appellant's argument that any such commercial activities would logically occur during work day hours when holidaymakers are likely to be out and about, and not during the evenings.
11. In this regard I find these differing uses of the Firs Farm complex to be complementary to each other. Unacceptable harm is accordingly unlikely to arise to cause conflict with the requirements of Core Policy 57 (vii) of the CS to have regard to the compatibility of adjoining uses among other things.

Other Matters

12. At the time of the planning application Lea and Cleverton Parish Council raised concerns about the suitability of the existing access serving Firs Farmhouse, given the nature of the B4042 with fast flowing traffic and parking demands. However, as the LHA does not raise objection to the use of the existing access from a highway safety standpoint this is not matter that weighs heavily against the scheme.

Conditions

13. I have given consideration to the suggested conditions provided by the Council and appellant. The period for implementation and plans approved are specified for the avoidance of doubt. Having regard to the potential for bats within the building to be demolished it is necessary that the development proceeds in the manner stipulated within the submitted Bat Search and Assessment report.
14. I agree that further details of the provision of an alternative nesting site for swallows and roosting features for bats are required to accord with paragraph 118 of the National Planning Policy Framework. I am satisfied that such details can reasonably be agreed prior to any development above the base course level. Having regard to the countryside setting of the proposal and the requirements of Core Policy 39 of the CS it is also necessary that details of the materials to be used for the external walls and roofs are agreed before any development above the base course level.
15. To ensure that adequate provision is made for parking within the site it is necessary in the interests of highway safety to ensure that the parking area shown on the plans is provided before any occupation of the approved accommodation. To this I add the requirement, as agreed by the appellant, for a scheme of cycle storage to be provided before first occupation to ensure compliance with the requirements of Core Policies 60 and 61 of the CS.
16. As the proposal is located where permanent residential accommodation would not normally be permitted it is necessary to restrict occupation for temporary periods only. Aligned to this, in the interests of certainty, is the requirement that the proposal be used only for holiday accommodation and not for any other purpose under Class C3 (dwellinghouses) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended).

Conclusion

17. For the reasons given above, and with regard to the development plan read as a whole, I conclude that the appeal should be allowed subject to conditions.

David Walker

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No 2720/01 Site Plan & Location Plan and Drawing No 2720/03 Layout & Elevations as Proposed.
- 3) The development hereby approved shall be carried out in accordance with the recommendations for removal of the outbuilding roof in sections 6.1 and 6.2 of the Bat Search and Assessment report dated 7 March 2016 prepared by Wessex Ecology.
- 4) Before any development above base course level takes place, details of the provision of an alternative nesting site for swallows and roosting features for bats, including a plan showing the locations and types of features, shall be submitted to the Local Planning Authority for approval. The approved details shall be implemented before the new holiday units are first occupied and retained for the lifetime of the development.
- 5) No development above base course level shall be commenced until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 6) No part of the development hereby approved shall be first brought into use until the parking area shown on the approved plans has been consolidated, surfaced and laid out in accordance with the approved details. This area shall be maintained and remain available for this use at all times thereafter.
- 7) No part of the development hereby approved shall be first brought into use until cycle parking facilities have been installed in accordance with a scheme to be agreed with the local planning authority. Such facilities are to be maintained and kept available for use at all times thereafter.
- 8) No person shall occupy the holiday accommodation hereby permitted for a continuous period of more than 28 days in any calendar year and it shall not be re-occupied by the same person/s within 28 days following the end of that period.
- 9) Notwithstanding Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification), the accommodation hereby permitted shall be used to provide holiday accommodation only, which shall not be occupied as permanent, unrestricted accommodation or as a primary place of residence. An up-to-date register of names and main home addresses of all occupiers shall be maintained and shall be made available at all reasonable times to the Local Planning Authority.

End of schedule.